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Fourth Meeting

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
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REACTOR OVERSIGHT PROCESS
INITIAL IMPLEMENTATION EVALUATION PANEL

+ + + + +
FOURTH MEETING
+ + + + +

MONDAY
FEBRUARY 26, 2001

+ + + + +
ROCKVILLE, MARYLAND

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The panel met in Room T2B3, Nuclear
Regulatory Commission, Two White Flint North, 11545
Rockville, Maryland, at 8:00 a.m., Loren Plisco,
Chairman, presiding.

PRESENT:

- LOREN PLISCO, Chairman
- RANDY BLOUGH
- BILL BORCHARDT
- KEN BROCKMAN
- MARY FERDIG
- STEVE FLOYD

1 PRESENT (Continued):

2 DAVE GARCHOW

3 RICHARD HILL

4 ROD KRICH

5 ROBERT LAURIE

6 JIM MOORMAN

7 ED SCHERER

8 JIM SETSER

9 RAY SHADIS

10 JIM TRAPP

11 ALSO PRESENT:

12 TOM BOYCE, NRC, NRR

13 CHIP CAMERON, NRC, OGC

14 ROBERT HUSTON, Licensing Support Services

15 RICH JANATI, Pennsylvania Department of
16 Environmental Protection

17 JUDITH JOHNSRUD, Sierra Club

18 DAVE LOCHBAUM, Union of Concerned

19 Scientists

20 JOHN MONNINGER, NRC, NRR

21 SCOTT MORRIS, NRC

22 CHRIS NOLAN, NRC

23 DEANN RALEIGH, LIS, Sciencetech

24 SUSAN YIM, Winston & Strawn

25

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

(8:17 a.m.)

CHAIRMAN PLISCO: Good morning. Welcome to the fourth meeting of our initial implementation evaluation panel. This is a public meeting.

I'd like to ask everyone that's not a panel member to sign the attendance sheet at the front of the room.

The meeting will be transcribed. We'll schedule some time at the end of each session or the end of the day, whichever is most convenient to receive any public comments.

As far as I know, we didn't receive any written comments before the meeting; is that right, John?

MR. MONNINGER: No, we did not.

CHAIRMAN PLISCO: First, I'd just like to summarize the agenda of what we're going to do the next two days. This morning we'll see if there's any comments on the meeting minutes. They were sent out electronically to the panel members last week.

This morning we'll spend some time completing our initial prioritization of issues that have been identified so far through panel input.

This afternoon we have some stakeholder

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1 presentations. David Lochbaum from the Concerned
2 Scientists and Steve Floyd will give us a
3 presentation from the Nuclear Energy Institute
4 perspective, and Rich Janati from Pennsylvania
5 Department of Environmental Protection will also give
6 a presentation.

7 Tomorrow morning we have some additional
8 stakeholder presentations from the public affairs
9 perspective that the panel asked for at our last
10 meeting from the NRC Public Affairs Office, Victor
11 Dricks; McGraw Hill's Inside NRC, Jenny Weil; and
12 Scott Peterson from NEI, Public Affairs Office.

13 And then in the afternoon, depending on
14 how much more we have to do and how much we've
15 finished this morning, on initial prioritization we'll
16 try to finish up or initial prioritization.

17 Also, if time allows, if we do finish the
18 initial prioritization, I'd like to go back to what we
19 categorize as our priority ones and start developing
20 our consensus positions and recommendations to start
21 determination of what we're going to put in our report
22 to Sam Collins.

23 And then do some agenda planning for our
24 next meeting. At our last meeting we had tentatively
25 scheduled April 2nd and 3rd as our next meeting, and

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1 we'll talk about that as far as what topics we want to
2 have for that meeting.

3 Anything else agenda-wise we need to cover
4 or to add?

5 (No response.)

6 CHAIRMAN PLISCO: As far as the meeting
7 minutes from the last meeting, John E-mailed those
8 out. Does anyone have any questions or comments on
9 those?

10 MR. GARCHOW: John, just a minor detail,
11 a company change. We're PSEG Nuclear. We're not
12 affiliated at all with Public Service Electric and
13 Gas.

14 CHAIRMAN PLISCO: John, does that mean
15 that there are copies in the back if anyone needs a
16 hard copy of it?

17 MR. MONNINGER: There's copies with
18 Attachments, I believe, 1 through 6 or 1 through 7.
19 The only thing missing is the 600 page transcript. So
20 if you'd like a hard copy of that --

21 (Laughter.)

22 CHAIRMAN PLISCO: But that will be up on
23 the Web page.

24 MR. MONNINGER: It is up on the Web page.

25 CHAIRMAN PLISCO: It's already up?

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1 Okay. Any other questions about the
2 meeting minutes?

3 (No response.)

4 CHAIRMAN PLISCO: All right. I'd like to
5 move right into initial prioritization. We spent
6 quite a bit of time at our last meeting going through
7 two specific areas. We have a couple more areas to
8 finish.

9 There are copies at the back of the room.
10 The summary of the issues; John has compiled the input
11 that we got during the month from panel members as far
12 as the recommended initial priority, and also in the
13 back of the room there is a summary of what the issues
14 are and some of the individual comments related to
15 those issues.

16 And as we did last time, we're going to
17 put these issues into two categories. We had a lot of
18 discussion at our last meeting on the two categories.

19 The first priorities are an issue that
20 should receive high priority, and the second priority
21 are just issues for consideration.

22 MR. SCHERER: We have two copies, two
23 different versions?

24 CHAIRMAN PLISCO: Yeah. I'm going to
25 explain to you. There's a thick packet that has a

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1 summary of the initial priorities from the panel
2 members that also includes a summary of what all the
3 issues are, and that was right before John got two
4 other inputs.

5 There were three inputs still missing from
6 the panel members, and he got two late yesterday, and
7 you'll have another sheet that has four pages, and
8 that's the latest priorities. I think those are all,
9 with the exception of one, everyone's priorities.

10 So we'll use the one that's just a four-
11 page handout. Just to save paper John didn't reprint
12 the whole 27 pages. So that's a new update.

13 And the areas we need to get through today
14 are I, which is the inspection; P, which is the
15 performance indicators; and then O, the overall
16 category.

17 What I propose is to go through the
18 inspection area first, then the performance indicator
19 area, and then save the overall categories for last.

20 Chip, did you have any comments you want
21 to make before we get started?

22 MR. CAMERON: Yeah, just a little bit in
23 terms of format. Loren always mentioned our
24 prioritization criteria, which we had quite a
25 discussion of at the last meeting and, I think,

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1 simplified. So we're going to be using those, and
2 we're going to go through the remaining three areas
3 that we didn't cover the last time, and that's
4 inspection performance and then the overall category
5 would be last.

6 And the idea is to get a sense of the
7 committee in terms of what the priority of the various
8 issues under inspection, performance, and overall are.

9 You're aided in the sense that from the
10 homework assignments, the short handout that you have,
11 if we look through, for example, the first inspection
12 issue, increased level inspection in baseline program,
13 you'll note that five people from the homework, five
14 of the committee members said that this was a priority
15 one, nine, gave it a priority two.

16 It means we probably have significant
17 discussion perhaps to do on that issue. There may be
18 some of these where 99 percent of you gave it a
19 priority one, so that maybe we can move through that
20 particular area fairly quickly.

21 So that's this morning's exercise, and
22 then tomorrow I think what Loren would like to so is
23 now that we have the priorities set pretty much for
24 these particular issues, to go through and talk about
25 what are the main points that need to be brought to

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1 the commission's attention. What are the main points
2 that make that a priority one issue, for example?

3 Because you'll note that this larger
4 handout that we were working with the last time that
5 has all of these sub-bullets, some of these things may
6 be in conflict with one another. Okay? And they came
7 not only from the panel's discussion of issues, but I
8 think John drew these from presentations, various
9 different sources. So that sort of has to be made
10 integrated and coherent in terms of what you're going
11 to be saying.

12 And then I guess the idea, Loren, would be
13 that you would go off and start drafting that. Is
14 that correct?

15 CHAIRMAN PLISCO: Right.

16 MR. CAMERON: All right.

17 CHAIRMAN PLISCO: Yeah, it's really to get
18 a sense for what the main message is in each of those
19 priority one categories that we want to get across.

20 This one handout has a lot of input, and
21 as Chip mentioned, there are some that are 180 degrees
22 out, the comments; that we need to resolve those and
23 read some consensus on those.

24 MR. CAMERON: And, in fact, you may in
25 deciding what the priorities are there, that may come

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1 into play just in discussing those priorities.

2 We'll use that board over there for a
3 parking lot, anything we need to come back and
4 revisit, including anything that you might want to put
5 in the overarching category, the overall category. I
6 think that happened in our discussion last time. We
7 were going through specific areas, and you thought
8 that, well, this should also be reflected in the
9 overall.

10 So before we get started and go to
11 inspection issue one, are there any comments or
12 questions that any of you have on how we're going to
13 proceed?

14 MR. BORCHARDT: At the risk of reopening
15 another lengthy discussion on priorities, I guess I'm
16 asking if there's a common understanding regarding the
17 timing of any priority one action would take place.
18 Does assigning something a priority one imply that it
19 will get addressed by any particular milestone or that
20 it is just the more important of however many the
21 total is?

22 MR. CAMERON: Is this a short-term/long-
23 term type of --

24 MR. BORCHARDT: Well, no. What I'm just
25 trying to make sure is that we have agreement on the

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1 idea that because we had signed something Pri. 1 in my
2 mind does not necessarily mean that it needs to be
3 necessarily completely resolved by any given
4 milestone, but that it is just the more important of
5 whatever the total population of issues is.

6 MR. CAMERON: Okay.

7 MR. BORCHARDT: Because if somebody
8 thought that it was going to be fixed within three
9 months, you know, that if there was a very serious
10 problem that impeded the adequate implementation of
11 the program, then that's a --

12 CHAIRMAN PLISCO: I think it's the latter.
13 I think based on our discussion before, you know,
14 given the fixed amount of resources that the staff
15 had, these are the things that we think they ought to
16 be spending their time on.

17 I mean, some of these issues that we've
18 already talked about aren't going to be fixed in one
19 or two months. There are, you know, some significant
20 issues that need to get resolved.

21 MR. CAMERON: Mary, you're shaking your
22 head.

23 MS. FERDIG: Well, that question came up
24 for me as I went through those items independently,
25 and there were things that I thought were priority

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1 one, but that were critical and I needed to be assured
2 that they would be attended to, and yet I knew that
3 they were probably not among those that needed to be
4 taken care of in the next three months or by a
5 particular milestone.

6 So it was a subtle -- and so I went ahead
7 and labeled them one, but I knew that somewhere along
8 the line there would have to be some discretionary
9 consideration.

10 MR. CAMERON: Steve.

11 MR. FLOYD: Yeah, I agree with that. I
12 think the other thing we talked about a little bit was
13 making sure the staff had enough time to do a
14 reasonable job of dealing with the issue and not put
15 an arbitrary time frame on it because then what often
16 happens is you do something about the issue and then
17 say you've addressed it just to meet a clock, and
18 that's not the right thing to do.

19 I think it is just what Bill said. It's
20 a higher priority than a priority two item.

21 MR. CAMERON: And it's neutral in the
22 sense of when it has to be fixed. Does anybody have
23 a different opinion or any questions on that issue?

24 MS. FERDIG: And it's not up to us to make
25 the determination of relative timing. Is that what

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1 we're saying, in effect, or not? Do we want to
2 specify those things that we think are timing-wise
3 needed to be fed into the --

4 CHAIRMAN PLISCO: Well, I think we can
5 leave the door open. As we go through the discussion
6 if there's something that -- you know, the panel
7 consensus that it does need to be addressed promptly
8 because of some aspect of an issue, I think we can
9 communicate that. We'll do that on a case-by-case
10 basis as we go through.

11 But, in general, I think, you know, what
12 Bill mentioned, the focus of our priority system was
13 just on the importance and what the more important
14 issues are that need to be addressed and not
15 specifically the time frame today.

16 MR. CAMERON: And the related issue you
17 discussed the last time was in terms of if an issue
18 was already being worked on, how did that influence
19 whether it was going to be a one or a two, and I think
20 that you decided that the fact that it was being
21 worked on by the staff or whatever would not take it
22 out of priority one, for example, category if it was
23 an important issue to the panel.

24 CHAIRMAN PLISCO: Right.

25 MR. CAMERON: Good. Any other issues like

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1 that that we need to revisit?

2 (No response.)

3 MR. CAMERON: All right. The first
4 inspection issue that you have is increased level of
5 inspection at baseline program. You had five people
6 that gave this a high priority, and nine people put it
7 into the consideration category.

8 Loren, do you want to give a little
9 summary of this or --

10 CHAIRMAN PLISCO: Yeah, let's just talk
11 about it to make sure we have a common understanding
12 of what these issues are. One had to do with the
13 perception that there was an increased level of
14 inspection between the baseline program under the
15 reactor oversight process and the old core program,
16 and that the higher resources were causing higher
17 charges to the licensees.

18 There were some resource issues having to
19 do with the variation between the expenditures on the
20 same inspection procedure.

21 Another issue was defining more
22 specifically what the baseline inspection program was,
23 whether it was a de minimis program.

24 There was a specific comment about the
25 occupational exposure area resources being higher than

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1 needed to be.

2 And there was an issue having to do with
3 the frequency of some specific inspections, whether
4 they were the correct frequency or not.

5 MR. CAMERON: Okay. Maybe we should ask
6 the just deserves consideration category came through
7 with more people than the high priority category.
8 Could we ask someone who thinks it should be a high
9 priority to discuss why they think it should be?

10 MR. BORCHARDT: Well, before I get to
11 that, let me throw another wrench in. Is it
12 appropriate for us to discuss the wording of the
13 issue? The way it's worded now implies that the
14 program is either too high or too low, depending. I
15 think that the --

16 CHAIRMAN PLISCO: That is appropriate.

17 MR. BORCHARDT: I think that the issue of
18 the program continuously evaluating itself to insure
19 that it has the appropriate amount of inspection
20 effort is a good topic. I think we ought to steer
21 away from indicating based on the limited review that
22 we as individuals would be able to do of whether or
23 not the current level of effort is too high or too low
24 overall because, as the comments indicate, they may be
25 too high in one area and too low in another.

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1 And I think it would be dangerous for us
2 to make an overall statement. So I am one that voted
3 as a high priority on this issue, but not -- I
4 minimized the word "increased level," but focused more
5 on the importance of this program, evaluating what the
6 appropriate level of inspection effort is.

7 It's, I think, largely an internal NRC
8 matter, and I would guess almost if the voting went
9 somewhere along those lines, that the NRC would see
10 this instinctively as a high priority issue than
11 perhaps the non-NRC members.

12 MR. CAMERON: Can we follow Bill's thread
13 to highlight the word "appropriate" rather than either
14 increased or decreased? Does anybody have any
15 thoughts on that?

16 MR. GARCHOW: I sort of agree with this
17 you took the issue as being should there be an ongoing
18 review as more data comes in, like in a self-
19 assessment type arena that's formalized to keep
20 checking and adjusting. I mean I would say that is
21 probably reasonable to do, and then let that self-
22 assessment, you know, change the program however the
23 results would indicate.

24 I agree with Bill that we don't have
25 enough data here to say this inspection is too large;

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1 this one's too small.

2 MR. CAMERON: With this change of
3 appropriate, do those of you who made this a priority
4 two -- would you go to priority one? Would it make
5 any difference in what priority you would give it?

6 MR. FLOYD: I'd still give it a two. I
7 think this is an ongoing effort that should be done
8 very year in the program to take a look at where the
9 inspection resources are being expended, what kind of
10 results are being achieved, where weaknesses are
11 identified within the industry, and make adjustments
12 as necessary. It's an ongoing effort.

13 MR. CAMERON: Rod, do you?

14 MR. KRICH: Yeah, I agree. I'm not sure
15 I agree necessarily with appropriate. The issue
16 started as, at least the part that I understood, was
17 that, in fact, from the licensee perspective we are
18 seeing an increased number of hours spent responding
19 to inspections. So there is that aspect of it, but I
20 agree that this is something that just -- that's why
21 I gave it a two. It's just going to have to be worked
22 out over time. I don't see it as a critical item.

23 MR. CAMERON: Ken?

24 MR. BROCKMAN: But I think one point
25 that's essential if you look at this, there is a

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1 number of licensees who are seeing an increased
2 effort, typically those who used to be the historical
3 self-one performers, and then there are others who are
4 seeing a lot less effort, and that's the dichotomy
5 that you get there. You have a much larger continuum
6 that everybody gets put into, and the haves get some
7 more and the have nots don't, and you come up with
8 this new paradigm that you've got out of it.

9 So, I mean, increased is right for one
10 group. Decreased is right for another group. That's
11 why I'm a little bit and with Bill's thing on
12 appropriate, but I think one of the points that Loren
13 brought up is essential. What is baseline?

14 Your event response is in there. Everyone
15 has to have an event. There's a lot, especially from
16 the public's viewpoint and in budgeting aspects for
17 others who have that concern. We've got to get a
18 handle in it. This program needs to be very clear in
19 what is meant by the baseline program and how that is
20 communicated, and I think that's a very, very
21 important part of this that can't wait. It has to be
22 a high priority of that communication so that everyone
23 understands exactly what it is.

24 The part I would agree with Steve is much
25 more on an ongoing basis.

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1 MR. CAMERON: Does your communications
2 issue -- does that fit logically within the overall
3 issue? Should we put that in as parking lot issue?

4 MR. BROCKMAN: I personally would like
5 just still in the parking lot right now and see where
6 it goes when we're done. It may not be here. There's
7 a lot of different places where we could put it.

8 MR. CAMERON: Okay. How about other
9 comments on either Bill's suggestion, make it
10 appropriate, or on what the priority for this issue
11 should be?

12 Mary, where did you come out on this?

13 MS. FERDIG: Well, I agree with Bill's
14 suggestion about appropriate. I would also like to
15 hear Bill say a bit more about why he sees it as a
16 high priority because I'm hearing more and learning
17 more about the issue as I am experiencing this
18 conversation.

19 I rate it as a two based on what I thought
20 I knew, but I need to hear why it should be a one.

21 MR. BLOUGH: Well, I think it's a one at
22 least initially because it is a different program than
23 was institute in previous years, you know, for the
24 previous ten years, and to the extent that it has, in
25 my view, raised concerns with the inspection staff of

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1 the NRC and with the licensees, that it deserves some
2 higher priority now than it will in the long run.

3 I think once we get through the initial
4 implementation stage and people become more
5 comfortable with this new process, that it will get
6 into a steady state, normal priority, annual review
7 kind of activity.

8 But I think there's so much newness to it
9 now that it's worthwhile for it to receive some higher
10 focus, some higher attention, even if it were only for
11 the benefit of the NRC inspection staff, from my
12 perspective.

13 MS. FERDIG: So right here, it's just
14 helping them to be comfortable with the transition of
15 determining when more inspection is appropriate versus
16 when less inspection is appropriate, and in that
17 focus, this baseline that Ken's referring to would
18 become more clear.

19 MR. BLOUGH: Right, they would be more
20 comfortable with the resource allocation to the
21 various parts of the program, for the new program.

22 MR. CAMERON: And I think that, Steve,
23 your category, too, was based on the fact that this is
24 a -- "routine" may be the wrong word -- but this
25 should be an ongoing activity, and Bill was saying

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1 that that may be true later on, but right now your
2 argument for it being a one should be that at this
3 stage of the program it's very, very important.

4 MR. FLOYD: I wonder if this doesn't fall
5 more under, you know, an overall issue because I'll
6 give you the industry's perspective. They don't see,
7 quite honestly, a lot of difference between the scope
8 and breadth of the current inspection under the
9 baseline program than what they saw under the old core
10 program. In fact, the hours are within 100, 200 hours
11 of being the same.

12 And the feedback we get from the licensee
13 is it looks like the same type of inspection pretty
14 much conducted the same way, and they don't see a lot
15 of difference. I'm just wondering if we're seeing,
16 you know, resistance to change. The fact that it's
17 given a new name, maybe it's broken down a little bit
18 different, but overall licensees really don't see much
19 of a change at all from their perspective. So it may
20 be an internal NRC change issue.

21 I'm just speculating because we don't see
22 it from industry's side.

23 MR. CAMERON: Other comments on this
24 issue?

25 (No response.)

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1 MR. CAMERON: Jim, do you have any? I
2 didn't know whether you had anything you wanted to
3 offer on this.

4 MR. TRAPP: I guess I rate it as a two,
5 and my reasoning was that I just hadn't heard a lot
6 either way that those inspection sources were too high
7 or too low. I didn't hear a lot of discussion on
8 that. So I thought it was something that the normal
9 processes would just handle as part of Bill Dean's
10 (phonetic) group.

11 MR. MOORMAN: Yeah, I saw this as more of
12 a change of management issue because we're still -- we
13 have a defined baseline program that the inspectors
14 are following, and the hours are going to vary
15 somewhat, and we're still trying to work within that,
16 and I saw it more of, I guess, a billing issue. We're
17 putting more hours towards some things, less hours
18 towards others.

19 Like Ken said, some are getting more;
20 others are getting less. So I gave this as two
21 because as we go on, I think we'll eventually work
22 this out, where we spend our resources, which are
23 going to be on the most safety significant issues.

24 Now, we have a baseline program that
25 better defines what's risk significant and more safety

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1 related. So that's why I thought it was something
2 that would work as we go on.

3 MR. CAMERON: So the two people that we've
4 heard from that do put it into one category, I think,
5 Ken, if I understood you, your major concern there was
6 the communication issue, okay, which may deal in
7 another context.

8 And, Bill, this is a transition. From the
9 point of view of the NRC staff, it's an important
10 transition.

11 Does anybody --

12 MR. SCHERER: When you say
13 "communication," you're referring to communication or
14 Ken is referring to communication within the staff.
15 Is that a public of confidence indication that you
16 were trying to give?

17 MR. BROCKMAN: It's both. It's
18 communication of what the program is for the staff is
19 an issue right now. I think we discussed that from
20 the public's viewpoint with the reduction from N plus
21 one to N going on at the sites at the same time.

22 I've gotten numerous communications of
23 confusion. The program is being reduced. No, it
24 isn't being reduced when you talk hours. I mean
25 getting that clarified to the public. Exactly what is

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1 this program in its overall context? What is meant by
2 baseline? What can you expect to see at every site?
3 What type of variances will you see?

4 I think that's an essential aspect for the
5 staff and for the public to understand. I'm not
6 surprised. It should be invisible to the licensee.

7 MR. CAMERON: Okay. Does that clarify
8 your question, Ed?

9 MR. SCHERER: Yes.

10 MR. CAMERON: Okay. Does anybody want to
11 strongly define the one priority issue? Because it
12 seems like your issue may be able to be dealt with in
13 another context. This internal NRC change issue that
14 Steve brought up, there's nothing inappropriate for
15 the -- and I guess this is a question for all of you -
16 - is in your write-up on this level of instruction,
17 and you write it up as a two; is there anything
18 inappropriate of noting that it may be important as a
19 transition issue for NRC staff, or does that mean that
20 it doesn't get the attention that it's going to need
21 from Bill's point of view?

22 MR. SCHERER: Well, my opinion is that I
23 agree with Bill that the phrasing should be closer to
24 something like appropriate as opposed to increased.
25 I don't have a particular problem with that, but I

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1 feel this is an internal issue within the NRC as to
2 how in priority it gets resolved, and it'll be
3 addressed within the NRC as to how perhaps with more
4 effort in the short term, but I also think it has to
5 be an ongoing effort within the NRC.

6 What is the appropriate? How have things
7 changed? It may be different at different plants with
8 different situations. So actually this is a
9 continuous reevaluation of their inspection process,
10 and I would be disappointed if they weren't
11 continuously going back and looking at whether they're
12 putting appropriate resources in appropriate areas.

13 What's appropriate in 2001 may not be
14 approximately in 2005. If, in fact, licensees have
15 changed their programs, then it's not worth those
16 inspection hours then. I just don't know.

17 MR. CAMERON: Okay. Well, you're going to
18 all get a shot, perhaps a couple of shots, but the
19 first one being when this is written up, but for the
20 sake of proceeding now, it seems like it's the -- I
21 hate to use the word "consensus" -- but it's the feel
22 of the panel that this should be a priority two issue,
23 and that it would be better to use the word
24 "appropriate" rather than increased and decreased, and
25 when you come back to discuss the narrative on this,

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1 I think you've already given a pretty big flavor to
2 what that narrative might look like, including taking
3 care of Bill's concerns.

4 Bill, do you have anything else you want
5 to say on this before we move on?

6 MR. BORCHARDT: No.

7 MR. CAMERON: Anybody?

8 (No response.)

9 MR. CAMERON: Okay. The second inspection
10 issue is current inspection report documentation
11 threshold sufficient. A similar case to the last one
12 where four of your made this a number one issue and
13 ten of you made this a number two issue.

14 Any comments on this similar to the one
15 that Bill did in trying to sort of refine what the
16 concern was here?

17 And, Loren, if you want to, if you think
18 you need to add anything of explanation, go ahead.

19 CHAIRMAN PLISCO: Yeah, I'll just be
20 brief. I think the majority of these comments, I
21 think, same internally from the inspection staff as
22 far as some questions about whether the threshold is
23 right.

24 We have changed the threshold. It's an
25 inspection manual chapter 0610-star, and there is a

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1 screening process and some questions that are asked of
2 the inspector that they need to answer to determine
3 what goes in the report.

4 And because of those questions, the most
5 significant issues are getting documented in the
6 report, and it does screen out some of the lower level
7 issues. Some misuse in the past may have been what we
8 call minor violations that don't get documented in the
9 report. So the report does focus on the more
10 significant issues.

11 But as in the questions raised by the
12 inspectors, I think we heard some of it at our last
13 meeting from the senior resident inspector panel about
14 some discomfort, about some lower level issues, which
15 in their mind may be indicators of a trend in the
16 specific area and some concerns about whether they can
17 document those or not in the report.

18 That's where I think a lot of that
19 comment comes from, and whether that threshold is set
20 at the right place.

21 MR. CAMERON: Steve.

22 MR. FLOYD: Well, I thought it was a two.
23 Standing back looking at what's the big picture
24 purpose of the oversight process, it's really to have
25 a mechanism for the NRC to ask what resources beyond

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1 he base line warrant the explanation. And the action
2 may determine who does that, but what derives the
3 action makers is getting greater than green findings.

4 But what we're really talking about here
5 on this item is items that are green or less than
6 green and can I put them in the report; can I not put
7 them in the report?

8 It might be an irritant both for the staff
9 and for the licensees, whether it is or isn't put in
10 the report, but in terms of the overall objectives of
11 the oversight process, it probably has very little to
12 do with the final outcome.

13 That is why I kind of viewed it as a two.

14 MR. CAMERON: Does anybody want to make a
15 case for treating this as a number one?

16 MR. BORCHARDT: Yeah, I think Steve hit on
17 a good point, which hadn't occurred to me until he
18 just mentioned it, that really this issue being
19 specific to the purpose of this panel is not as big an
20 issue as I view it to be on its own. I mean, I think
21 there's a substantial public confidence, NRC
22 responsibilities issue within this. What issues are
23 documented in inspection reports?

24 But as it relates to the reactor oversight
25 process and implementation of the action matrix, I

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1 think maybe it's not as important in this specific
2 area as it is regarding other aspects of the
3 inspection program.

4 CHAIRMAN PLISCO: And I think there is an
5 aspect of the same issue that's in another area we're
6 going to talk about, is the crosscutting issues and
7 how we handle crosscutting issues, and there is some
8 overlap because a lot of the concern the inspectors
9 have is in that specific area, the crosscutting
10 issues, and I think we'll get into some of that in
11 that discussion.

12 MR. KRICH: I agree, but I'm just
13 wondering Ray Shadis is not here, I noticed, and I
14 want to make sure that we get his perspective or at
15 least that we give adequate consideration for his
16 perspective on it because think he had put out some as
17 well.

18 MR. CAMERON: So should we put Ray in the
19 parking lot?

20 PARTICIPANTS: Yes.

21 MS. FERDIG: I was just asking myself that
22 same question from, you know, the public confidence
23 aspect. If it's an important issue from the
24 perspective of public confidence, then to what extend
25 does that bring it into this arena, whether it would

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1 seem to be directly related or not.

2 MR. GARCHOW: Right. Hold that because we
3 have Dave Lochbaum and Rich Janati this afternoon. So
4 I'm sure that Dave's going to get into the public
5 confidence piece.

6 CHAIRMAN PLISCO: Yeah, we'll revisit this
7 one.

8 MS. FERDIG: Okay.

9 MR. GARCHOW: The other aspect with the
10 inspection report that the stakeholders around our
11 plant are confused with, and I know we covered it
12 somewhere is, is when we document these no color
13 findings, it's very hard to explain to somebody what
14 that is, but I think we have another later piece of
15 this that talks about findings and colors of findings.

16 But to the extent that they're in
17 inspection reports, that's caused some level of
18 confusion.

19 MR. CAMERON: Okay.

20 MR. SCHERER: Well, I agree, and I
21 certainly am comfortable and felt this was a two, but
22 I do think that the other issue that I want to make
23 sure gets highlighted is the issue of what is and is
24 not a minor violation.

25 And it indicated uniformly defined because

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1 that then becomes a public confidence issue, and it
2 becomes an efficiency. It's several of the other
3 categories, and it doesn't really require the licensee
4 to do something terribly different than if it had, you
5 know, something as a green finding or a minor
6 violation.

7 We were told, for example, that the
8 regulatory guidance on minor violations is no longer
9 applicable. So in Region 4, at least, we don't know
10 what the definition is for a minor violation. Somehow
11 that has to be defined and worked out so that all
12 licensees are aware of what's going on and the public
13 is aware.

14 MR. BORCHARDT: Now, I think that's a good
15 example of what I was trying to refer to a moment ago,
16 that inspection reports are very important to both the
17 industry, the public, and the NRC, and I think it's an
18 issue that needs to be given high priority, but I'm
19 not so sure that it relates specifically to the
20 reactor oversight process.

21 Because the issues that you're referring
22 to on whether or not there would be a minor violation
23 or not are not going to impact the action matrix under
24 any circumstances.

25 MR. SCHERER: I agree.

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1 MR. BORCHARDT: So for that reason, if we
2 narrow our focus to the reactor oversight process, and
3 if that's what the purpose of this panel is, I think
4 inspection report thresholds and documentation is not
5 as important because there's no question about the
6 very significant issues are going to get discussed in
7 the report, and they will feed into the action matrix,
8 and then we're in this new process.

9 But, I mean, I think that there are
10 numerous important issues having to do with inspection
11 reports that ought to be very high priority within
12 NRR, but are separate from the activities of this
13 panel.

14 MR. SCHERER: I think we're in violent
15 agreement.

16 MR. CAMERON: Does that capture? When we
17 talk about checking back with Ray and in listening to
18 David and the state, were the concerns expressed there
19 basically going to this the essence of this what is a
20 minor violation or are they a different, broader
21 concern?

22 MR. KRICH: In my opinion, I think it's a
23 broader concern.

24 MR. CAMERON: Okay.

25 MR. KRICH: I think it's a concern of

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1 public confidence. I mean I see this issue as one of
2 public confidence more than the issue of minor
3 violation.

4 MR. CAMERON: All right. I just wanted to
5 know how many things got pushed in the parking lot.

6 MS. FERDIG: I have a quick question that
7 could probably be answered in 20 words or less, but my
8 impression was that the inspection program, as a
9 supplement to the ROP, is, therefore, a part of what
10 the public would consider this revised framework to
11 include.

12 So how is it that you're seeing it as not
13 a part of the ROP?

14 MR. BORCHARDT: In my view, the inspection
15 process and the inspection reports feed into the
16 reactor oversight process.

17 MS. FERDIG: So it's a supplement to?

18 MR. BORCHARDT: A supplement? I'm not
19 sure I really understand that word. I mean it's --
20 it's an important element of the reactor oversight
21 process because it provides data regarding the
22 performance of licensees into the assessment process.

23 But there are elements of how these issues
24 get documented and what the lower threshold of some of
25 those issues are that are not -- that data is not fed

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1 into the oversight process, doesn't impact the action
2 matrix, yet I believe could be very important from a
3 public confidence standpoint.

4 MR. BLOUGH: Well, the fact that it
5 doesn't feed into the action matrix means it's not
6 part of the assessment process, but it seems that if
7 it's a matter of, you know, what was inspected and
8 what was found and what we wrote about it, that at
9 least it's part of the overall oversight process that
10 includes, you know, inspection, assessment,
11 enforcement.

12 MR. GARCHOW: I sort of agree with Randy.
13 I think we have to be careful we don't cut this too
14 fine because it's the whole picture, the PIAC
15 inspections, the action matrix, the reports, the
16 annual meeting. I mean it all sort of fits into this
17 mix that when you stir it up, it all has to work
18 together.

19 I think, you know, in thinking back, it
20 was all sort of an attempt was made to design those
21 elements from the whole, not in a series approach. It
22 was what does it look like in its entirety.

23 MS. FERDIG: And I guess I want to agree
24 with that. From a general, nontechnical, public
25 perspective, there's an assumption that there are

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1 these interrelated activities that contribute to an
2 overall oversight process that we can feel confident,
3 and you know, that can be cut and diced in 100
4 different ways.

5 MR. GARCHOW: Now, saying that, relevant
6 to the topic at hand, and I personally believe this is
7 a priority two type issue, but I mean, I don't think
8 we can separate it from the whole mix, is sort of my
9 point.

10 MR. BLOUGH: I think it's a two also
11 basically from the standpoint that, you know, Bill's
12 argument that it's not going to affect the action
13 matrix, and we know things that might affect the
14 action matrix and affect the overall assessment and
15 the overall approach to the plant. We know those we
16 can get documented.

17 And there is an issue with consistency and
18 with, you know, how much information the public gets,
19 but I don't think it's a priority one issue.

20 MR. CAMERON: The feeling seems to be
21 priority two, but maybe make it a preliminary two
22 until we revisit with Ray and David and others.
23 Anybody have any problems with that?

24 And we do have a couple of parking lot
25 issues. Okay.

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1 MR. FLOYD: I don't disagree with that,
2 but I'd just like to make an observation, and I see
3 this in numerous forums as we try to risk inform our
4 approaches here. We seem to spend most of our time
5 and we seem to be most confused about what to do about
6 that which is least significant, and the same thing
7 holds true as we try to go through and risk inform the
8 regulations. We spend 99 percent of our time trying
9 to gnash over what do we do with the stuff that
10 everybody agrees is not very important and very little
11 time worrying about what's really important.

12 That's why I have a hard time seeing why
13 this could possibly be a one. That's just an
14 observation that I see in almost every meeting that I
15 attend where we have a process that's trying to be
16 moved to be made more risk informed.

17 MS. FERDIG: Good point.

18 MR. CAMERON: I think that other panel
19 members would probably appreciate it if when we
20 discuss other issues if you have that perspective to
21 put that on board.

22 MS. FERDIG: To keep in mind.

23 MR. CAMERON: But it may be it looks like
24 it will be a two, but we'll reserve judgment until we
25 hear from others on this.

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1 MR. FLOYD: sure.

2 MR. CAMERON: How about does anybody have
3 any comments, I guess I should ask, on what Steve just
4 said generally, or do you want to wait to see if it
5 pops up again?

6 MR. LAURIE: it'll pop up for me on the
7 next issue, Chip.

8 MR. CAMERON: Okay.

9 MR. LAURIE: So I'll save it.

10 (Laughter.)

11 MR. CAMERON: Right, okay.

12 CHAIRMAN PLISCO: Ready to start?

13 (Laughter.)

14 MR. CAMERON: The third issue is improved
15 public access to inspection information, and, Loren,
16 do you want to give us a little summary? And then
17 we'll ask -- we'll turn to Bob.

18 CHAIRMAN PLISCO: Sure. What we tried to
19 capture in this, there were a number of suggestions to
20 improve access to different pieces of the oversight
21 process and make that information available to the
22 public having to do with what's on the Website and
23 access and the accuracy of that information.

24 And there were also a number of issues, I
25 think, from the inspector viewpoint, and this had to

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1 do with specific inspection program information and
2 the timeliness of getting the most current information
3 up on the Web page that was available to them.

4 MR. CAMERON: Okay, and this is another
5 one following this trend. Five people gave it a
6 priority one. Ten gave it a priority two.

7 Bob, why don't you lead off for it?

8 MR. LAURIE: Well, first, you're reading
9 from a different paper than I am because my numbers
10 are different than yours. I have the --

11 MR. CAMERON: Yeah, I should mention for
12 those of you who -- the scores, the so-called scores
13 are reflected on the smaller handout.

14 MR. LAURIE: I think you mentioned that,
15 and I missed it.

16 I think this goes to a basic philosophical
17 question of what do you do with the public, and I
18 respect Steve's comment about attempting to
19 concentrate on what's important, but I think the
20 question you have to ask is: important to whom?

21 And I think there's a scientific
22 perspective, and I believe there is a public
23 perspective. And I don't think one is any more
24 important than the other long term.

25 Now, short term, I think it's easy to say

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1 that the public need not have access to less important
2 information because it's simply, in the view of the
3 professionals, less important. I honestly believe
4 that longer term that view is inimical to the entirety
5 of the industry.

6 I look, for example, the -- what I'm
7 spending most of my time of late at the Commission,
8 and that's licensing power plants. The Energy
9 Commission does outstanding work of holding public
10 hearings and seeing public input, and I sit there hour
11 after hour after hour after hour at one or two or
12 three in the morning listening to the public saying to
13 myself, "This is not important. I can't deal with
14 these comments."

15 And at three o'clock in the morning, I've
16 had a tendency to state that, which is not always the
17 right thing to do.

18 But I also recognize that although I may
19 not believe it's important, they believe it's
20 important, and I'm firmly convinced after working for
21 25 years in the development industry that allowing and
22 investing that time and those resources into coming
23 close to maximizing public awareness and public input
24 is the best possible thing you could do for the
25 longevity of an industry and of a process.

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1 So I concur that in many cases resources
2 have to be allocated to what is deemed not necessarily
3 the most important short term, but just wait until
4 there is an incident and see how quickly Congress
5 demands an increase in public access and see how
6 quickly one might long for an opportunity to have
7 opened the process in the first instance so you can
8 argue that you've already had it maximized.

9 And I think that's the basic philosophy.
10 I sit here, and I have the greatest respect to the
11 nuclear professionals that are in this room, and I
12 have to weigh that against my experiences with public
13 processes both as representing government institutions
14 and representing private development industry, and as
15 frustrated as I have been over many years in my
16 dealings with the public, I think at this age I find
17 that it's a very good investment if you're going to be
18 around for anything longer than the shortest terms.

19 So it's for that reason that I support
20 public access to even the inspection records, and I
21 get some sense of the fact that the inspection
22 records are not the big deal, but then I would want to
23 know why not. Why should we not do this, recognizing
24 that every time you let out information, well, it's
25 going to take resources that you have to make

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1 available to explain that information, and I
2 understand that.

3 And I think for both industry and
4 government that's part of the cost of doing business.
5 You can take it too far. I know in some areas of the
6 country, in some instances there are concerns that
7 public involvement is too deep, and I don't know the
8 answer to that one.

9 I do, however, think that there is a
10 proper balance.

11 MR. CAMERON: Thank you, Bob.

12 MR. LAURIE: Best I can do.

13 MR. CAMERON: Right. Let's go to Steve.

14 MR. FLOYD: Yeah, I think those are
15 excellent points. I guess the issue that we've got to
16 wrestle with is how much information do you put in an
17 inspection report and what characterization do you
18 give it so that you don't unintentionally mislead the
19 public.

20 If you fill an inspection report up with
21 a lot of observations and even minor circumstances
22 that in any reasonable situation could never have any
23 negative impact on what's done, I think there's a
24 danger of confusing the public because they don't know
25 how a nuclear power plant works, by and large, and how

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1 all the programs work together, and you can easily
2 scare them into thinking there's a much more severe
3 problem than what there otherwise is.

4 So maybe it's a matter of having better
5 explanations of what is found in the inspection
6 report.

7 MR. LAURIE: And that's a good point,
8 Steve, and I understand that, and I don't suggest --
9 I'm thinking this is going to read poorly in the
10 transcript, but I don't suggest that the process be --
11 that the technical process be dumbed down so that the
12 lay public can understand it.

13 I think, however, that it has to be easily
14 capable of being translated into English so that the
15 public can understand.

16 MR. FLOYD: Yeah, the big thing in our
17 view, the big thing the public wants to know, most of
18 the public wants to know is should I be worried, and
19 if you just fill up an inspection report with a lot of
20 low significant items and don't really put a good
21 characterization on the overall what it's telling you,
22 they don't know whether they should be worried or not,
23 whereas I guess the approach we're trying to take here
24 is to minimize the number of nuisance type of
25 discrepancies at the plant that really don't have an

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1 impact and try to make the inspection report bump up
2 a little bit of a notice so that when people read it
3 they know whether they ought to have a concern or not.

4 And that's the balance we're trying to get
5 here, I think.

6 MR. MOORMAN: I think as the public tries
7 to answer that question, should I be worried or not,
8 they could also look for some level of engagement by
9 a regulator, and at that point if there's no
10 engagement at a low level, they can say, "Well, maybe
11 I should be worried because this guy doesn't appear to
12 be doing his job.

13 So, you know, I get concerned if we can't
14 show that, you know, if there's just nothing but a big
15 blob of green there. Somebody may say, "Well, maybe
16 you guys aren't doing anything."

17 So, you know, at the risk of trying to
18 solve the problem, there is a way to do this. We can
19 just list them in the inspection reports of what we
20 see.

21 MR. CAMERON: There seems to be two issues
22 that you're talking about here, and Bob was very
23 articulate in talking about why the public should have
24 access to all the information that is produced.

25 A second issue is what's the quality of

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1 the information that is available, what goes into
2 those inspection reports, and do you intend to deal
3 with both of those issues in this particular issue, or
4 are there other issues where you look at, from, again,
5 a public perspective, what information goes in the
6 report?

7 And I guess we sort of touched on that in
8 the last issue, but do we need to talk a little bit
9 about both of these issues and where they're going to
10 be addressed?

11 Ron, are you thinking about this, ready to
12 say something about it?

13 MR. KRICH: I thought that the previous
14 issue was the matter of content. It went more to
15 Jim's issue of how much gets into the inspection
16 report.

17 MR. CAMERON: Okay.

18 MR. KRICH: And that also then
19 addresses -- and that's why I raised the Rad Shadis
20 issue of what's the public seeing. This issue was, I
21 think, more a matter of what can the public get to.
22 You know, the bio-reactor oversight process has two
23 main elements. One is the performance indicators.
24 The second is the inspection report, and I think part
25 of the discussion that came up for this item was

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1 people were looking at -- they get on the Web; they
2 look at the PIs and stop and say, "Well, that's not
3 meaningful because it's all green."

4 But you need to go down further to see the
5 inspection reports and then actually you can go from
6 there into the actual text of the inspection report
7 and get more information there.

8 And that's the major part of what's going
9 on, and I think one of the issues here, Steve, as I
10 remember, is a lot of the people were missing that
11 part of it.

12 MR. FLOYD: Yeah, it -- oh, excuse me. Go
13 ahead.

14 MR. TRAPP: Excuse me. It just seems to
15 me if you have a computer and you're on the Web, I
16 mean, the accessibility of inspection information now
17 is bound better than it ever way. I don't know how
18 you can improve it. You know, it seems like that
19 piece has been licked.

20 MR. FLOYD: You know, there is one comment
21 in here that I did want to highlight, and that is this
22 thought that it may enhance public confidence to
23 publicize how much time the regulator is inspecting
24 the plant, and I think that would go to, you know, one
25 of the concerns.

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1 If you'd see a plant that's all green, is
2 it because nobody is looking or is it because they've
3 looked a lot and they haven't found anything
4 significant? That's a very important message to get
5 out.

6 I think it would be useful. Again, we're
7 trying to solve a problem here, but I think it would
8 be useful, as was suggested in the comment here, to
9 put the hours if not on the Web site maybe in the
10 inspection report itself after each major inspection
11 or inspection area is done and say, "Hey, we spent 400
12 hours looking at this area, and we didn't find
13 anything that has significance, but here's a couple of
14 minor items."

15 I mean, that's a whole different
16 characterization than here's a bunch of minor items
17 without any perspective put on them. You don't know
18 how long they looked. I think that would help public
19 confidence personally.

20 MR. SCHERER: I agree with that. There is
21 a perception that I think still continues to exist
22 that somehow the PIs have replaced NRC inspection and
23 that this is an industry self-monitoring process and
24 there is no more NRC engagement on the issues. There
25 is no NRC inspection, and that all we get are the PIs.

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1 We've seen that in several of the comments
2 and to this panel where we get shown the PI column and
3 say this is the program. So to the extent that we
4 need to revise the weight not only what we communicate
5 to the public as a result of this process, but the way
6 we do it, I would personally do away with that window
7 that shows only PIs because PIs are only a part of the
8 reactor oversight process.

9 But how we communicate and what we
10 communicate is very important, and I continue to
11 believe that there's a perception -- certainly it was
12 true in our public meetings -- that there is only
13 industry supplied PIs and no NRC engagement in terms
14 of inspection.

15 MR. CAMERON: I've heard a lot of -- the
16 comments that I've heard on this discussion all seem
17 to agree on the importance of access to information,
18 and I'm trying to figure out why most people, I think,
19 put this in a category two, and it may be something
20 that was said around the table, that we're already
21 doing a pretty good job on it.

22 So it's not the fact that public access to
23 information isn't an important consideration, but it's
24 something that is not an important priority in terms
25 of needing to be fixed. Is that -- Jim?

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1 MR. SETSER: Now, I'm sitting here
2 listening. I think that, first of all, the thing
3 that's most important is that we have an attitude that
4 there ought to be public access to information.
5 That's what's important.

6 In general, most of the public doesn't
7 want to know everything that we're doing, but at the
8 same time there's still a small percentage of activist
9 people that want you to prove everything that you do,
10 even why you got up at a certain time of morning, and
11 you're going to have to deal with that process as an
12 outlier, as a separate situation than just under this
13 process.

14 But the criticism we as regulators have
15 gotten for the last 50 years is we're a closed shop
16 and we don't want to share with the public. So the
17 focus of the new oversight process is to develop an
18 attitude that we do want to share and that there be
19 processes available for every facet of the public if
20 they want to know certain information.

21 That doesn't mean that we have to make
22 everything proactively available on every piece of
23 paper there is just so if somebody stumbles along and
24 says, "Oh, I want to read this sometimes," it's
25 available.

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1 But you also have to understand that it's
2 normal to hear push-backs on these kind of things
3 because that's part of the organizational change
4 process. For instances, if I start talking about my
5 goal is compliance with environmental laws, somebody
6 will automatically start pushing back and saying, "Oh,
7 you're going soft on enforcement now. You're not
8 going to enforce the laws anymore."

9 Because enforcement is what we're really
10 all about, not compliance. So part of this comment
11 that you're getting back is a normal bush-back process
12 because we're undergoing an organizational change.

13 So we don't need to get too complicated.
14 We don't need to get so complex except to say, number
15 one, we do think it's time to say we owe everything to
16 the public, and we're committed to giving it to them,
17 but then I think you are doing a pretty good job of
18 making processes available whereby they can get it if
19 they want it.

20 MR. CAMERON: Let's explore that among the
21 rest of the people because I think that's the crux
22 here between the priority one and priority two. So
23 going back to your criteria, what do you end up saying
24 about public availability of information?

25 MR. GARCHOW: I guess I'm with Jim here.

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1 Like what is broke? I mean three years ago we'd have
2 been sitting here and say we have great public access
3 to information for the last 15 years prior to three
4 years ago because we allow and we'll let somebody go
5 to a nearby library and dig through stacks of
6 documents and make their own conclusion, and we would
7 have stood here and defended that as readily available
8 public information.

9 We're so much further ahead right now than
10 we were just three years ago. I mean, I'm trying in
11 the context of this panel wonder, you know, what is
12 the priority of this, given that the growth will
13 continue. Nobody is stopping refining the Web. Every
14 time I go on the NRC Web page, it's better than the
15 time that I went on it before.

16 Sounds like somebody is there constantly
17 refining, and I'm thinking from my perspective this at
18 best is a priority two, given the leaps and bounds
19 that this process has caused public information to be
20 available with the Website and how it linked to the
21 oversight process.

22 MR. CAMERON: Let me check in with all of
23 you in terms of what Dave just said. Is it the what
24 is broken here that deserves consideration for one or
25 two rather than the subject itself?

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1 Loren.

2 CHAIRMAN PLISCO: I was just going to say
3 I think Dave makes a good point. If you really go
4 back, the original issues that we rolled up into this,
5 they're very specific recommendations as far as
6 specific information, accuracy, availability, and as
7 Steve mentioned, the one issue on publicizing more,
8 you know, inspection-wise of what resources we're
9 expending in the program and making the findings
10 themselves more visible on the Web page. They were
11 pretty specific.

12 That being said, this whole discussion on
13 public accessibility we're going to hit again. You
14 know, I've got two roll-ups in the overall category
15 that I'm saving until the end. This same discussion
16 is going to occur. This was really just focused on
17 the inspection program availability of information.
18 There's another discussion we're going to have overall
19 as far as public access and accuracy of information
20 that we're going to get to looking at the overall
21 process.

22 So I'd recommend that we hold that
23 discussion later when we get this overall category and
24 we look at the whole thing and maybe roll up some of
25 these public access information discussions.

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1 And for the purposes of this, and maybe
2 it's just something we can put in the parking lot, is
3 we'll just prioritize these specific recommendations,
4 and I'm hearing two in general, but the discussion
5 about accessibility information overall, if you look,
6 you know, where we ended up in some of these overall
7 categories, we have a lot of priority ones from that
8 perspective when we get to that, and maybe we can end
9 up just rolling this up into the overall category when
10 we get to that.

11 MR. CAMERON: Let me check back in with
12 Bob before we go on.

13 Bob, you heard --

14 MR. LAURIE: Yeah, I don't have a problem
15 if we take I-3 and simply address the issues and look
16 at the questions posed and ask the question: is it
17 broken? Do these particular projects need work?

18 You know, I don't have an answer to that.
19 I mean, my priority was dealing with the overall
20 subject, not dealing with the particular question.

21 MR. CAMERON: And I think we're going to
22 get to that discussion. I guess this is, again,
23 tentative, but priority two with caveat that we are
24 going to talk about what Loren has been calling the
25 roll-up, and that this is a look at from the

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1 perspective of what is broken here, what specific
2 things need to be fixed.

3 MS. FERDIG: I think we need to ask our
4 guests later during this meeting, as well, what their
5 perspectives are about access to information and
6 becoming more --

7 MR. CAMERON: And let's put that over
8 here. We'll check back on not only inspection issue
9 two, the content, but on inspection issue three, which
10 is the -- okay.

11 MR. BLOUGH: Yeah, I think on this issue
12 that if you ask the question what's broke, I mean the
13 question is also how bad because there is a lot of
14 tweaking needed on, you know, how we make the
15 information available and what's on the Web site and
16 how visible is the inspection effort relative to the
17 PIs.

18 But I know the staff in headquarters is
19 working on all of that, and indeed, you do see changes
20 from time to time when you go on the Web site, and
21 there's others that I think are going to make it
22 easier for the public to look and actually get the
23 integrated view of inspection results.

24 So to me it's not that nothing's broken,
25 but there is a big improvement, and the things that

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1 need tweaked, if you will, as far as I know, are all
2 being worked on.

3 MR. LAURIE: Does NRC have an agency-wide
4 media officer or does the inspection program have its
5 own media? how does --

6 CHAIRMAN PLISCO: We have a Public Affairs
7 Office, and actually we're going to hear from them
8 tomorrow, and we can even raise some of these
9 questions of them as far as what kind of feedback from
10 their perspective they're getting.

11 MR. SCHERER: That's my concern since when
12 I look at the agenda or the people we invited to come
13 speak. I'd rather not close out this particular issue
14 until we hear their input. We've specifically
15 requested input in this area both today and tomorrow.

16 MR. CAMERON: Okay. That's a real good
17 point. It's our presentation both today and tomorrow.
18 They have implications of these issues.

19 And from Bob's point of view, on his
20 question, is there is a headquarters office of Public
21 Affairs, and then there are public affairs officers in
22 each regional office, as I understand it, right?

23 So that could be explained. Hopefully
24 they'll explain that tomorrow.

25 MR. LAURIE: Good. thank you.

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1 MR. CAMERON: How about issue four,
2 handling of crosscutting issues? This is inspection
3 issue four.

4 Now, on this one, we had a pretty large
5 majority who thought this was priority one rather than
6 priority two, and you could save your discussion of
7 why for the narrative discussion tomorrow. We could
8 ask those who do think it's a high priority to give us
9 reasons why they didn't think it was a high priority.

10 And, Loren, do you want to give us a
11 little context on what crosscutting issues means?

12 CHAIRMAN PLISCO: Yeah, I mentioned this
13 a little bit earlier when talking about inspection
14 report documentation threshold. This is a bigger
15 question.

16 How do we identify and document adverse
17 trends in the crosscutting areas? What are the
18 criteria for thresholds? And there's also a question
19 of what is a threshold for NRC engagement in some of
20 these areas as far as crosscutting issues?

21 If you don't have the technical issue that
22 meets significance, you know, as far as white, yellow
23 and green, but if the staff believes there is a
24 programmatic issue or issue of crosscutting, how are
25 we going to communicate that, and what are the

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1 thresholds for taking action?

2 That's what the question is.

3 MR. CAMERON: So crosscutting means or at
4 least it includes those types of issues that may not
5 rise to significance in and of themselves, but they
6 may indicate a trend that may be --

7 CHAIRMAN PLISCO: In the context of the
8 ROP, it's human performance issues, safety conscious
9 work environment issues, and problem identification
10 and resolution issues, those three specific areas.

11 MR. CAMERON: Okay. Anybody want to
12 comment? Dave.

13 MR. GARCHOW: Well, in the context of, you
14 know, having watched this thing develop from that
15 first workshop, we had a presumption that the PIs and
16 the inspection finding significance would point to
17 deficiencies in the licensee's performance in these
18 areas well before there would be any kind of
19 significant impact to public health and safety.

20 That was sort of like Steve used to call
21 it the rebuttable presumption of the program, and I'm
22 not sure anybody has brought forth data yet to show
23 that a plant has had problems in these areas that have
24 not popped up in either white or yellow inspection
25 findings or PIs, but we continue the conversation, you

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1 know, just continues to be a debate of this process.

2 So my purpose for putting it as a high
3 priority issue is either to determine whether the
4 original frame -- someone has got to conclude whether
5 the framework was sound that said that the PIs and the
6 significance of the inspection findings would put out
7 these errors before anything significant happened or
8 not because the behind that scenes that's happening,
9 there's not universal agreement on that principle. So
10 then the pressure continues to put those findings in
11 the crosscutting areas in inspection reports, to roll
12 them up in some sort of significance.

13 We invented this no color finding. So
14 that sort of popped into the landscape, all because we
15 haven't been able to get to the conclusion. Either
16 it's sound with the PIs in the inspection grading of
17 findings or it's not, and if it's not, you know, maybe
18 we do need a human performance indicator or something.

19 But it just keeps churning because I think
20 it's a priority. So we address that once and for all,
21 and I think that's the issue.

22 MR. FLOYD: Yeah, I would agree with that,
23 too. I think it is a significant enough issue and
24 enough concern certainly within the inspectors in the
25 agency that it probably deserves a priority one to get

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1 an answer to it as soon as possible and nail this
2 thing down.

3 I've got, in my presentation this
4 afternoon, I have some data which might shed some
5 light on the correlation between greater than green
6 conditions either in PIs or inspection findings and PI
7 in our and human performance area specifically.
8 Safety conscious work environment, there isn't much
9 data to look at, but the other two areas there is
10 some.

11 MR. CAMERON: Any other perspectives on
12 this as priority one?

13 We heard from Dave and Steve, and this is
14 priority one for them because we need to have some
15 certainty. We need to answer this question about what
16 are we really looking at here.

17 Ed?

18 MR. SCHERER: I gave it a priority two
19 because I hadn't seen and I hadn't heard of a plan to
20 do what is outlined there, or even a real recognition
21 that that's the issue.

22 In fact, I didn't have a great deal of
23 confidence that there was an ability to prove the
24 negative and say, "Okay. We are now satisfied that
25 these crosscutting issues are not, in fact, vulnerable

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1 areas that need to be independently monitored because
2 we can't cover them with a PI or an inspection module.

3 So if I believed that the staff would, in
4 fact, undertake the task that you outlined there, then
5 I would have no problem agreeing that that would be a
6 priority one. I just haven't seen any plan or any
7 acknowledgement that that's the issue.

8 In fact, I perceive that if I voted this
9 as a priority one, what I would be agreeing to, to
10 continue the debate of how many minor findings and PI
11 NR program amount to a trend and what is a trend; how
12 many multiple findings add up to a green, how many
13 multiple findings add up to a white, et cetera.

14 MR. CAMERON: So your priority, too, was
15 based on your assumption that it was going to be
16 business as usual, so to speak, okay, and what we have
17 over here is priority one. The assumption is that
18 it's priority one because we need to really resolve
19 this issue.

20 MR. SCHERER: I did it based on the
21 comments that were in the table.

22 MR. CAMERON: Steve?

23 MR. FLOYD: Yeah, I think it's such an
24 important issue for the inspectors particularly that
25 it really does need to be addressed.

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1 Going back to the first thing that we
2 talked about this morning on timing, it may not be
3 possible to do it very, very soon because I just think
4 it's going to take some time, take some data. You've
5 got to get enough findings across the industry to see
6 if there is a pattern so that you can either support
7 or refute the rebuttable presumption that underpins
8 the program.

9 So it's going to take some time, but it's
10 something that we feel strongly that the staff,
11 because of the concern within the agency, needs to put
12 a high priority on figuring out what is the answer.

13 MR. CAMERON: This is also a good example
14 of the timing issue, something that may be a long-term
15 thing, but it's still important, but we have --

16 MR. FLOYD: It could take another year.

17 MR. CAMERON: Could we have an NRC
18 perspective on this particular cut at this issue?

19 CHAIRMAN PLISCO: Well, I think Jim may
20 want to talk about it.

21 MR. CAMERON: Jim.

22 CHAIRMAN PLISCO: Because we heard a lot
23 of this apprehension, I think, from the senior
24 residents, you know, the panel that we had at our last
25 meeting, and I think that was the center of their

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1 concern, was how we handle this area and what we're
2 doing with it.

3 MR. CAMERON: Is the center of their
4 concern, if you can just expand on this, but do they
5 have the same concern that was expressed by Dave and
6 Steve that there needs to be more certainty of what
7 we're doing in this area?

8 MR. MOORMAN: Yeah, I think that will add
9 to the overall level of comfort because it looks
10 different to the person who is there every day and can
11 see the small problems, and they don't look that small
12 because you can see these things as they begin to in
13 your mind line up.

14 You may or may not be right, but you need
15 more data, and you want to be in a position of being
16 able to capture your thoughts so that you're not
17 standing there when something happens.

18 PARTICIPANT: In fact, there's no doubt
19 that there needs to be a more rigorous and structured
20 way of dealing with these kinds of issues. The
21 initial development of the program recognized that
22 these areas existed, but then didn't go any further,
23 and I think it's a high priority issue that we
24 continue the work to go to the next generation of
25 evaluation of these issues.

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1 MR. BORCHARDT: It's a real void, I
2 think, in the SDP space because if Jim called me up
3 and said, "Gee, whiz, Jim. Every day I got into the
4 control and the operators are sound asleep," he would
5 come to me and say, "You know, how do you evaluate
6 that. Put a color on that."

7 And from an SDP point of view we couldn't
8 do that. You know, we just don't have the ability to
9 look at --

10 MR. TRAPP: I think we'd all agree that's
11 probably an egregious finding. Yet what do we do with
12 it when we find it? So I think human performance is
13 key, and it could be related to safety. So it needs
14 to be resolved.

15 MR. BLOUGH: Yeah, and the other point is
16 that plants that have gotten into trouble in the past
17 under our old program, generally they had significant
18 crosscutting issues, and they developed over a period
19 of years, and you had, you know, a pattern where you
20 saw them develop and evolve for some period of time,
21 and then, you know, generally something more
22 significant happened, and you've got the utility, you
23 know, to really make changes to attack the issues they
24 had.

25 So at the heart of it is if you have

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1 crosscutting issues, they're crosscutting because they
2 can affect several cornerstones, and does the
3 framework we have that will, you know, catch
4 individual issues across thresholds; is that going to
5 work well enough, you know, in all important cases?

6 So I think it's a very important question
7 just, you know, based on the history we've had, and it
8 could be that as Steve said, we're going to prove out
9 in a period of time that, yeah, the framework is fine
10 with the thresholds we've got, but I think it's
11 important not just for the inspectors. It's important
12 for the framework and for safety.

13 I would rate this very high on the
14 maintain safety.

15 MR. CAMERON: Okay, and just for the
16 record, I feel compelled to introduce that if there
17 were egregious problems like continuously operators
18 sleeping in the control room, the NRC is not confined
19 by the reactor oversight process to take whatever
20 action is compelled by the situation to address it.

21 MR. BORCHARDT: I'm just saying we're void
22 from the --

23 MR. CAMERON: Right.

24 MR. BORCHARDT: We couldn't do a risk
25 analysis of it, but we could do a regulatory analysis.

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1 MR. MOORMAN: And it would happen only
2 once.

3 MR. CAMERON: Okay. It seems this is
4 priority one, and it's a process issue. In other
5 words, although we've heard pros and cons, you're not
6 arguing or not saying -- you're not trying to solve
7 the problem here, but you're saying that someone needs
8 to deal with this issue.

9 All right. Are you ready for five?

10 CHAIRMAN PLISCO: Yes.

11 MR. CAMERON: This is handling of multiple
12 findings, pretty close. Eight rated it as a one. Six
13 rated it a two.

14 And, Loren, context on this one?

15 CHAIRMAN PLISCO: Yeah. This is a
16 specific question. That's why I just put it under a
17 separate heading, and I think you can even make the
18 argument it may be better in the enforcement and
19 assessment section.

20 But it was really how we handle multiple
21 related findings as far as, you know, do we issue
22 separate findings. Are there some kind of grouping or
23 roll-up of those issues and how we handle them in the
24 process?

25 And I'm not sure whose comment this was.

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1 I don't know if anyone wants to elaborate on that
2 more..

3 MR. CAMERON: This is an interesting one.
4 Steve?

5 MR. FLOYD: I'd just like to make an
6 observation. Last week I read all 723 green findings
7 and 203 no color findings that are on the Web site,
8 and it looks to me like there isn't a lot of confusion
9 out there. Maybe there's some individual inspection
10 confusion, but as a general rule, it looks like the
11 agency is figuring out how to look for related
12 findings, establish a trend, and make a green finding
13 out of it or, in one case, make a white finding and in
14 another case make a yellow finding out of it.

15 So it looks like this is happening.

16 MR. CAMERON: And so that's on the theory
17 of what's broken again --

18 MR. FLOYD: Yeah.

19 MR. CAMERON: -- this would be a two from
20 your perspective.

21 MR. FLOYD: Yeah, basically.

22 MR. GARCHOW: Does anyone know what the
23 example was? I mean, was there an issue with a
24 specific plant that there was a struggle with was the
25 issue just aggregated, and it's yellow on its own, or

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1 was the issue, you know, this happened and this
2 happened and this happened, and when you ran them all
3 through the process, you end up with three greens, a
4 yellow one, and white?

5 I mean, it would be helpful to me if I
6 sort of knew where this came from.

7 MR. NOLAN: The hypothetical situation is
8 this, that if you go in and do one inspection and you
9 find, for example, five issues, you could view them
10 individually on their own, in which case if three were
11 green they would cut them off, or you could multiple
12 them together. Well, they would drop off the
13 regulatory conference.

14 Three of them, or you could lump them
15 together and call it one issue and attribute all of
16 them to the high significance and bring them all to a
17 regulatory conference.

18 And the issue is right now there isn't any
19 specific guidance to discuss those types of issues.
20 That's the hypothetical. The one in practice is the
21 EQ issue at Cooper, at which they have a significant
22 number of degraded EQ treatments which represented a
23 specific challenge to the SDP program because it was
24 such a complicated technical issue to try and
25 attribute risk to that the way they addressed it is

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1 they went and picked out one or two or three of the
2 obvious technical issues and tried to characterize the
3 entire risk characterization of the entire issue based
4 on those because it was just a technical challenge to
5 the SDP.

6 So that's the specific situation, but the
7 hypothetical is that based on how you group and
8 categorize things, you can bring green issues to the
9 regulatory conference if you choose to discuss that or
10 not.

11 MR. GARCHOW: Thank you. That was very
12 helpful.

13 MR. FLOYD: Yes, that's helpful.

14 CHAIRMAN PLISCO: And I can give you more
15 examples that we had in Region II in the pile-up
16 process. There was an issue at Sequoia, and there was
17 a white finding and a flooding issue, and during the
18 course of the inspection there were some other issues
19 that were identified, other violations that were
20 identified that were really not contributing causes to
21 the event. They were kind of peripheral issues, and
22 that question came up.

23 Do they get included in the connotation of
24 this white issue, or should they be handled, you know,
25 separately since they really weren't contributing

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1 causes? They were just saying they were found in the
2 course of the inspection. Even though it was related
3 to the equipment itself, you know, how do you handle
4 those?

5 But from my perspective this isn't really
6 a new question for the RLP process either. I mean,
7 this question has always come up, you know, in the
8 previous enforcement program and how you roll up
9 issues.

10 You know, we've dealt with this question
11 many times. If you have a number of issues that have
12 a similar root cause, do you put them together into
13 one enforcement package or not?

14 MR. GARCHOW: Is it fair to look at this
15 as enduring? You know, we're doing something new that
16 you couldn't think of everything right out of the
17 front. So as the process goes along, we'll find these
18 kinds of things that happen occasionally.

19 The example at Cooper, that would happen
20 occasionally, I would think. So if the NRC has a
21 process on how to handle the exceptions, you know, we
22 can probably expect that there is going to be
23 occasionally something come up that doesn't quite fit
24 all of the rules.

25 And I would say that if I had confidence

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1 that there was a process within the NRC on working
2 through those kinds of things that come up
3 occasionally, I'd make this a two and just say that
4 just with any other kind of change you can't think of
5 everything up front, and something is going to happen,
6 and as long as you have a process to get the right
7 people in the room and figure it up, I think that's
8 true in almost everything anybody does.

9 MR. CAMERON: Does anybody want to argue
10 for a or try to make a case for a one on this, given
11 what you've heard from Steve and Dave and Loren and
12 the information on specific examples?

13 MR. SCHERER: Only in terms of its impact
14 on the enforcement process. We will get to the
15 matrix, and if you have more than one finding as a
16 result of a related event, are you in a multiple
17 degraded -- repeated degraded cornerstone?

18 So the consequence is really not severe
19 here in terms of inspection. The importance in my
20 mind is in the enforcement part.

21 MR. BORCHARDT: And in enforcement you're
22 not limiting yourself to a concern about notices of
23 violations, but rather then the effect it would have
24 on entry into the action matrix.

25 MR. SCHERER: Exactly.

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1 MR. CAMERON: Steve.

2 MR. FLOYD: Just an observation. I mean
3 these are really case specific. I think there's been
4 some examples where this has worked well in the
5 program so far. At one station there were some
6 radiation protection findings that were decided that
7 they were individual findings because each one in and
8 of itself met the criteria. You know, even though
9 they're all somewhat related, it showed an overall
10 potential programmatic breakdown of the station's
11 radiation protection program for workers.

12 But nonetheless, there was an opportunity
13 to have caught and fixed each one at a certain stage
14 even though they were somewhat related.

15 So it looks to me like the process has
16 worked by exception, you know, where it needs to. I
17 was just thinking on the Cooper case, that may be
18 another good example of an exception where it's really
19 not how many findings do you make it and roll it up.
20 It sounded to me like what really needed to occur on
21 the Cooper one was to do a Phase 3 SDP evaluation
22 where you looked at what was the impact of having
23 multiple deficiencies that affected multiple pieces of
24 equipment and do a more integrated risk assessment
25 rather than trying to figure out, well, okay,

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1 individually they're all green, but if I really roll
2 them all up into, you know, a Phase 3 PRA type
3 evaluation, what would it tell me? Does it rise to
4 the level of being white or are they still all green,
5 you know, in the aggregate?

6 MR. TRAPP: That's what was done.

7 MR. FLOYD: That's what was done? Oh,
8 okay. Yeah.

9 MR. CAMERON: Bill.

10 MR. BORCHARDT: Well, I think also on the
11 EQ types of issues, sometimes there's so many pieces
12 of equipment it just gets to be overly burdensome to
13 analyze each individual piece of equipment, and so
14 what the attempt was to try to find the most
15 significant few as a way of saying, okay, this is the
16 most serious equipment impact, and this was whatever
17 significance it was assessed at, and then just roll
18 that -- not really roll up.

19 In a way, I'm very sensitive to
20 aggregation in the past --

21 MR. FLOYD: Right.

22 MR. BORCHARDT: -- but not aggregating,
23 summing green findings to something higher, but rather
24 umbrella, putting other issues under the same umbrella
25 as the most significant.

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1 MR. FLOYD: Yeah, and I think it's a lot
2 easier to do that on the items that affect the reactor
3 safety SDP cornerstone if it's equipment related.
4 Where this issue really comes to bear is if it's more
5 programmatic in nature, where it's really not
6 affecting any equipment directly today, but there's
7 the perception that it could in the future, and that's
8 where we really get into the gray area on this one.

9 MR. CAMERON: Okay. Well, with the caveat
10 that Ed offered about that this -- and I don't know if
11 I summarized it right -- from an enforcement
12 perspective, and I guess in a specific case, the
13 implications of this may be important, but this would
14 be a priority -- the feeling of the panel that this
15 would be a priority two?

16 All right. Okay. Well, the next one is
17 I-6. This is physical protection inspection, and
18 people seem to be torn on this one. There were six
19 that put in a high priority and eight who put it in
20 the number two category.

21 Loren, what is this physical protection
22 inspection?

23 (Laughter.)

24 CHAIRMAN PLISCO: How much time do we
25 have?

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1 You know, there's only two simple bullets
2 on here, but there's been a lot of concerns from the
3 staff and the industry on the physical protection
4 inspection program and how it's going to be conducted,
5 what's going to be looked at, and then how a finding
6 could be handled in the SDP process

7 MR. SCHERER: Didn't the Commission just
8 speak to this issue?

9 MR. BORCHARDT: Yes, and I think this is
10 a case that the Commission has authorized the staff to
11 deviate from what was the original process. Given
12 that we have an existing deviation, in my mind it's a
13 high priority because you don't want to live with
14 existing deviations. I mean, now is the point where
15 there ought to be a high priority to fix the
16 situation.

17 However it ends up being fixed isn't our
18 decision, but --

19 MR. GARCHOW: When you get about, you
20 know, 30 words on what the essence of the -- I didn't
21 get a chance to --

22 MR. BORCHARDT: Well, there was a
23 significance determination process for security
24 findings, and that fed into the reactor significance
25 determination process so that what happened far more

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1 often than not was that any significant security
2 finding would correlate to a red finding on reactor
3 safety because you could -- enough?

4 MR. GARCHOW: Yeah.

5 MR. KRICH: Basically you wound up at core
6 damage pretty much, entered the reactor safety.
7 Having been the poster child for this issue --

8 (Laughter.)

9 MR. KRICH: I think, you know, given what
10 came out from the NRC, I guess I still seen this as
11 it's important to get to resolution on this. We have
12 some new criteria to go by, but it's still an issue,
13 I think, that needs attention.

14 MR. GARCHOW: So the solution was to
15 somehow revise another process of looking at security
16 issues that didn't tie into the reactor?

17 MR. BORCHARDT: Well, the short-term
18 solution or the interim solution was to not make that
19 transition to the reactor significance determination
20 process and have the finding based solely on the
21 security.

22 MR. GARCHOW: What they did was come out
23 with some screening criteria.

24 MR. FLOYD: Beginning in green, white,
25 yellow red.

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1 MR. GARCHOW: Yeah.

2 MR. BLOUGH: Well, we also have this issue
3 under SS-7, reevaluate the physical security SDP on
4 page 5, and it looks like we already called that -- we
5 already called the SDP aspects of this as one, and now
6 we're talking about the inspection element of it,
7 which is the actual inspection.

8 MR. CAMERON: And S is what we did. We
9 already discussed that and came to a conclusion; is
10 that correct?

11 CHAIRMAN PLISCO: Yeah.

12 MR. CAMERON: All right. Anybody --

13 MR. LAURIE: Chip, I don't have a good
14 understanding of -- you know, I'm not going to ask
15 that a lot of time be taken for this, but I don't have
16 a good understanding as to what the NRC does as far as
17 security inspections.

18 Does NRC have contracts with your own
19 security forces or the military to test the systems?
20 How does that work?

21 MR. CAMERON: Can someone, I think,
22 because --

23 MR. FLOYD: I can give you just a
24 snapshot.

25 MR. CAMERON: -- put the status stuff in

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1 context? Can someone give Bob a --

2 MR. FLOYD: The security inspection really
3 has two areas. One is more of a programmatic review
4 of the overall effectiveness of the program covering
5 areas like fitness for duty, access control, and
6 things like that, and administering your program.

7 And then the second major element that was
8 part of it was a force on force evaluation. The guys
9 in the black pajamas and the guns show up, see if they
10 can break into the plant and get to areas that contain
11 what are called target sets of equipment, which is
12 equipment necessary to achieve and maintain safe
13 shutdown at the plant. So it's an actual exercise.

14 MR. LAURIE: And what's the history of
15 that?

16 MR. FLOYD: Well, it's been a bone of
17 contention with the industry and the NRC because with
18 each one of these evaluations, the team that comes in
19 and conducts the exercise has better and better
20 weapons of greater and greater caliber to the point
21 now where at many stations in the country the guards
22 at the station by state law are not allowed to carry
23 the weapons that are necessary to get the force
24 interdicted that is being assembled by the NRC to test
25 their process.

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1 So there's a lot of disconnects. So
2 really I think where this issue really is, and I agree
3 it's a high priority, it needs to be resolved, and the
4 resolution appears to be going towards a revised rule
5 that's going to clarify what is the threat that you're
6 really trying to demonstrate against, and where does
7 a reasonable threat response that the station has to
8 put up start to deviate from what is the
9 responsibility of the U.S. government to not allow
10 that type of force to get into the country for a
11 terrorist action.

12 I mean, there's a line that has to be
13 drawn somewhere, and over time the line has crept more
14 and more and more towards it's the responsibility of
15 the station to basically take on the responsibilities
16 of the U.S. government at least in some people's
17 perception.

18 So there's a revised rule that's going to
19 come out and try to define that and make a little bit
20 better sense of it, and in the meantime, they've put
21 in this interim significance determination process to
22 more subjectively evaluate deficiencies that might be
23 relevant for force on force evaluations, and then when
24 the final rule comes out, get an SDP that actually
25 works that's written to meet the final rule.

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1 That's the overall game plan.

2 MR. GARCHOW: Now, to add to that, if you
3 look at, you know, some other potential terrorist
4 targets in the United States, you go to the owners of
5 those industries and ask how are they protected, and
6 they said, "The federal government protects me," you
7 know, large chemical complexes, other things that
8 would be reasonable potential targets for somebody
9 that had that as one of their objectives.

10 And there's no requirement in those
11 industries at all to have anything other than almost
12 like watchmen for access.

13 MR. LAURIE: And this is something that
14 the Commission itself is looking at at this point.

15 MR. SCHERER: Well, there has been
16 progress made. I mean, the NRC has now issued
17 adversarial characteristics document, for the first
18 time in recent memory at least defines a stable
19 platform in which the utilities can respond to that
20 threat.

21 And the Commission has recently indicated
22 its desire to bring more sense to this area and voted
23 on, I guess, it was for Quad Cities five-nothing to
24 take interim steps, and I think by definition, let's
25 say, consistent with the fact that we put it as a

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1 priority one before, the Commissioners have made it a
2 priority one issue. I think it's appropriate, and I
3 think it's going to be addressed probably not key to
4 the reactor oversight process, but it's going to be
5 addressed.

6 MR. LAURIE: I would just like to see each
7 resident inspector pull patrol every once in a while.

8 (Laughter.)

9 MR. GARCHOW: Be sure we get that in the
10 minutes.

11 MR. LAURIE: It's already there.

12 CHAIRMAN PLISCO: Is there any more on
13 this that you want to talk about?

14 MR. CAMERON: Yeah, priority one?

15 CHAIRMAN PLISCO: I was going to propose
16 we take a 15-minute break.

17 (Whereupon, the foregoing matter went off
18 the record at 10:00 a.m. and went back on
19 the record at 10:18 a.m.)

20 MR. CAMERON: Okay. We're going to move
21 right along to I-7, clarify event response guidance.

22 And just for, I guess, people's
23 information because you do have guests coming this
24 afternoon, are you going to plan to break at 12 and
25 resume at one or do you want to reserve the

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1 flexibility until you see where we are later on in the
2 morning?

3 CHAIRMAN PLISCO: Let's break at 12.

4 MR. CAMERON: Okay.

5 CHAIRMAN PLISCO: Because we have a
6 continuation slot for this tomorrow.

7 MR. CAMERON: All right.

8 CHAIRMAN PLISCO: So we'll stop where we
9 are at 12.

10 (Simultaneous conversation.)

11 CHAIRMAN PLISCO: This issue, I-7, and I
12 think most of this came from NRC comments having to do
13 with we were working with some draft guidance on 8.3
14 that was being essentially piloted through the initial
15 part of the process, and comments having to do with
16 making sure that the guidance was clear and that the
17 thresholds were clear and that we could communicate
18 those to the public, and that there was appropriate
19 structure in the process to make the decisions on what
20 the agency was going to do in an event response so
21 that everyone knew what to expect when certain types
22 of events happened.

23 MR. CAMERON: Okay. And we had nine
24 people who selected this in category two and five in
25 category one.

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1 Any of the category one people want to
2 make a case for category one?

3 (No response.)

4 MR. CAMERON: Or do any of the category
5 two people want to make a case for category two?

6 MR. BROCKMAN: Category one weren't so
7 very impassioned about their ratings.

8 (Laughter.)

9 MR. SCHERER: I guess between the last
10 meeting and this one, we had inadvertently volunteered
11 to test this process.

12 (Laughter.)

13 MR. SCHERER: And I thought, as it turns
14 out, that the response was in accordance with the
15 process. It was reasonable. It was dialogue, and the
16 NRC response was appropriate. The process does seem
17 to work.

18 I agree there are issues that had to be
19 resolved, and in fact the CCDP turned out to be
20 somewhat higher than the NRC expected, the one we
21 calculated, but the response was reasoned and seemed
22 to be well within the process.

23 So it seems to work, one data point at
24 least. It seems to work.

25 MR. CAMERON: This is an actual data

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1 point.

2 MR. SCHERER: Yeah. I don't disagree that
3 there are things that should be worked on, but it
4 doesn't seem to be something requiring immediate and
5 priority attention.

6 MR. CAMERON: Anybody on the -- david?

7 MR. GARCHOW: I think that when you read
8 the guidance that they have, I'll sort of make a point
9 from the NRC's perspective. I think the process has
10 to have some leeway for the regional administrator to
11 in his judgment experience a knowledge of the
12 particular plant, be able to always send the event
13 response, you know, subject to some review, and I
14 think if they're doing that every other Thursday, that
15 might be questioned, but I think it's very important
16 for this process to allow the judgment of the regional
17 administrator to call for an event related response.

18 So I would just caution against making
19 this box so well defined that there isn't leeway.

20 MR. SCHERER: If I wasn't clear, I think
21 the NRC did use judgment and did use the leeway they
22 had. I think they used it appropriately.

23 CHAIRMAN PLISCO: And I think some of the
24 concerns internally that we had early on have really
25 been addressed. I'm sort of speaking for Ken.

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1 I know one of the issues that both Region
2 4 and Region 2 had was the original procedure didn't,
3 I think provide the flexibility that we thought it
4 needed to handle conditions. That was really focused
5 on something that actually -- an event that happened.

6 There were some issues, for example, on
7 the cable splice issue that Ken was talking about, and
8 we had some similar issues in region 2. An event did
9 not occur, but it was a condition that we thought was
10 significant that needed like a special inspection. We
11 wanted to make sure the management directive had the
12 guides in there to allow that kind of decision to be
13 made.

14 And I think that has been changed, and I
15 think, Ken, to your satisfaction that part of the
16 program has been addressed to allow that.

17 MR. BROCKMAN: Yeah, I think that part has
18 come across pretty well, but I'd also like to echo on
19 Ed's comments. If you looked at what happened out in
20 San Onofre and just a very literalist reading of the
21 current guidance, the inspection effort would have
22 been different from what was out there, and there was
23 an allowance to bring in the experience and the
24 operational savvy of the agency in defining what
25 should be the appropriate response for that.

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1 So I'm satisfied with where the guidance
2 is right now, and it's essential to keep it there ,
3 and I'd probably go with Steve's comments on the first
4 issue this morning. I think this one has gotten to
5 the point where you put it as two. It's something
6 that needs to be ongoing and continuing there.

7 There are two things the regions do:
8 inspect and respond to events. To ignore it would be
9 totally inappropriate, but where it's at right now,
10 probably two is the right spot to let it be dealt
11 with.

12 MR. HILL: Ken, did I misunderstand you?
13 I thought you said that if you looked at the guidance,
14 the inspection would have been different than what
15 they did.

16 MR. BROCKMAN: If you took an extremely
17 literalist look at the risk portion of the guidance,
18 it would have taken you into one path, but when you
19 brought in the deterministic aspects to make it a risk
20 informed decision as opposed to a risk based decision
21 -- and that's what I was reading into Ed's comments,
22 I think you got to the right position.

23 MR. HILL: So you think the guidance is
24 okay enough that you can get to where you want to go?

25 MR. BROCKMAN: Yes, yes.

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1 MR. BLOUGH: Yes. I think that on
2 balance, you know, the guidance that tells you -- you
3 know, gives you guidance on what type of inspection
4 follow-up to kick out to once the event has been
5 stabilized, the event is actually over, you know, that
6 has a risk informed aspect to it, and it has
7 deterministic criteria, and it has allowance for
8 judgment, and it says the people in NRC management
9 should consult each other.

10 So it seems to me the San Onofre one was,
11 you know, weighing all of the guidance that was right
12 the way it should happen per the guidance.

13 MR. BROCKMAN: I think so.

14 MR. CAMERON: So any objections to
15 priority two?

16 (No response.)

17 MR. CAMERON: Okay. So next we have
18 revised problem identification and resolution
19 inspection, and this one is pretty close. Six of you
20 thought it was one, and eight of you thought it should
21 be a two.

22 Loren, what's the story on this one?

23 CHAIRMAN PLISCO: There were a lot of
24 comments about getting some mixed results and some
25 concern about the effectiveness of the problem

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1 identification resolution inspections, the resources
2 that we're applying to that, whether that was
3 appropriate, whether we're looking at the right areas,
4 and what we are doing with the findings, whether that
5 was effective and efficient.

6 This is in addition. There is internally
7 a working group working on these very issues to look
8 at what the results have been across all the regions,
9 and if there's a better approach that we can take on
10 that inspection.

11 MR. BORCHARDT: Would it be fair to say
12 that I-8 relates to I-4?

13 MS. FERDIG: That was going to be my next
14 question.

15 CHAIRMAN PLISCO: There is a difference,
16 and that's why I separated them on here. I think four
17 is really what you do with the results, how you handle
18 issues that may be considered crosscutting issues and
19 any thresholds for action.

20 IA was more narrow as far as how do we do
21 the inspection, what the right frequency of the
22 inspection is, how many resources should be applied.
23 It's really just the scope and breadth of the
24 inspections specifically and not what we do with the
25 results and how we handle the results of that.

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1 MR. BORCHARDT: But PR&R is a crosscutting
2 issue.

3 CHAIRMAN PLISCO: Right.

4 MR. BORCHARDT: And for that reason I
5 think crosscutting issues is a significant issue
6 overall, and then as you get more specific, it remains
7 just a significant through. I would argue that this
8 ought to be a priority one as a piece of a much larger
9 issue, a crosscutting issue.

10 MR. SCHERER: I guess I don't understand
11 why this needs to be a separate issue as opposed to
12 being subsumed not only in four, but in the way we've
13 revised Item 1.

14 MR. TRAPP: The last bullet of Item one is
15 almost the same thing. It says, "Need to review
16 frequency of inspections that require major asset
17 allocation," and they talk specifically to the PI&R.

18 MR. SCHERER: Yeah, and I don't see the
19 PI&R as different or raises some unique issue. I
20 agree that there are some questions as to the amount
21 of resources, the amount of findings, the amount of
22 already identified findings that now get followed up.

23 But I think these are all issues that
24 could easily be subsumed both in four and in item one,
25 and unless I'm missing something, the PI&R just

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1 doesn't deserve to have a separate category for the
2 resolution of the same set of issues.

3 MR. BORCHARDT: Well, I'll just play
4 devil's advocate for a second. The strength of the
5 industry's problem identification and resolution
6 processes, I think are one of the founding principles
7 of this new program. To the method that the NRC ought
8 to use to periodically verify the health of that
9 problem, I'm assuming that's what the inspection
10 procedure and process would do.

11 I think that gives it a special
12 consideration. I mean that and in light of the fact
13 that it's a crosscutting issue.

14 MR. SCHERER: Well, let me be the advocate
15 for the other side. What is not covered already under
16 the fact that crosscutting issues -- PI&R is one of
17 the three crosscutting issues, and we're addressing
18 that aspect in there, and the resource allocation
19 toward how many hours of inspection does a PI&R
20 require would be subsumed in Item 1.

21 What issue is left over for separate
22 identification and resolution?

23 MR. BORCHARDT: I don't know that any one
24 is left over. What I see as a danger, especially as
25 putting I-8 into I-1, that I-1 is a much bigger thing,

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1 has a number of areas that in my mind do not rise to
2 the same priority of importance as PI&R, and that I'd
3 rather not that one issue get lost in the much bigger
4 picture of I-1.

5 I could live more easily personally with
6 folding it into I-4, as I-4 deals with how findings
7 are handled, and we would expand I-4 to also include
8 how the findings are identified. I could live with
9 that as long as it keeps a high priority.

10 MR. CAMERON: There are two different
11 aspects here though. One is the, as Loren said, this
12 one was meant to be focused on the actual inspection
13 process, although it obviously has import for
14 crosscutting, and it's the possibility that you could
15 put the actual inspection process part, i.e., I guess,
16 resource allocation into one, but make sure under the
17 crosscutting I-4 that you put this in there.

18 Would that satisfy you, Bill? We don't
19 want it to get lost basically.

20 MR. BORCHARDT: Yeah, I think I'm at least
21 initially concerned with having the issue put into I-1
22 because I see that as a very big resource issue, and
23 it would get lost.

24 MR. SCHERER: I was suggesting putting it
25 in I-4 the way you discussed, but there's one aspect

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1 of it that I think does belong in addition to I-4 in
2 I-1.

3 MR. GARCHOW: If we think I-4 is really
4 just handling of it, then handling of it would be how
5 does it affect across all elements of the reactor
6 oversight process. So when they handle it, I imagine
7 they're going to revise the procedures. If we revise
8 the procedure, it will take a different amount of
9 effort. I mean, I wouldn't presuppose which way it
10 would go.

11 But when I thought of handling, I thought
12 it was handling it in its entirety where every aspect
13 of the programming dealing with crosscutting issues
14 would be revised in some way, you know, that whoever
15 is looking at it would determine a need be.

16 So I guess I was reading more into
17 "handling" encompassing everything.

18 MR. CAMERON: Mary?

19 MS. FERDIG: Well, I'm just imagining the
20 final report, and I'm imagining a section on
21 crosscutting issues, which is clearly going to have
22 some language associated with the kinds of things
23 we've discussed, and I think in doing so there will
24 need to be a priority on this PI&R process.

25 So I think it works. I think we can do it

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1 this way, and it remains for me a priority one, given
2 that.

3 MR. GARCHOW: Bold under I-4.

4 CHAIRMAN PLISCO: And there is some
5 symmetry there. That inspection procedure does look
6 at all three of those crosscutting issues.

7 MR. CAMERON: So is it the sense of the
8 group that we put PI&R under -- fold that into I-4,
9 eliminate this as a separate category, and also keep
10 in mind that there may be resource allocation issues
11 related to this PI&R that you might have to address
12 under category one?

13 CHAIRMAN PLISCO: Actually they're already
14 there.

15 MR. CAMERON: Okay. All right.

16 MR. BLOUGH: But if we merge them, then
17 we'll bring the text of I-8 up into I-4 because I
18 think it --

19 MR. CAMERON: Yes.

20 MR. BLOUGH: Yeah, the PIR inspection is
21 the only inspection focused, you know, directly on
22 crosscutting issues, and I think how you do the
23 inspection and how often and what's the interaction
24 between the periodic inspection and continuous
25 inspection, yeah, those are all very important

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1 questions.

2 And the question is addressed even within
3 an environment where there's some who don't think any
4 periodic inspection is needed of this area because,
5 again, using the theory that if no thresholds are
6 cross, the agency doesn't need to be looking there.

7 So just given all of the divergence of use
8 and the importance of the fundamental principle of the
9 program, you know, I think this inspection, any issues
10 associated with it are priority one.

11 MR. CAMERON: Okay, and that emphasizes
12 also, just to reemphasize what Mary said, is that I-4
13 remains a priority one issue.

14 MR. SCHERER: I have no disagreement with
15 it as far as we've gone. There's still one remaining
16 part of this that I think gets subsumed in Item 1, and
17 that is at least our experience on the PI&R
18 inspections is it tends to spin off findings in other
19 areas simply because they're in the PI&R process.

20 And it has, therefore, implications
21 against the base program because as these get
22 identified, they need to be closed out, whether
23 they're a minor violation or a violation or a green
24 finding or something else.

25 So that whenever the NRC comes in and

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1 looks at the PI&R, there's a tendency to -- I don't
2 want to be pejorative -- but mine it in terms of
3 finding other issues because the licensee identified
4 it, put it in the PI&R program. The NRC then wants to
5 follow up and close it out.

6 So it does have an impact on the base
7 program, and I just wanted to make sure that that gets
8 identified.

9 MR. CAMERON: Can we put a bullet for
10 further discussion under the I-1 description that says
11 something about the so-called spinoffs from the PI and
12 our inspection? Would that capture it, identify it
13 enough so that we can speak to it?

14 MR. MOORMAN: Yeah, I think we need to
15 have something in there that identifies that because
16 my experience with the PI&R inspections are that we
17 find different issues.

18 An ancillary part of that is an assessment
19 of the PI&R program, but we do find other issues that
20 wind up going back into the assessment process, and
21 I'm not exactly sure that that's what we -- that we
22 want to make an assessment of how well the corrective
23 action program works, not finding all of the
24 violations that the residents did.

25 MR. CAMERON: And that's your -- the

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1 spinoffs that you're talking about, Ed, are a spinoff
2 into the assessment part.

3 MR. SCHERER: Exactly.

4 MR. CAMERON: Okay. Let's look at as a
5 bullet under one, and so we eliminated eight, folded
6 it into I-4 and a little bit into I-1.

7 Last inspection issue, I-9, use of
8 licensees' self-assessments to meet inspection
9 requirements. Now, pretty overwhelmingly, 11 of you
10 had a two for this issue, and three of you had a one
11 for it.

12 And, Loren, do you want to?

13 CHAIRMAN PLISCO: Yeah. Well, there are
14 a number of specific comments, and this actually goes
15 back to the old inspection program that was a part of
16 the old inspection program where we in certain cases
17 allowed the flexibility if the utility did an
18 assessment or had a third party come in and do a
19 specific inspection, we would look at reducing
20 inspection resources in that specific area, and
21 essentially just look at what the self-assessment did
22 and what the findings were, and use that as part of
23 our program.

24 That was in the old program, and I think
25 the gist of this comment is: is there avenue for that

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1 approach in the new program? And maybe to use self-
2 assessments in place of baseline inspection, I think,
3 is the question.

4 MR. CAMERON: And with that explanation,
5 does anybody want to reverse what they thought their
6 priorities were?

7 CHAIRMAN PLISCO: Well, I just want to add
8 one more thing. This has a link back to what we
9 talked about before when Ken was talking about what is
10 the baseline program. You know, is it a de minimis or
11 not?

12 And there is some linkage between this
13 question and what we talked about before, defining
14 what the baseline program is.

15 MR. CAMERON: Anybody have anything they
16 want to say about this one?

17 MR. GARCHOW: I think it's a natural
18 evolution, but I don't think it's a priority.

19 MR. FLOYD: Right. That's how I see it.

20 PARTICIPANT: I agree.

21 MR. CAMERON: Okay. Does anybody have an
22 objection to make it a priority two?

23 And this implications for defining the
24 baseline, Loren, that's going to be --

25 CHAIRMAN PLISCO: We have that actually in

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1 number one as a two also. Make sure that definition
2 is clear.

3 MR. CAMERON: So that's captured in I-1.

4 MS. FERDIG: Let me just ask real quickly.
5 I think I put a one down for that, and I think my
6 question around that had to do with my lack of
7 understanding about the degree to which self-
8 assessment was relied upon as a part of the inspection
9 process or if it could be, and if so, how that balance
10 occurred.

11 And if that's the case, then how do we
12 know how rigorous internal self-assessments are and
13 what's the standard by which that is measured?

14 So I just want to make that statement.

15 CHAIRMAN PLISCO: Well, in the program
16 right now there is not any reliance on the self-
17 assessment process, and this is a question that's come
18 up because there was some case-by-case reliance in the
19 old program, and in some specific areas.

20 MS. FERDIG: Right. I mean I think it's
21 a great idea.

22 CHAIRMAN PLISCO: Most of it had to do
23 with big team inspections like design inspections. If
24 the utility did their own evaluation of an inspection.

25 There were cases, and we looked at

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1 licensee performance and what kind of confidence we
2 had in that assessment, and it's not that we wouldn't
3 do any inspection. We would reduce the inspection and
4 first look at what they did and look at the results of
5 that and make a decision whether we thought that was
6 a good enough look and not do an inspection ourselves.

7 And that's what we did in the old program.

8 MR. SCHERER: I want to make sure the
9 record is clear for those people who aren't familiar
10 with it. At least I'm familiar with the process.
11 Critical self-assessments are done with, for example,
12 for the CE fleet we do it with a team of peers and
13 with other plants and from other expert groups. So
14 it's not just a couple of people within the utility
15 that sit down and decide to do a self-directed self-
16 assessment.

17 These are usually interdisciplinary teams
18 that come and audit the processes rigorously, and we
19 found our experience even in some cases with more
20 rigor go through the process and do an evaluation, and
21 in some cases we have suggested that the NRC consider
22 those as potential inputs to their inspection process
23 even to the point of inviting the NRC to participate
24 in those teams.

25 You know, I'm a very strong advocate for

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1 that process as adding a lot of value, especially as
2 our peers from other plans with a similar design come
3 in and review our processes, but I think this is just
4 one of these normal evolutions that over time we'll
5 look at and if it adds value, the NRC will make a
6 decision whether it does or does not add value to
7 their process.

8 MR. CAMERON: And is that clear, Mary,
9 now?

10 MS. FERDIG: Yeah, I think it is.

11 MR. CAMERON: What their role is?

12 MS. FERDIG: That's what excites me about
13 this, the potentiality of this item. I like seeing
14 the utility assume responsibility of its self-
15 assessment. I like the regulator acknowledging that
16 and using that as a part of its input.

17 And I think it's clearly a priority two.

18 MR. CAMERON: And now just to make sure
19 that we're clear on this and maybe make sure I'm clear
20 on this, but as of now, the self-assessment is not --

21 CHAIRMAN PLISCO: It's not part of the
22 program.

23 MR. CAMERON: -- not part of the regular
24 program.

25 CHAIRMAN PLISCO: I'd like to comment on

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1 that.

2 MR. CAMERON: Okay.

3 CHAIRMAN PLISCO: It's not part of the
4 baseline inspection.

5 MR. CAMERON: Right.

6 CHAIRMAN PLISCO: In other words, there's
7 no provision in the baseline inspection for a utility
8 to do their own self-assessment and, therefore,
9 obviate the need for baseline.

10 Not true in the supplemental program. The
11 design of the supplemental inspection for degraded
12 cornerstone plant or multiple degraded cornerstone was
13 done with the expectation right in the action matrix
14 that there would be a comprehensive licensee self-
15 assessment once they crossed thresholds to that
16 extent, and then the whole supplemental inspection,
17 you know assumes that that's happened.

18 So I think this is priority two as well.
19 I just wanted to make that clarification. It's not
20 part of the baseline, but it is, I think, part of the
21 supplemental.

22 MR. BLOUGH: It's an assumption of the
23 supplemental program.

24 CHAIRMAN PLISCO: Right, and I think the
25 base of this comment was really strictly to the

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1 baseline program.

2 MR. CAMERON: And just for the record, the
3 self-assessment that you guys do is normal course of
4 business. It's not just a supplemental situation, and
5 I think Mary is advocating perhaps for somewhere down
6 the line that self-assessments should perhaps be
7 encouraged. Use of it could be encouraged perhaps by
8 some NRC recognition.

9 MS. FERDIG: Right, and, again, that
10 assumes a rigorous standard in how that would be
11 applied.

12 MR. CAMERON: All right.

13 MR. HILL: Let me just ask a question and
14 just make sure I'm understanding a baseline. If the
15 team inspections that you talked about have been
16 previously looked at of if you've done your own self-
17 assessment, would they be considered part of the
18 baseline or just supplemental?

19 MR. FLOYD: Only supplement as you're
20 getting up there and not part of the baseline.

21 MR. HILL: Other than, for instance,
22 what's an OSRE considered? Is that part of the
23 baseline or is that above baseline? Because that's --

24 CHAIRMAN PLISCO: It's neither. It's not
25 part of the baseline.

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1 MR. BROCKMAN: Currently, Attachment 3,
2 there's an Attachment 3 to the security procedure,
3 which is a baseline procedure.

4 CHAIRMAN PLISCO: But it's sort of an
5 interim, right. I mean the Commission is still making
6 a decision where we're going to go.

7 MR. BROCKMAN: There's a forced or
8 unforced component recognized within the baseline
9 procedure at the moment. How that will characterize
10 itself in the final throes remains to be seen.

11 MR. HILL: We have similar type things in
12 fire protection stuff. I'm not sure whether that's
13 considered baseline or not.

14 CHAIRMAN PLISCO: Yeah, that's baseline.

15 MR. HILL: Okay.

16 MR. CAMERON: Okay. Are we ready to move
17 into performance indicators?

18 Okay. The first issue there is need to
19 identify and evaluate unintended consequences for
20 performance indicators. I think one of the highest
21 number one ratings so far on this one, and, Loren, do
22 you want to give us some context?

23 CHAIRMAN PLISCO: There are quite a few
24 comments. I won't go through them all on your sheet.
25 It is on page 9 of the big package.

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1 A lot of concerns and issues and
2 perceptions of unintended consequences of certain
3 performance indicators or performance indicators that
4 may drive actions, undesirable actions by a utility
5 because of the performance indicator, and those are
6 the concerns.

7 I think a number of these we've talked
8 about before in some of our previous meetings on some
9 of these unintended consequences for certain specific
10 performance indicators.

11 MR. CAMERON: Anybody -- I know Ed has
12 spoken to this a number of times. Maybe --

13 CHAIRMAN PLISCO: I was expecting him to
14 speak first.

15 MR. CAMERON: I was going to say why don't
16 we go to Ed for a summary.

17 MR. SCHERER: I think I've spoken enough
18 on this. I think everybody knows where I come out.
19 I think this is an important issue that needs to not
20 only be worked in the short term, but we have to watch
21 it over the long term and have a robust process for
22 looking at it.

23 MR. BLOUGH: You've got 13 one votes on
24 this, which may be the highest ratio.

25 MR. SCHERER: Everything has been said.

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1 Maybe not everybody has had a chance to say it.

2 MR. CAMERON: I guess we should ask the
3 people who at least initially rated it as a two. Do
4 they want to say anything about that?

5 Luckily we don't know who --

6 (Laughter.)

7 CHAIRMAN PLISCO: Does anyone strongly
8 oppose it being a one? Let's put it that way.

9 (No response.)

10 CHAIRMAN PLISCO: All right. It sounds
11 like a one.

12 MR. CAMERON: Okay. Next, P-2, initiating
13 events, cornerstone, and this is the opposite from one
14 in a sense. We had 11 who thought it was category one
15 and four who thought it was category -- I'm sorry.
16 Eleven thought it was category two. Four thought it
17 was category one.

18 Loren?

19 CHAIRMAN PLISCO: This specifically had to
20 do with the unplanned power change performance
21 indicator to evaluate the effectiveness of that
22 performance indicator, and there's also a concern
23 about unintended consequences.

24 And as I read this the other day, I was
25 wondering whether we ought to just roll this up into

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1 a P-1.

2 MR. FLOYD: That's really what it is.

3 CHAIRMAN PLISCO: It sounds like it's
4 really a sub-question of what we already have in P-1.

5 MR. FLOYD: I think so.

6 MR. CAMERON: Does everybody agree with
7 that?

8 MR. FLOYD: I would agree with that, yeah.

9 MR. CAMERON: That it is a subset?

10 PARTICIPANT: Sure.

11 CHAIRMAN PLISCO: It's just one example,
12 I think, of what we're talking about.

13 MR. FLOYD: Exactly right.

14 MR. CAMERON: Ed, you're ambivalent about
15 that or have no problem with that?

16 MR. SCHERER: I have no problem with it
17 being moved in. I don't think this is a major issue.
18 I mean, I was the one or one of the people that
19 believed on its own it would be a category two. By
20 moving it into P-1 I haven't changed my opinion as to
21 the importance of this particular issue, but letting
22 it be subsumed into P-1 is fine with me.

23 MR. HILL: I guess one comment I'd like to
24 make back on P-1, and that's the wording we have of
25 the title of it of unintended consequences. When we

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1 have the NRC come here and talk about this, they made
2 a very clear point that unintended consequences had a
3 very specific meaning which was different from
4 increased regulatory burden, and I think though that
5 the comments here kind of cross both of those, you
6 know, in P-1 and P-2.

7 It really talks more about -- I think my
8 impression and a lot of people had the feeling of
9 really kind of discussing both of those. So I --

10 MR. CAMERON: This just sounds like a good
11 point to clarify not only does the use of this term --
12 is this a term of art in reactor oversight process
13 space that they imply something that the panel doesn't
14 mean to imply? And what is covered?

15 MR. HILL: I guess my understanding of
16 what that meant was much bigger than what I heard the
17 NRC say. "It only means this."

18 Up here is the first time I really heard
19 that distinction.

20 MR. CAMERON: Can you tell us again what
21 you think it means versus what the NRC staff said it
22 meant?

23 MR. HILL: Well, I think what I heard the
24 NRC staff say is it only had to do with those things
25 that a utility might or might not do relating to

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1 safety, unclear safety; that if there was in the
2 viewpoint of the utility extra burden or extra things
3 you had to do or extra, you know, like the fact that
4 you're white and how that's viewed from the outside,
5 that was not an unintended consequence.

6 That might be increased regulatory burden,
7 but it didn't fit their definition when Alan Madison
8 and them came and talked. It didn't fit in their
9 definition when they talked about unintended
10 consequences as far as the self-assessment and so on
11 that they did.

12 So I heard a big distinction between
13 unintended consequences meaning only relating to
14 nuclear safety and that anything else that was just a
15 hassle or whatever fit into the other category of
16 increased regulatory burden.

17 MR. CAMERON: I guess this is a good issue
18 to think about given the NRC's statutory mission, but
19 again, looking at strategic plan, what do the rest of
20 the people on the panel think unintended consequences
21 covers?

22 Are we only looking at potential safety
23 issues? Are you also looking at additional resource
24 expenditures, administrative complications, et cetera,
25 et cetera?

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1 MS. FERDIG: Absolutely. I mean,
2 unintended consequences in the grandest sense without
3 calling specifically what Alan said is whatever occurs
4 that wasn't a part of the intention of the action that
5 has some broader implication.

6 MR. BROCKMAN: I don't think Alan would
7 disagree with you in the broad context. I think he
8 was just bringing it up to Bennett. When they talk
9 about the unintended consequences of a regulatory
10 burden issue, they will talk about it under the term
11 of regulatory burden.

12 When they're talking about unintended
13 consequences within the program branch, they focus
14 themselves to talk in that way, not to say at all that
15 there aren't unintended consequences that go much
16 broader than just the reactor safety area. It's just
17 the bin they put them in for internal discussions'
18 viewpoints.

19 So I mean, I that's how they're doing it,
20 but it doesn't mean how we have to do it.

21 MR. CAMERON: Yeah, right. Side from the
22 fact of what the NRC staff means, it probably would be
23 good if the panel agreed on what they meant by this,
24 and using Richard's broader definition as the stocking
25 horse here, does anybody have any disagreements that

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1 it should be looked at broadly?

2 MR. HILL: Well, I think the only point
3 though is we're supposed to be giving our report to
4 Sam Collins, who will be hearing self-assessment from
5 Alan Madison and them, and they will be talking that
6 terminology.

7 And so if we're going to use the same
8 words, we ought to at least redefine it or something.

9 MR. CAMERON: Be explicit.

10 MR. HILL: Or else we're going to get
11 into, you know, there will be a conflict there.

12 MR. BORCHARDT: I read P-1 and all of the
13 sub-bullets to be in shorthand managing to the
14 indicator issues, whereas the broader unintended
15 consequences, which is the point we were talking
16 about, I think is equally valid, but I don't read that
17 into what the current P-1 is.

18 We may have created a separate issue about
19 unintended consequences for the regulatory process for
20 using performance indicators, but I think P-1 has to
21 do with the impact on plant operations and conduct of
22 activities on site that are caused by a recognition of
23 its impact on performance indicators.

24 MR. CAMERON: Well, if this is true, I
25 guess the first thing you need to decide is do we want

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1 to cover more than just focusing narrowly on the
2 performance indicator classical use of the term
3 perhaps "unintended consequence," and if you do want
4 to focus more broadly on that, what terminology?

5 Do you want to change the terminology on
6 this one, unintended consequences and other whatever,
7 or do you just want to make that clear in the
8 narrative on it that we're focusing on more than just
9 this narrower view?

10 Steve, any thoughts?

11 MR. FLOYD: We could still use the term
12 "unintended consequences." To me what it meant, and
13 I agree with Bill. The way it's written here, it's
14 pretty much from the licenses who are managing it, but
15 I think it is a little broader than that.

16 To me unintended consequences is if either
17 the licensee or the regulator changes their behavior
18 in a manner that they otherwise would not have done
19 without the construct of the program in place driving
20 it. To me that's what it is.

21 Because in some cases we think the NRC,
22 you know, has to per the program engage in a
23 supplemental inspection if you trip a threshold, but
24 they already understand why you trip the threshold,
25 and it may be an artificial problem with the PI and

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1 the way it's put together, and yet the program says I
2 have to go out and do an inspection.

3 So there's an element of burden both for
4 the staff and for the licensees that really isn't
5 having to do with managing the PI. It's a flaw within
6 the PI perhaps.

7 MR. SCHERER: And maybe we need to create
8 another or put that in the parking lot because I see
9 this -- I don't want to snatch defeat from the jaws of
10 victory or confusion from where I think there's a
11 clear understanding of unintended consequences as Bill
12 outlines. This is managing to the indicators, and
13 that's the way we discussed it at our previous
14 meetings.

15 I agree there's a broader issue, as Steve
16 defines it, but that's not the issue as I understood
17 P-1, and if we start, let's at least reach agreement
18 that there is an issue on managing to the indicators
19 and to the metrics, and this goes to -- I would say
20 it's broader than just the performance indicators, but
21 it's a P-1 issue because you manage to the SDP. You
22 manage to a lot of the other indicators as well.

23 But here I think we understand the issue.
24 I think it has been discussed at at least two of the
25 previous meetings in some detail, and if we start

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1 expanding it, then we're almost assured to create
2 confusion as to what we mean by unintended
3 consequences.

4 MR. CAMERON: So your proposal, Ed, would
5 be to keep this within the narrower definition of
6 managing to the indicators and the matrix, however you
7 want to describe that, but to create another category
8 under O or something like that that would take care of
9 Richard's concern and other people's concerns about
10 resource expenditures.

11 And Steve talked about NRC and licensee
12 behavior under unintended consequences, and I guess I
13 have to ask whether even under this narrower
14 definition are you only worried about changes in -- I
15 mean, how does this fit in with Steve's changes in NRC
16 and licensee behavior?

17 But I guess I threw a lot on the table
18 there. How about this other -- Richard, what do you
19 think about this additional category, new category
20 that captures some of the resource and administrative
21 issues that you were concerned about?

22 MR. HILL: Well, yeah, that's fine. I
23 think even the idea of managing to the indicator and
24 what Steve's saying about NRC behavior.

25 I think that what I heard from Alan and

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1 them was much more narrow. I think what he was
2 looking at is the utility is doing something that's
3 considered to be adverse to safety as a result of
4 this. I think that was the specific area they were
5 looking for.

6 And so even if you're looking at, well,
7 the NRC's reacting when they don't have to or
8 whatever, I think that would be outside of what they
9 would classify when they're doing their self-
10 assessment, and that's really my only point.

11 I'm not really real strong about what we
12 put in here, but it's just that I think there is a
13 very specific definition that I really wasn't aware of
14 until they came and presented it that I don't think
15 the industry as a whole is that familiar with.

16 I know my boss would talk about unintended
17 consequences, and he's talking about things that don't
18 fit in the NRC's definition.

19 MR. BROCKMAN: But, once again, the issues
20 are acknowledged. They're just being in a
21 different --

22 MR. HILL: Right, and I agree.

23 MR. BROCKMAN: Okay.

24 MR. HILL: And that was really the part I
25 took back, was, you know, you start saying this is

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1 unintended consequences, and people will tend to
2 disagree. They'll agree it's in another bin
3 somewhere, but there is that distinction, and that's
4 really all I was trying to bring up, is that there is
5 a distinction.

6 And I kind of tend to wonder if maybe
7 saying something along the lines of this is managing
8 the indicator instead of using the words "unintended
9 consequences" might be better.

10 MS. FERDIG: Yeah. Call it what it is.

11 MR. SCHERER: Well, "unintended
12 consequences," I believe, is a good and legitimate
13 title for this because these are all indicators that
14 have been picked because they appear to be the right
15 thing to do, and there are unintended consequences of
16 almost everything you pick, and you have to manage
17 them.

18 An easy example, and we talked about
19 several at other meetings, but one that has come up
20 recently, is everybody can say a LARUT (phonetic) is
21 an important thing to do and we want to reduce
22 occupational dose, but we don't want to do it at the
23 expense of not inspecting a component that needs
24 inspection. Putting off an inspection of a steam
25 generator or something else because you're trying to

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1 reduce dose is a choice that you don't want to just
2 drive based on a performance indicator. You want to
3 make the right decision based on the risk and the
4 balance in terms of overall safety.

5 So recognizing that we're talking about
6 performance indicators, in selecting them and in
7 changing them and in addressing them, we need to
8 recognize every time you pick a performance indicator
9 with the best of intentions, you always have to
10 continue to look aggressively for unintended
11 consequences.

12 MR. CAMERON: Would you describe it as
13 unintended consequences of managing the performance
14 indicators?

15 MR. BROCKMAN: Could I offer a suggestion?
16 I think what would scratch everyone's itch, it would
17 probably be in our presentation to just have a
18 paragraph in there that says there are numerous
19 unintended consequences that address certain areas.
20 Those that address the effectiveness and efficiency of
21 the NRC are being dealt with under effective and
22 efficiency.

23 Those that are dealing with regulatory
24 burden are dealt with under regulatory burden. In
25 this section we are dealing with this, which would be

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1 right there, a little introductory paragraph.
2 Everybody knows where to go to get whatever they want,
3 and we can move on to P-3.

4 MS. FERDIG: Exactly.

5 CHAIRMAN PLISCO: John and I will take the
6 burden to try to --

7 MR. MONNINGER: He's on his own.

8 CHAIRMAN PLISCO: -- clarify exactly what
9 we mean by this term in the context of what we're
10 talking about.

11 MR. GARCHOW: Can you say that again for
12 John?

13 (Laughter.)

14 MR. BROCKMAN: It is captured for
15 posterity.

16 MR. CAMERON: Well, given what Ken said,
17 which alluded to the fact that these other unintended
18 consequences will, again, be captured somewhere else,
19 is that true or do we really need another category
20 somewhere that tries to capture them? And these would
21 be, you know, the resource issues, administrative
22 difficulties, which could be, I suppose --

23 MR. SCHERER: Couldn't we put it in the
24 parking lot and we would see --

25 MR. CAMERON: All right.

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1 MR. SCHERER: -- at the end if we need to
2 come back and address it?

3 MR. CAMERON: Okay. So I'll just say need
4 for additional unintended consequences category just
5 for shorthand now.

6 MR. HILL: Just as a comment, it sure
7 would be good if you used black ink or black or
8 whatever it is instead of red.

9 MR. CAMERON: What's that?

10 MR. HILL: A darker color would be able to
11 be seen easier.

12 MR. CAMERON: That's one of the unintended
13 consequences --

14 (Laughter.)

15 MR. CAMERON: -- of using red is that you
16 can't see this?

17 MS. FERDIG: That's right.

18 MR. CAMERON: Okay. I promise after
19 lunch, we'll have a visible parking lot.

20 PARTICIPANT: Perhaps that was an intended
21 consequence.

22 MR. CAMERON: All right.

23 CHAIRMAN PLISCO: P-3?

24 MR. CAMERON: All righty. New performance
25 indicators.

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1 MR. TRAPP: You know, one of the risk
2 based performance indicators is looking at steam
3 generator tube integrity, and it seems like that's a
4 pretty specific subset maybe of a risk based
5 performance indicator, P-5.

6 CHAIRMAN PLISCO: P-5?

7 MR. FLOYD: Yeah, I agree. I was going to
8 suggest on this one why don't we just change it to be
9 a general wording and just say, you know, identify and
10 evaluate potential new programs in accordance with the
11 program. I mean new indicators in accordance with the
12 program.

13 The NRC has actually developed a process
14 for doing just that.

15 MR. TRAPP: And we do capture that thought
16 in P-5.

17 MR. FLOYD: Yeah.

18 MR. TRAPP: Depending on nearly unanimous.

19 CHAIRMAN PLISCO: So combine P-3 and P-5
20 and just call that "identify and evaluate new
21 performance indicators."

22 MR. CAMERON: Are we keeping P-4 or
23 merging it?

24 CHAIRMAN PLISCO: P-3 and P-5 we're
25 merging.

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1 MR. CAMERON: Oh, okay. So P-3 is going
2 into P-5. All right.

3 CHAIRMAN PLISCO: We're combining them.

4 PARTICIPANT: We're on a roll here.

5 CHAIRMAN PLISCO: And what is it?

6 MR. CAMERON: Need for risk informed
7 performance indicators is P-5.

8 MR. GARCHOW: It looks like continue
9 evaluating performance indicators, which I think the
10 program allows for now.

11 CHAIRMAN PLISCO: We had 14 twos for P-3
12 and 13 twos for P-5.

13 MR. FLOYD: Pretty unanimous.

14 CHAIRMAN PLISCO: Does anyone want to
15 speak to making it a one?

16 MR. FLOYD: No.

17 CHAIRMAN PLISCO: Are we ready for P-4?
18 Do you want to talk about P-4?

19 MR. CAMERON: Okay. Again, a split, eight
20 for one, six for two. And this is that difference in
21 perception regarding green and white.

22 How about the -- Loren, do you want to say
23 anything about this one?

24 CHAIRMAN PLISCO: Yeah, there's a lot in
25 this one. This has to do with some of the

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1 communication issues and perception issues regarding
2 the green-white threshold. This specifically is
3 talking about the PIs, but there is an overarching
4 issue in the same area that we get to, I think, in one
5 of the O -- I don't know if it's O-5. That may be
6 where that is.

7 Because of the difference in development
8 of these thresholds, the PI indicator isn't
9 necessarily -- that threshold is not necessarily a
10 risk significant threshold where it is in the
11 inspection findings.

12 And the confusion in communicating that
13 information and entry point of the action matrix, and
14 there are some concerns in here about the perception
15 difference between the NRC and the licensees regarding
16 this threshold.

17 We talked about this several times before
18 in some of our previous meetings, that, you know, from
19 the NRC's perspective it's really the entry point to
20 the NRC response, and it's sort of a low level of
21 significance.

22 But based on some of the unintended
23 consequences discussion and licensee responses, they
24 view it as, you know, much more significant than what
25 the staff views it as.

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1 And then the third aspect obviously is the
2 public communication and what their perception of that
3 threshold is and the importance of that.

4 MR. SCHERER: This is clearly one issue
5 that I feel strongly about, but one of the things that
6 we're going to get over the next today and tomorrow is
7 some stakeholder input, is the perception. We've heard
8 a lot about this area in my mind in the past, people
9 coming in with all of the performance indicators,
10 showing how green they are, state and other
11 stakeholders that perceive the program to be the
12 performance indicators, and if they're all green, it's
13 somehow unacceptable.

14 I would like -- we could discuss this, and
15 we could spend a lot of time discussing this, but I'm
16 not sure that I would want to come to resolution till
17 I've heard from the other stakeholders.

18 So my suggestion is that rather than go
19 through this now and then listen this afternoon and
20 tomorrow, perhaps we could delay this and have this
21 discussion later when we have gotten the additional
22 input from the other stockholders, or we could discuss
23 it twice.

24 MR. CAMERON: Anybody disagree with that
25 or have anything to offer before we table it?

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1 MR. GARCHOW: I agree with that. The
2 stakeholder issue is the issue. I mean, those that
3 understand it understand it, but that's not the issue.

4 MS. FERDIG: When you use the word
5 "stakeholder," are you referring primarily to non-
6 regulator, non-licensee stakeholder?

7 MR. GARCHOW: That would be correct.

8 MS. FERDIG: So that it is, in your view,
9 then less an issue of the difference in perception,
10 green and white, as perceived by you guys?

11 MR. GARCHOW: I wouldn't want to speak to
12 that.

13 MR. BROCKMAN: Yeah, I wouldn't agree with
14 that.

15 MS. FERDIG: Because initially I was going
16 to say, well, do we need to add it to the public
17 information question in P-2, and then I thought, no,
18 because this question relates also to internal
19 understandings between regulators.

20 MR. BROCKMAN: I've definitely got a
21 concern. If all greens are okay, then by definition
22 any white becomes significant.

23 MS. FERDIG: From whose point of view?

24 MR. BROCKMAN: From the utility's point of
25 view. That's what we're seeing out there occurring.

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1 There are so few whites in findings or in PIs out
2 there that the significance that is being attached to
3 a white finding has grown way beyond what was the
4 basis for premising that.

5 MR. GARCHOW: I agree with that.

6 MR. BROCKMAN: Or it rolls right back into
7 unintended consequences --

8 MR. SCHERER: We're talking about --

9 MR. BROCKMAN: -- and it's causing
10 behavior modifications.

11 MR. SCHERER: We're talking about not
12 findings. We're talking about performance indicators.

13 MR. BROCKMAN: I'm talking both.

14 MR. SCHERER: Okay, but this is --

15 MR. BROCKMAN: Findings, we didn't have a
16 number associated with it. Findings come out where
17 findings come out, and I've got no problems, but
18 really in PIs, that's what's driving it in PIs. There
19 are so few that you're getting into that arena.

20 That's right. Keep me on PIs, not on
21 findings. Thank you.

22 And there are changes occurring. I think
23 definitely we need to hear the public's perception of
24 that, but I wouldn't role it uniquely under the public
25 confidence bin because of those reasons.

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1 MR. BORCHARDT: Yeah, I don't know if I
2 can keep this issue separated to performance
3 indicators because at some point this process
4 inevitably, people will want to compare green
5 performance indicators and green inspection findings,
6 and the fact is they're not the same.

7 And we know that, but I think there is an
8 understanding that's required, sophisticated
9 understanding required to understand that subtle
10 difference that bears some importance.

11 MR. SCHERER: I agree, and in fact, to
12 comment whether there's agreement between the NRC and
13 the regulated industry, I think there clearly isn't
14 agreement. We had a long, protracted debate in the
15 Region IV workshop on just this point when the Deputy
16 Executive Director for Operations came out and said,
17 "Well, wait a minute. Green is not good if it's a
18 finding," and I agree with that, that that's why we're
19 separating findings from performance indicators, and
20 performance indicators are defined differently with
21 a 95-5 as opposed to risk based at the green to white
22 threshold.

23 I think that's exactly the issue that
24 we're trying to address here, and perception is an
25 important part of it. That's why I think we asked for

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1 the presentations, at least part of the reason we've
2 asked for the presentations this afternoon and
3 tomorrow for the performance indicator part.

4 I agree findings have their own issue and
5 are linked invariably because in the public's mind
6 it's easy to link green to green and white to white
7 and yellow to yellow.

8 MR. HILL: But I think the same thing has
9 been said of performance indicators, too, that just
10 because it's green doesn't necessarily mean that all
11 green is good. You do have some in performance
12 indicators as well.

13 It just means that you are able to control
14 it yourself without NRC intervention.

15 MR. CAMERON: So if that is true, I mean,
16 there's a separate issue of what does green mean.

17 MR. SCHERER: Well, I'm not sure I agree
18 with that. I think the green to white threshold
19 doesn't mean in my mind -- I can't think of a
20 performance indicator that isn't in the acceptable
21 range when it's green. What we're debating is if it's
22 white it may also be acceptable because if you're in
23 the 95-5 and just because you're in the bottom five
24 percent doesn't mean you're unacceptable or not in the
25 perfectly acceptable band. It just means you're in

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1 the bottom five percent.

2 Unless you're in Lake Wobegone and
3 everybody is above average, somebody has got to be in
4 the lower five percent.

5 MR. HILL: I wouldn't use the word
6 acceptable or unacceptable. I think that the issue is
7 just because you're in the green band doesn't mean you
8 don't have to take some action.

9 MR. SCHERER: Oh, sure. Absolutely.

10 MR. HILL: It's just you do it yourself,
11 not necessarily with NRC involvement.

12 MR. SCHERER: Yes.

13 MR. HILL: But the fact that you have to
14 take some action doesn't mean that it's just good and
15 I don't have to do anything.

16 MR. SCHERER: I agree.

17 MR. HILL: And, you know, there are people
18 that, you know, have kind of said if it's green, it's
19 good and I don't have to do anything.

20 MR. CAMERON: Are there two different
21 issues here though? I mean, there's maybe a lot of
22 different issues. Is there uncertainty about what
23 green and white means in everyone's mind is one issue,
24 and then there's the perception of green and white.

25 MR. SCHERER: For performance.

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1 MR. CAMERON: For performance indicators,
2 and you have another thing in terms of inspection
3 findings, and I'm not even sure I want to go to the
4 fact that creating finding does not mean good, I
5 guess, but --

6 MR. SCHERER: Because it's still a
7 finding.

8 MR. CAMERON: All right. And Mary's
9 point, too, is that we started off and Ed said let's
10 table P-4 until after the presentations, and Mary said
11 are we talking about non-licensee stakeholders only in
12 terms of tabling or, I guess, in terms of the issue
13 generally, and the discussion seemed to indicate that,
14 no, we weren't just talking about non-licensee
15 stakeholders.

16 So, Ed, in your mind, you wanted to table
17 this until after we got there. Are you talking about
18 tabling only the perception in the minds of the
19 public, the non-licensee stakeholders or are you
20 talking about let's table the whole thing and then
21 come back and revisit it?

22 And we've seen there are various
23 components here.

24 MS. FERDIG: And I'm okay with tabling.
25 I just wanted to ask that question.

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1 (Laughter.)

2 MS. FERDIG: Right. I'm not taking issue
3 with that, and it may be that the industry's point of
4 view is impacted by what the public stakeholders say
5 this afternoon, which will then feed into that
6 process.

7 MR. CAMERON: David.

8 MR. GARCHOW: I think it would be helpful
9 like how we got here with these PI green-white
10 thresholds, having lived through this for two years.
11 Originally at NRC the attempt was let's risk inform
12 it, and let's know that for like initiating events,
13 which gets all the discussion, let's risk inform it.

14 So we went and got all of the data the NRC
15 did and we looked and said, yes, for a representative
16 like Westinghouse plant, to get a core melt increase
17 of 1^{e-5} , you needed some absurd number of reactor trips
18 in a short frequency of time to have it even be risk
19 significant.

20 And the same is true for unplanned power
21 reductions. You needed just an absurd number, 30, 40.
22 There was one number of reactor trips, I think, that
23 was 26, that if you were going to set the green-white
24 threshold to make it look just like a finding, you'd
25 need 26 reactor trips in a year.

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1 Well, then, you know, people having
2 reasonable discussion with reasonable men said, you
3 know, would anybody in the community wonder like on
4 the 25th reactor trip what the NRC response might be
5 on the 25th trip in a year, and the answer was yes.

6 So then a discussion was held, and it
7 said, hey, if we want to use this process, like Ken
8 said, as a pointer and when the NRC should get
9 engaged, let's use the outlier approach and it came
10 under this 95-5, and at that point, when that decision
11 was made, the deviation occurred between what a green
12 inspection finding is and what a green PI finding is,
13 and it introduced that confusion.

14 So for the people who weren't involved in
15 how like we got to here, that was sort of how we got
16 here because if we stayed true to risk informed, you
17 would never probably ever get anybody to be white in
18 the initiating events cornerstone ever.

19 That probably just confused it, but that's
20 how we got here.

21 MR. CAMERON: Well, I think it probably
22 best to table it, but I think that the committee needs
23 to do some work on what the discrete issues are in
24 this particular category because it seems like there
25 is a number of them, and they also may be easily

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1 confused.

2 Anybody want to say anything more before
3 we table? Ray, do you want to use this opportunity
4 to --

5 MR. SHADIS: To introduce myself?

6 (Laughter.)

7 CHAIRMAN PLISCO: Welcome.

8 MR. SHADIS: You can be suspicious if they
9 get all of the passengers off the plane and have you
10 help them roll it out of the barn and strap skis to
11 it.

12 (Laughter.)

13 MR. SHADIS: That's all I have to say
14 about that. USAir, the farm team.

15 One thing that would help me on this a
16 great deal is if we were talking using a background of
17 concrete examples, you know, and there's a difference
18 between risk informed and risk determined, if that's
19 a word.

20 I'm looking again at an inspection report
21 -- thank you, Randy -- looking at an inspection report
22 from Millstone on their feedwater pump issues, and it
23 turns out that the feedwater pump was put out of
24 commission in part because when they were sticking
25 circuit cards in, they didn't have a wiring diagram

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1 that showed all of the interconnections between the
2 circuit modules that also provided information
3 regarding their function and operation.

4 And, you know, from a non-technical,
5 public point of view, there's something wrong with
6 that plant. There's something wrong with a system
7 that permits them to operate equipment without having
8 a full wiring diagram with all of the interconnections
9 on it.

10 And to at the end of the day come to a
11 green finding because this conditions didn't exist
12 very long is a puzzle to me, and this is just one
13 example that came across my desk, but I'm sure that
14 all of the people out there in the field that have had
15 field experience have other examples of how this
16 works.

17 You know, for me, one example it doesn't
18 work: the State of New Jersey was in here. I think,
19 what was their figure? Ninety-eight, point, two
20 percent in the green, something like that.

21 MR. MONNINGER: A little higher than that.

22 MR. SHADIS: Yeah.

23 MR. MONNINGER: Ninety-eight, point,
24 eight.

25 MR. SCHERER: Again, that's just looking

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1 at performance indicators though.

2 MR. GARCHOW: And you were doing an
3 inspection finding.

4 MR. SHADIS: Yeah.

5 MR. GARCHOW: I mean that's a valid
6 comment, but there's a little difference between the
7 two.

8 MR. CAMERON: And one of your issues, Ray,
9 maybe the main issue, a couple of issues about what
10 does the language communicate. There was some
11 discussion on that this morning, and an agreement to
12 make sure that we go back to those types of issues,
13 but I know you have an additional issue here.

14 Maybe what we could do is, unless you guys
15 want to keep on this, is table it until you hear this
16 afternoon and tomorrow morning's descriptions, and
17 then come back. We discuss it tomorrow afternoon, but
18 I think that it might be worthwhile if John -- and
19 I'll volunteer John and perhaps Loren -- if you could
20 try to parse out what is included under that
21 particular issue and then see if everybody agrees with
22 that, and then we can have a discussion of each of
23 those three issues.

24 Does anybody have any objection to that?
25 Should we table it and move on?

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1 (No response.)

2 MR. CAMERON: Okay.

3 MR. GARCHOW: I'm not sure it's going to
4 get any easier.

5 (Laughter.)

6 MR. CAMERON: I was hoping it would, but
7 it would be roughly right.

8 MR. GARCHOW: This goes at the very
9 construct of the program that didn't quite play out
10 the way that we thought it was going to play out. So
11 it was a learning. That doesn't mean that that's good
12 or bad or that it isn't acceptable the way it is, but
13 it didn't really play out exactly the way that some of
14 the people at the NRC that, you know, put it together
15 thought it was going to.

16 Actually in ONEI, you folks that got a
17 chance to review some of this thought it was going to
18 work out. It did end up in an intended consequence
19 that people are avoiding or believe it's bad and then
20 avoiding white at all cost, which you know is not
21 where the program is thought to be thought of.

22 MR. CAMERON: Well, John, given what David
23 said, can you guys before tomorrow maybe think about
24 what are the basic components of this finding?

25 Because we've heard there's a performance

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1 indicator's element. There may be an inspection
2 finding element. There is the what it means to
3 licensees and the NRC, what the perception of it is.

4 In the public there's a bunch of different
5 subtopics it seems.

6 MR. SCHERER: I'm comfortable addressing
7 the performance indicator under P-whatever, four, and
8 recognizing that the others will be handled
9 separately, but I want to make sure we come back at
10 some point -- maybe it's a parking lot issue -- to
11 recognize somehow that there's a public understanding
12 issue of green. Green is green and white is white,
13 and so there's a public perception issue that we have
14 to make sure we pick up before we're finished.

15 MR. HILL: Yeah, and I would assume
16 that --

17 MR. SCHERER: It's the thing Ken and I
18 started a discussion, that there is an
19 interrelationship, but when we try to address it under
20 P-4, however we resolve it, there is still an
21 interaction with the inspection findings and other
22 findings, a tendency to equate green equals green.

23 MR. CAMERON: Okay.

24 MR. GARCHOW: For somebody pulling up the
25 Web page, that gives them an illogical thing to do.

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1 MR. SCHERER: Yeah, I understand.

2 MR. CAMERON: And, John and Loren, maybe
3 even if that -- let's put that into the subtopics even
4 if we want to take it out later and put it somewhere
5 else, just so that we know all the issues that have
6 been raised under this particular topic. Okay?

7 MR. LAURIE: And I'm not sure it's any
8 more complicated than the psychology of the color
9 green. My guess is that if psychologists, and they do
10 this, people say green is good and anything less than
11 green is not because that's what we've been taught,
12 and so maybe you have to use different colors.

13 And it may be no more complex than that
14 from a public perspective.

15 MR. CAMERON: and if you're using those
16 different colors differently in a different context,
17 it even exacerbates that particular problem.

18 MR. LAURIE: That's right.

19 CHAIRMAN PLISCO: But from the NRC-
20 licensee interaction it's not going to matter what the
21 color is. Anything outside of whatever that bottom
22 color is is going to cause that rub.

23 MR. FLOYD: And I'd just like to point out
24 that blue is taken because the no color findings are
25 colored blue.

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1 (Laughter.)

2 MR. CAMERON: A no color finding is blue?
3 Well, that makes sense.

4 MR. GARCHOW: So if we make the color
5 findings invisible, then it all sort of works.

6 MR. MONNINGER: That's only because of the
7 background of the NRC Web page is white.

8 CHAIRMAN PLISCO: So after 40 minutes,
9 have we tabled this?

10 (Laughter.)

11 MR. CAMERON: Now, we're going to look
12 forward to this though tomorrow.

13 Now, we're going to P-5 and the need for
14 risk based performance indicators and -- we did that.

15 PARTICIPANTS: We did that.

16 MR. CAMERON: Oh, we moved P-5 into P-3.

17 MR. BROCKMAN: No, we combined them.

18 MR. CAMERON: But you don't need to
19 discuss them now.

20 MR. CAMERON: P-5.

21 MR. BROCKMAN: You did good on that one,
22 Chip.

23 MR. CAMERON: Thank you, Ken. One of my
24 most enthusiastic supporters.

25 P-6, safety system unavailability

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1 performance indicator needs revision, eight for one,
2 seven for two.

3 Loren, do you want to give us context on
4 this?

5 CHAIRMAN PLISCO: Yeah. You can probably
6 tell by the length of the detailed comments on page 11
7 of the big package that there's lots of issues having
8 to do with the unavailability of performance
9 indicators, handling of fault exposure hours, the
10 definition of unavailability, what should be counted
11 and what shouldn't be counted, some conflicts between
12 different metrics that the licensees have to deal with
13 depending on what program they're looking at and how
14 the unavailability is defined, which causes some
15 bookkeeping issues.

16 Something more in here. A concern about
17 if you look at the guidance in 9902, a lot of FAQs had
18 to do with exceptions, you know, what things were
19 counted and what not counted, and the concern about
20 the credibility of the indicator over a long period of
21 time as those exceptions increase.

22 Did I get them all? I think that's the
23 gist of most of the comments.

24 MR. CAMERON: Comments on this one?
25 Steve.

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1 MR. FLOYD: Well, I made it a one. We've
2 got 18 performance indicators in the program. Four of
3 them are in this area, and yet they account for fully
4 two-thirds of the frequently asked questions that
5 we're dealing with under the oversight process.

6 This one also has the elements that we've
7 been talking about all along here, and that's
8 unintended consequences, potential impact on safety
9 for people being inclined not to do enough maintenance
10 on a system to not trip the indicator, and where the
11 problem really comes in here is many licensees can
12 trip the indicator from green to white on this
13 indicator and yet be fully in accordance with their
14 allowed outage times and their technical
15 specifications and not have tripped the performance
16 criteria under the maintenance rule.

17 And yet the response if you trip the
18 performance criteria under the maintenance rule is
19 identical to the response that the agency has if you
20 trip the green-white threshold on a PI, and that's
21 that it gets elevated attention. The licensee does a
22 root cause. They establish an improvement or
23 corrective action element for it, and then monitor it
24 to see that its performance gets restored and the NRC
25 oversees that.

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1 That's exactly the same thing that happens
2 if you trip a green-white threshold. So we have a
3 great deal of inconsistency with other requirements
4 that the NRC has on this particular indicator, and it
5 also has been the one, as I mentioned, that has
6 subsumed most of the frequently asked question
7 resources and probably caused the most amount of
8 discussion between the NRC and the licensees.

9 MR. TRAPP: The response is a little bit
10 different between going maintenance Rule A-1 and
11 going white on availability, right? Because the NRC
12 wouldn't be engaged in one case and we would be
13 engaged with follow-up in another case.

14 MR. FLOYD: Well, except that the program
15 says that if you feel your performance criteria goes
16 to the A-1 category, what happens in the A-1 category
17 is whether -- it's not formally in the program, but
18 what we know happens is that the residence certainly
19 is aware when the licensee puts an item in the A-1
20 category. The action that the licensee takes is
21 identical. Okay?

22 MR. TRAPP: Right, but we don't do a
23 follow-up. I mean we don't do a 95-001.

24 MR. FLOYD: No, you don't do a 95-001, but
25 the resident certainly does take a look at the program

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1 that the licensee has put together whether it's in the
2 ROP program or not. They basically carry out
3 something analogous to a 95-001 procedure. They check
4 and see if you've -- they think your action is going
5 to restore compliance or not compliance, but restore
6 the performance target that was set. So it's very,
7 very similar.

8 MR. CAMERON: So two separate -- an
9 inconsistency grounds and most of the FAQs are on this
10 based on the inconsistency or based on other issues?

11 MR. FLOYD: Based on other confusing
12 factors associated with it.

13 MR. CAMERON: But in your opinion, it's
14 confusing and has to be straightened out.

15 MR. FLOYD: And it has unintended
16 consequences also, right.

17 MR. SCHERER: Steve made that point, and
18 I don't want it to get lost because part of the reason
19 you get all of those FAQs and all of that debate is
20 attempts to avoid the unintended consequences, and the
21 inconsistency is caused by the fact that
22 unavailability is really a surrogate for reliability,
23 and unavailability is impacted by doing preventive
24 maintenance. Everybody can pretty much agree that
25 preventive maintenance is a good thing to do, but it

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1 drives the unavailability up, therefore, drives you
2 towards a green to white threshold, and that's the
3 debate that's constantly going on.

4 In fact, the example I think we cited in
5 one of the earlier discussions is we did a risk
6 informed amendment which showed that doing on line
7 diesel generator maintenance was a good thing. It was
8 safer to do it at power. Simply doing the safer
9 operation would have in and of itself driven us into
10 the white or even into the yellow PI in accordance
11 with our tech spec.

12 The NRC approved the tech spec change,
13 went to 14 days, and that would have driven us into
14 the white if the NRC hadn't made an exception as part
15 of an FAQ.

16 So any process that requires FAQ
17 exceptions and redefinitions needs to be reworked.

18 MR. FLOYD: Yeah, I might just add on this
19 item that it is being worked. The NRC has a forum
20 they call it now, I guess, that's been pulled together
21 to take a look at this unavailability definition. The
22 industry has a task force working on it. In fact, we
23 had our first meeting between the NRC's forum or at
24 least a subset of the forum and a subset of the
25 industry task force to start taking a look at what do

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1 we need to do to address the unavailability problems
2 and the unintended consequences of it.

3 And we think it's solvable. And, in fact,
4 we don't think it's going to take all that long to
5 solve it.

6 MR. CAMERON: But it's still a high
7 priority.

8 MR. FLOYD: It's a high priority, yeah.

9 MR. KRICH: I'd give my vote to priority
10 one. Also, I think that there's an issue here of
11 masking. Not handling this properly can mask a
12 negative trend or mask a positive trend in terms of
13 plant performance.

14 In fact, at the first meeting, I had
15 brought up an issue that got misrepresented in Dave
16 Lochbaum's letter, and the issue was that we were
17 getting a white finding, which was really masking what
18 was another issue with the system because the
19 unavailability was not being looked at properly. The
20 definition wasn't tight enough to keep it within
21 bounds.

22 So from that aspect I think it's also very
23 important.

24 MR. CAMERON: Okay. Luckily David is here
25 with us. So if he wants to respond in his

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1 presentation, he can do that.

2 MR. KRICH: He's more than welcome to.

3 CHAIRMAN PLISCO: Does anyone have a
4 problem with a one?

5 MS. FERDIG: No.

6 MR. GARCHOW: Given the discussion.

7 MS. FERDIG: Given the discussion, I move.

8 MR. CAMERON: And we didn't hear from any
9 of the NRC folks specifically on this.

10 CHAIRMAN PLISCO: Yeah, I think all of the
11 comments sort of supported what I was going to say,
12 which is just as the FAQ on large number or
13 unavailability, a lot of the questions we get from
14 inspectors are in this area. As far as performance
15 indicator space, almost all of the questions had to do
16 with unavailability as far as what's count and what's
17 not.

18 MR. CAMERON: Okay. I guess I have
19 already one.

20 MR. SCHERER: I guess I'm in agreement.
21 I voted in my notes, in my homework for one, but I
22 just want to give anybody that felt it was a priority
23 two a chance to comment because I was surprised, very
24 frankly, when I saw the spread.

25 MR. CAMERON: In light of the discussion,

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1 the people who might have chosen it for a priority
2 two, in light of the discussion this morning, does
3 anybody want to offer anything from the priority two
4 perspective?

5 MS. FERDIG: I was a priority two, and it
6 was because I did not understand the significance,
7 which I do now as a result of this conversation.

8 MR. CAMERON: All right.

9 MR. GARCHOW: Ed's compelling oration that
10 swayed me to a one.

11 (Laughter.)

12 MR. SCHERER: I'm overwhelmed.

13 MR. CAMERON: Okay. P-7, need for
14 frequently asked questions. Now, the majority, ten of
15 you, selected two. Five of you selected one. Again,
16 discussion may influence how this comes out.

17 Loren, do you want to give us the --

18 CHAIRMAN PLISCO: Yeah, the title might
19 not be worded well. You know, I think we've talked in
20 the past about at least in the context of performance
21 indicators we get a lot of positive feedback from
22 stakeholders that there are questions and answers and
23 interpretations to help understand.

24 These comments were specifically about,
25 one, there's too many because it's causes confusion,

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1 and I think a lot of this is focused on unavailability
2 again; that there was a concern about really FAQs may
3 be a misnomer because they're really not FAQs.
4 They're really site specific, you know, very narrowly
5 focused questions.

6 MR. GARCHOW: So you're saying they may
7 only be asked once?

8 CHAIRMAN PLISCO: In a lot of cases they
9 were only asked once. Actually in most cases they
10 were only asked once, and it was, I think, a
11 recommendation from some stakeholders in order then to
12 be more usable to of the plants, they ought -- a more
13 generic answer ought to be given, and that really
14 relates to this next comment, which was a specific
15 comment about -- and I think this came from the NRC
16 inspectors -- is that they've seen cases where there
17 was a site specific question in the response, and the
18 licensee took that answer out of context and applied
19 it to their case when it didn't apply to their case,
20 but they picked the right phrases and words to make it
21 apply, and there was some concerns with how that was
22 being done.

23 MR. CAMERON: Steve? Sorry.

24 MR. FLOYD: I was just going to say that
25 regardless of what priority we give this one, whether

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1 it's a one or a two, it is being worked aggressively,
2 I think, right now.

3 There's a Rev. 1 to the NEI 99-02 document
4 that's out for comment both within the public and the
5 agency that really has taken the 235 odd FAQs to date
6 and tried to incorporate them into the text of the
7 manual, generalized them, and make it very, very clear
8 what the intent of the question was by providing
9 amplified guidance in the document.

10 So the clock has been kind of re-zeroed.
11 We still have the frequently asked process, and
12 they're still rolling in, but they're rolling in at a
13 much reduced rate over what they were rolling in
14 during the first part of the year of the program,
15 which is what you would expect with a new program
16 being rolled out.

17 So we think it's going to be manageable
18 from this point on, but it really doesn't matter what
19 priority it gets. I think it's being worked about as
20 aggressively as it can be.

21 MR. CAMERON: You testified that sort of
22 the working criterion in the panel --

23 MR. FLOYD: We weren't going to be
24 constrained by that, right.

25 MR. CAMERON: -- doesn't mean it shouldn't

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1 be identified.

2 MR. SCHERER: I guess maybe I was confused
3 by the title. If the subject is improving frequently
4 asked questions, then I certainly have no problem with
5 it being a two because I think it is improving and, in
6 fact, one would expect frequently asked questions
7 would drop off.

8 Part of the reasons for the frequently
9 asked questions is it avoided the individual
10 inspection findings coming back being different from
11 region to region, being different within the region,
12 and tried to provide some sort of forum for addressing
13 issues, and you would expect it to drop off.

14 I misunderstood perhaps P-7 is to
15 questioning the need for FAQs to continue. I believe
16 that FAQs need to continue, and if that is the
17 subject, then I would think it's important to me that
18 FAQs continue.

19 If it's a need to reform the FAQ process,
20 then that's clearly a category two in my mind.

21 MR. CAMERON: So one way to look at this
22 is improving or need to improve the FAQ process. The
23 other way to look at this is need for FAQs, and I
24 guess from what I heard now is FAQs, even the right
25 terminology to use -- I don't know -- but --

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1 CHAIRMAN PLISCO: Too late.

2 MR. CAMERON: Rod, from your perspective,
3 this was improving the FAQ process. That's the way
4 you read this.

5 MR. KRICH: Yes.

6 MR. CAMERON: This is the alternative. Is
7 there a need for FAQs?

8 Rod.

9 MR. KRICH: I took this item as that we
10 need a process. It happens to be the FAQ process now,
11 but we have to have a process whereby we can get
12 dialogue with the NRC on interpretations because --
13 and it's declining over time. I understand that, but
14 we still need that as we go through this.

15 I took it, I think, the same way Ed did,
16 which is --

17 CHAIRMAN PLISCO: That was an unintended
18 consequence of my poor selection of words because most
19 of the comments on having a FAQ were positive.

20 MR. BROCKMAN: Something along the lines
21 of "need to improve FAQ process," and it's a priority
22 two?

23 MR. FLOYD: Yeah, I would agree with that.

24 MR. BROCKMAN: I'll agree if that's the
25 issue.

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1 MS. FERDIG: But I think what I've heard
2 is that it's more than an FAQ process, and I just --
3 it's a two. I'm with it, but I think that we're
4 looking at the fundamental premise of this program.
5 I talked with someone recently who said something to
6 the effect of -- and knowing there have been those who
7 have been working on this thing for years -- "I can't
8 wait until it's set in concrete," quote, unquote, as
9 if there will be a final point.

10 And for me the unique characteristic of
11 this entire framework is that it invites continued
12 dialogue and exploration and clarification and
13 understanding and implications and interpretations of
14 one plant application versus another, and so on.

15 So whether you call it an FAQ or whatever,
16 I think that we want to at least check out with each
17 other whether we assume that the philosophy of this
18 program is to invite that kind of --

19 MR. CAMERON: And you may hear some more
20 of this during the presentations. Is there a need to
21 -- is everybody clear on what the implications of the
22 FAQs are for a specific plant or licensees generally?

23 MR. GARCHOW: They're very well used by
24 our licensees.

25 MR. SCHERER: And I made a recommendation

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1 before that we extend the FAQ process to the other
2 parts of the reactor oversight process. So I
3 certainly misunderstood, and I withdraw my one and
4 certainly agree with a two.

5 MR. CAMERON: Okay. Priority two, with
6 the understanding that this issue is all about the
7 need to improve the FAQ process.

8 MR. KRICH: So let me ask a question
9 though. Is there someplace that we can capture the
10 need to continue some process that allows this
11 dialogue to go on?

12 MR. FLOYD: I'd be willing to stipulate it
13 that if you need to improve it that means you're going
14 to keep it.

15 MR. CAMERON: Yeah, the assumption I heard
16 is that the FAQ process will continue. It's whether
17 the need to improve the process is a high priority or
18 just an issue for consideration.

19 MR. SCHERER: I would also state that if,
20 in fact, there are infrequently asked questions, that
21 may be considered a success if we address a question
22 once and it goes away as opposed to have each
23 individual plant discover the right answer.

24 MR. KRICH: Let me go back. So I
25 understand that if you're improving a process that

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1 it's going to be around for a while.

2 MR. SCHERER: Right.

3 MR. KRICH: What I was getting to was
4 Mary's point about is this thing looked at possibly as
5 there's an endpoint, and what I'm suggesting is that
6 it be looked at as a process that we put in place as
7 part of another element of the ROP whereby there's a
8 mechanism that's permanently in place for this
9 dialogue to occur.

10 MS. FERDIG: Bingo. That's what I'm
11 talking about.

12 MR. CAMERON: Does anybody have any
13 disagreement with the way Ron --

14 MR. KRICH: So just saying by working on
15 it means it will stay in place doesn't -- I don't
16 think that necessarily follows.

17 MR. BROCKMAN: Introductory paragraph and
18 write-up.

19 MR. KRICH: Whatever, just so long as it's
20 recognized.

21 MS. FERDIG: Language does matter, and if
22 what we're characterizing is not an FAQ process, then
23 maybe what we're talking about is something else that
24 it evolves into, and I just don't want that to get
25 lost.

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1 MR. CAMERON: No, good point.

2 CHAIRMAN PLISCO: I think we're going to
3 come back to this when we get to the overall
4 categories. There's one section on avenues for
5 feedback and, you know, accumulation of the lessons
6 learned, and some kind of infrastructure to answer
7 questions.

8 MR. CAMERON: The key is the word
9 "dialogue," continuing dialogue, opportunity for
10 dialogue.

11 MS. FERDIG: That's it.

12 MR. CAMERON: All right. Priority two on
13 that one.

14 P-8 is the need to clarify public
15 communication of PI information, and six people gave
16 this a one. Nine people gave this a two.

17 Loren, context on this one?

18 CHAIRMAN PLISCO: There is some overlap
19 with this one and P-4. P-4 specifically dealt with
20 the green-white PI threshold. This is a little
21 broader as far as public communication of what the
22 definitions of white, yellow and red performance
23 indicators are.

24 There are a number of issues in here which
25 we really already talked about, is the focus of the

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1 Web site appear to be on performance indicators, and
2 there are some public confidence issues on what these
3 performance indicators mean, and the words that are
4 used to describe them.

5 MR. CAMERON: Okay. The issue is need to
6 improve the process or whatever of the communication
7 of PI information to the public.

8 MR. SCHERER: What struck me as
9 significant on this one is if you look at the table,
10 all of the votes went to both public confidence and
11 understandable. All of the votes went that way.

12 MR. CAMERON: Now, what is that point
13 again, Ed, when you look at the table?

14 MR. SCHERER: It did not appear that
15 anybody felt --

16 MR. CAMERON: Oh, I see.

17 MR. SCHERER: -- it was maintain safety or
18 effectiveness and efficiency or unnecessary regulatory
19 burden. Everybody put it into one or both of those
20 columns, and I think that puts it in significant
21 context in my mind as to how -- that's part of the
22 reason I believe this is appropriate that we address
23 it as a separate issue. It's a communication issue.

24 CHAIRMAN PLISCO: Now, I propose just as
25 we do with P-4 we table it until we hear some of the

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1 other stakeholder inputs.

2 MR. FLOYD: I agree.

3 CHAIRMAN PLISCO: And like I said, there
4 is some overlap of these same issues in P-4, or do we
5 want to discuss it anymore now?

6 MR. CAMERON: And for everybody that's a
7 good observation to make, and I guess we'll have some
8 discussion on that. No one put it into the maintain
9 safety category.

10 CHAIRMAN PLISCO: So do we need any more
11 discussion as far as understanding the issue? I think
12 we've talked about this one quite a bit.

13 MR. GARCHOW: It does sort of tie into the
14 other one.

15 MR. CAMERON: I guess that's the one issue
16 you need to figure out, too, is how you want to parse
17 those out. I'll put this in the parking lot and move
18 on to nine.

19 CHAIRMAN PLISCO: Right.

20 MR. GARCHOW: We could leave this for the
21 ongoing implementation evaluation that they'll have to
22 deal with next year.

23 (Laughter.)

24 MR. CAMERON: So you know something we
25 don't know then?

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1 MR. GARCHOW: That'll be Ken chairing that
2 one.

3 MR. FLOYD: I'd like to propose that we
4 subsume P-9 into P-6. Credit for operator actions is
5 really all related to safety system unavailability.
6 So it should be a subset of the issues that need to be
7 resolved under that item.

8 MR. GARCHOW: That is all related.

9 MR. FLOYD: Yes.

10 MR. CAMERON: Does anybody disagree with
11 that?

12 (No response.)

13 MR. CAMERON: Okay. No disagreement.

14 Do you need to say anything about it, too?
15 I mean, we're putting it into P-6. Does anybody want
16 to --

17 MR. BROCKMAN: The thing that's
18 interesting is we came up with a number one priority
19 for P-6, and this one was an overwhelming priority
20 two.

21 MR. CAMERON: Yeah.

22 MR. BROCKMAN: It makes it very much a
23 small fish in this pond.

24 MR. FLOYD: Yeah, and I guess my
25 interpretation of that, and the way I looked at it was

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1 I gave it a two also. If it's by itself, it's a two.
2 Okay? But most of the issues under the unavailability
3 definition, all of the nuances if you took them
4 individually would probably be a two, but when you
5 roll them all up, it's a big issue that needs to be
6 addressed overall.

7 MR. SCHERER: Not endorsing the theory of
8 aggregation.

9 (Laughter.)

10 MR. SCHERER: We did that earlier on the
11 P-2 that we subsumed into P-1, the same way.

12 MR. CAMERON: Yeah, there's a precedent
13 for doing that. Okay.

14 CHAIRMAN PLISCO: P-10.

15 MR. CAMERON: P-10 is public radiation
16 safety cornerstone, overwhelmingly a two, and this one
17 probably deserves some explanation, public radiation
18 cornerstone.

19 CHAIRMAN PLISCO: I'm trying to figure out
20 how to explain it because I'm not that familiar with
21 the concern. I'm not sure whose issue this was. I
22 think it was a fairly specific issue about looking at
23 the need for another PI.

24 MR. CAMERON: Is this the occupational --

25 MR. GARCHOW: This is off site dose.

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1 MR. CAMERON: This is off site?

2 MR. FLOYD: Yeah. As I recall this one,
3 and I thought it was that this was a PI that probably
4 would not have been tripped by any plant in the
5 country over the last ten years. Okay? So the
6 question really, I think, goes to do we need this as
7 a PI in that it's really not providing any
8 information. It's perceived at least by some as not
9 adding value to the program.

10 MR. TRAPP: Well, if it was a 95-5 though,
11 then you'd expect five plants to have tripped it over
12 the last year.

13 MR. FLOYD: But it's not a 95-5 because
14 when you have all zeros, it's tough to get a 95-5.

15 MR. TRAPP: This isn't just -- wouldn't
16 this just be your liquid rad releases and your gas
17 releases?

18 MR. FLOYD: It's got. There's a table in
19 your RETs or for those who have moved the RETs into
20 their FSAR or licensing controlled program, it's
21 basically the same point, but nobody has tripped the
22 thresholds.

23 MR. TRAPP: But I would guess the intent
24 here was that, you know, to monitor plants for the
25 liquid discharges and, you know, their gas discharges.

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1 MR. SCHERER: But this one is like reactor
2 coolant system, leak rate, and fuel failures. There's
3 just not a lot of data that plants have gotten to the
4 point where they've released material.

5 MR. TRAPP: Everybody releases material,
6 right?

7 MR. FLOYD: Right. It's not that they
8 don't release material. It's that they haven't
9 released any material that's -- maybe it's a threshold
10 issue because the threshold is did you exceed your
11 tech spec allowable values.

12 MR. TRAPP: That could be the threshold or
13 the threshold could be, well, gee, if I'm a plant that
14 releases more liquid curies than this other plant,
15 maybe that would be the threshold. I mean, I didn't
16 write this, but I know the idea of it, but you can
17 certainly set up a PI with that.

18 MR. FLOYD: Yeah, the PI as it current
19 exists is did you trip any of the tech spec reporting
20 thresholds that you have for this item.

21 MR. CAMERON: But you don't think it needs
22 your -- your statement about do we need it --

23 MR. FLOYD: I was reflecting where the
24 question came from. I wasn't taking a position on
25 whether we needed it or not.

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1 MR. LAURIE: To go back to the framing,
2 right, this is actually a PI, but because it was based
3 on the tech spec, the tech spec actually has some
4 basis in risk.

5 MR. FLOYD: Right.

6 MR. LAURIE: Because I remember when we
7 were putting this together an NRC researcher came in
8 and told us some studies that were done, and this is
9 actually based on health risk. So this was actually
10 risk informed. That particular tech spec with the
11 ODCM was probably risk informed from at least a
12 personal health basis more than the other tech specs
13 were because they had to stay there.

14 MR. SCHERER: But now we're getting into
15 solving the problem, and I don't have a problem with
16 this thing on the list as a category two. It clearly
17 is not a pressing issue. In my mind, you know, any
18 plant that trips this particular PI has a serious
19 issue.

20 MR. CAMERON: Okay. Any objection? Maybe
21 we can finish this, the performance indicators, but
22 priority two? Any objection to priority two on this
23 one, on the theory that it's not broken?

24 MR. GARCHOW: Who had this concern? I
25 mean this is one that almost, even though we said

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1 categories, is this really an issue? Maybe we can
2 cover this later. I mean, I'm not even sure what the
3 issue is.

4 MR. FLOYD: The question is whether it
5 should be deleted from the matrix.

6 MR. SCHERER: I think it was more in an
7 efficiency effectiveness. Is it worth collecting the
8 information and publishing it if it's not saying
9 anything?

10 MR. CAMERON: Why don't we when we come
11 back to do the narrative on all of these, maybe we
12 should focus on whether this should be deleted or not.

13 MR. SCHERER: Well, deleted as in an item
14 for our report or deleted as a PI?

15 MR. CAMERON: As an item for the report.

16 MR. SCHERER: Oh. I don't have a problem
17 with that, but --

18 MR. CAMERON: No, not going back to PIs.

19 MR. SCHERER: It needs to stay as a PI.
20 I clearly believe that because it's part of the NRC's
21 mission, and it needs to be addressed.

22 MR. CAMERON: All right.

23 MR. SCHERER: And it has its own
24 cornerstone.

25 MR. CAMERON: I'll put that in the parking

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1 lot also, that our discussion of this one will be
2 whether we continue to need it in the report.

3 The last one, physical protection
4 cornerstone, P-11. Does this relate to previous
5 discussions of physical protection that we had?

6 MR. FLOYD: No, it actually relates more
7 to P-10. Again, it goes to the issue of what are we
8 really measuring and is it important for the program.

9 I think to me the philosophical difference
10 that's being asked in P-10 and P-11 is is the
11 performance indicator there just to provide an
12 indication of where the NRC needs to go look further
13 perhaps for an issue or is there a broader purpose for
14 having some of the PIs, and that is to communicate to
15 the public how the licensee is doing in areas that
16 have been identified as important by the regulator.

17 And that's really kind of the
18 philosophical edge that's put on P-10 and P-11. If
19 you look at it very narrowly, in my mind you could
20 easily question a lot of the individual elements of
21 the program as to whether it's really telling you
22 something, but if you stand back and take a look at
23 them collectively as a whole, then there's a broader
24 picture that it gives you.

25 MR. BROCKMAN: You also have to look at

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1 the program has two things, and that's to identify
2 those things that aren't going well and those things
3 that are.

4 MR. FLOYD: Right, yeah.

5 MR. CAMERON: Any further comment on P-11?
6 And most people, I think, have this as a two. Some
7 have it as a one.

8 Does anybody want to speak to this
9 particular issue as a priority one? And does
10 everybody understand what the issue is? Does Loren
11 need to go into some background on that?

12 MR. SHADIS: On physical protection?

13 MR. CAMERON: Yes.

14 MR. SHADIS: Yeah, I don't know. It's not
15 an issue. It's a subject, topic heading. I don't
16 know what the issue is.

17 CHAIRMAN PLISCO: Well, I think the
18 question is: is it worth the time and effort to
19 collect this data and publish it? Is it, you know,
20 useful information for anyone?

21 That's a really simple way to put the
22 question.

23 MR. SCHERER: This is the three PIs, not
24 the question of OSREs which we discussed earlier.

25 CHAIRMAN PLISCO: Right. Just the

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1 performance indicators themselves, the three security
2 PIs.

3 MR. CAMERON: The three security PIs.
4 Does that sum it up to everybody? Is this useful
5 information that should be gathered?

6 CHAIRMAN PLISCO: Well, it's the same
7 question as the one before it, and I guess you could
8 actually probably roll them together and say there's
9 a number of PIs that there are questions of whether
10 they're useful or not, that they provide any insights
11 or useful information.

12 MR. SHADIS: Does their usefulness --
13 you're saying their usefulness fails because the
14 findings are uniformly the same?

15 CHAIRMAN PLISCO: Well, this is strictly
16 the performance indicators, and I'm not sure who asked
17 the question. It wasn't my question, but there are a
18 number of people that have asked is it worth the time
19 and effort to collect the information and publish it
20 on the Web site. It isn't going to tell anyone
21 anything, and I think there's someone that perceives
22 that it's --

23 MR. SHADIS: It's going to tell people
24 that ostensibly you're looking at these things.

25 CHAIRMAN PLISCO: Right, yeah.

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1 MR. CAMERON: If you look at it from the
2 converse, what message would it send unintentionally
3 perhaps if you eliminated off-site radiation doses and
4 performance indicators?

5 MR. FLOYD: What are you trying to hide?

6 MR. CAMERON: Yes.

7 CHAIRMAN PLISCO: There aren't many hits.
8 Isn't that really the gist of the question? There
9 aren't many hits on this PIs. So if there --

10 MR. FLOYD: Yeah, there is on the first
11 one in the security area, but not on the latter two.
12 The first one on the equipment performance index,
13 there's been a number of hits.

14 CHAIRMAN PLISCO: And is it good for
15 public communication and confidence even though there
16 aren't a lot of issues to show that there aren't a lot
17 of issues, or is it worth the time, you know, the
18 efficiency and effectiveness, to collect the
19 information and publish it?

20 That's, I guess, the balance. Is there a
21 balance?

22 MR. SCHERER: Yeah, and the issue in my
23 mind is we do have a screening program. We do have a
24 fitness for duty program. We do have an IDS system in
25 our plants, and whether there's a lot of hits or not,

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1 I think it's important to understand and publish the
2 fact that if we do have a program and if it's working
3 effectively, that's a finding, and if it's not working
4 effectively then that's a different finding.

5 But we still need to publish it. I think
6 we can improve it. We can address it, but certainly
7 I don't think this is a category one. I think this is
8 clearly a category two.

9 MR. CAMERON: Priority two. Anybody
10 disagree with priority two?

11 CHAIRMAN PLISCO: But the prelim.
12 perspective, isn't this a subset of the question about
13 if per chance all of the PIs were green is that okay?
14 I mean, isn't that sort of a subset of that question?

15 MR. FLOYD: You could philosophically make
16 that leap, yeah.

17 Well, in this case there's also the one
18 that you're not mentioning. There's a mismatch in my
19 mind between the PI and the inspection. We measure
20 then to a great detail the availability of the
21 intrusion detection system. Then when we have an
22 OSRE, we take zero credit for an intrusion detection
23 system. So we have a mismatch between what we measure
24 in PI and report quarterly, and the way the NRC
25 measures the security system robustness.

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1 But this is not in a place we need to
2 address that here. I'd just make sure it's on the
3 list somewhere to be addressed.

4 MR. CAMERON: Okay. Priority two?

5 MR. FLOYD: Had to get that in.

6 MR. CAMERON: Okay. Well, good. We have
7 gotten through two of these topics, and I think it's
8 appropriate the one topic we didn't discuss, the
9 overall, is going to come after presentations, and
10 since some of our presenters were here for this
11 discussion, I think that will be useful when they come
12 to talk to us this afternoon and tomorrow morning.

13 And, Loren, what time do you want to
14 resume?

15 CHAIRMAN PLISCO: One o'clock.

16 MR. CAMERON: One o'clock. All right.

17 (Whereupon, at 12:05 p.m., the meeting was
18 recessed for lunch, to reconvene at 1:00 p.m., the
19 same day.)

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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 (1:02 p.m.)

3 CHAIRMAN PLISCO: All right. This
4 afternoon we've got presentations from three
5 stakeholders. First we have Dave Lochbaum from the
6 Union of Concerned Scientists.

7 MR. LOCHBAUM: Why, thank you.

8 The last couple times I've been here it's
9 been before the ACRS. This is like the ACRS'
10 grandkids. Presenting to you today is a little bit
11 different from -- if you have any troubles with that,
12 please let me know.

13 MR. FLOYD: We'll take that as a
14 compliment.

15 MR. LOCHBAUM: Just don't let it get back
16 to the ACRS. They might not.

17 MR. GARCHOW: I'll try to be George. I
18 think this is where he sits.

19 MR. LOCHBAUM: No, he sits over here.

20 Anyway, I think you all have handouts of
21 the slides I'll be using to talk from.

22 The first thing THAT we set out to do was
23 similar to what you've done, is try to figure out what
24 yardstick to use in order to evaluate the program
25 against. And that turned out to be harder than I

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1 thought it was going to be. I thought that was going
2 to be the easy part.

3 We first started using the NRC's four
4 objectives: maintain safety, increase efficiency and
5 effectiveness, and so on. And a dilemma that posed
6 was that there are plenty of examples where we could
7 find one or two things where it didn't increase
8 efficiency and effectiveness or didn't increase public
9 confidence.

10 So you could, depending on what your
11 preconceived notion of the program was, you could
12 justify any answer you wanted. So I figured that
13 wasn't necessarily going to do us any good. So we
14 gave up on that pretty quickly.

15 And our second attempt was to use your
16 objectives, which are basically the same plus a few
17 others. And it gave us the same dilemma, basically.
18 We could answer those questions with examples to say
19 no for just about any one of them, or all of them, and
20 say that the program is not effective then.

21 But I don't think that's accurate or that
22 would be meaningful for anybody's use. So we gave up
23 on that one as well.

24 So then we tried to use the NRC staff's
25 metrics, as used in the October 12th, 2000 document.

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1 And although it was better, it was a lot of work. And
2 we don't have the same staff size, at least
3 collectively. Individually we might. But -- so we
4 gave up on that one as well, though it didn't give us
5 the dilemma; it just gave us more work than I wanted
6 to do. So I banded it.

7 Then I tried to use the -- right now
8 there's a public comment period out on the inspection
9 program, or the oversight program more broadly. And
10 it asked a number of questions that are pretty much
11 biased towards giving you an answer that the program's
12 not very good. For example it says, "Is the SDP
13 process usable and does it provide consistent and
14 accurate results?"

15 Well, the answer to that question's going
16 to be no.

17 Does the ROP assessment program provide
18 timely, consistent, and relevant -- I assume it means
19 all of them, not just any one of those. So the
20 question there's going to be no.

21 But again, is that useful information to
22 people to really evaluate this program?

23 We didn't think it was meaningful so we --
24 we're not going to answer those questions in that way.

25 So what we did was come up with our own

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1 metrics. At least it would be easy. I don't know if
2 it's useful, but at least it's going to be easy, which
3 was my major criterion.

4 And what we did was to look at the three
5 elements of the oversight program: inspection,
6 assessment, and enforcement, and to try to determine
7 if that's better than what was used before, and that's
8 still subjective, but it was easier to evaluate them
9 rather than the absolute of whether the new program
10 meets all these objectives, the objectives I stated
11 earlier.

12 So basically we went through the data from
13 the first year or partial year against these criteria
14 of whether it's better than what we had in the past.
15 And so that's the yardstick we used, and evaluated
16 these, the data we collected against.

17 And just going through them in no
18 particular order, I looked at the inspection program
19 first and broke each of the elements down into two
20 phases, what we liked and what we didn't like about
21 the program elements.

22 Some of the things we liked about the
23 inspection program was that the inspection findings
24 are posted on the Web with links to the inspection
25 reports. And you can get that information outside of

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1 ADAMS, which is a great thing.

2 Second is the inspection finding summaries
3 on the Web and not in ADAMS which is a great thing,
4 and the inspection reports indicate that the NRC is
5 spending more time in risk significant areas than the
6 prior program did, which also is a good thing.

7 And then if you look at some of the
8 inspection findings and why things are colored the way
9 they are, there are some real good examples. We cited
10 one from a FitzPatrick inspection report. I'm not
11 going to read the whole thing there, but it's pretty
12 evident that the NRC looked at the staff, the
13 condition that existed in the plant, showed that that
14 condition didn't prevent the safety function from
15 being preformed. So, therefore, even though it is a
16 finding and needs to be corrected, its safety
17 significance is relatively low. It was plain and
18 simple.

19 Although the footnote here explains it
20 wasn't in the inspection report -- it was in the
21 inspection report. It wasn't in the finding as
22 summarized on the Web. So an additional step was
23 required, but you get to the -- you get to the
24 information that answers the question of why it was
25 green.

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1 And there's another example. These aren't
2 the only examples. I just find a few examples to
3 illustrate the point there. They're not all of the
4 examples, either good or bad, that we have collected.

5 There was a Grand Gulf inspection report
6 that looked at a ventilation condition at Grand Gulf.
7 Again, they showed that even though the equipment was
8 impaired, the safety function would have been
9 preformed despite the impairment, and therefore, it
10 clearly justifies why the finding was green.

11 You know, it makes perfect -- this was
12 actually in the summary on the Website and also in the
13 inspection report.

14 And to balance that, we have some things
15 we don't like about the inspection program. One of
16 the things we don't like is ADAMS, and that's going to
17 be everything we will ever say is we don't like ADAMS,
18 no matter what the topic is.

19 My barber was a little understood --
20 didn't understand why I said I didn't like ADAMS, but
21 any opportunity I get to criticize ADAMS we're taking
22 it.

23 MR. LAURIE: I'm sorry, David. I don't
24 know what that is.

25 MR. LOCHBAUM: ADAMS is a system that

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1 doesn't work very good. It's supposed to be --

2 (Laughter.)

3 THE PARTICIPANT: That could be any system
4 in the world.

5 MR. LOCHBAUM: Not in this case. It's --
6 ADAMS is the agency-wide document access management
7 system. It's the --

8 MR. LAURIE: That's the NRC's system?

9 MR. LOCHBAUM: Yes.

10 MR. LAURIE: Yeah, okay.

11 MR. LOCHBAUM: They spent roughly \$24
12 million on this system that the public was supposed to
13 use after the local public document rooms were closed.
14 We've called it the equivalent of electronic keep away
15 because it doesn't work very good.

16 And, in fact, the NRC's abandoning it
17 sometime here in the near future.

18 MR. LAURIE: Okay. Thank you.

19 MR. LOCHBAUM: Some of the other things we
20 find is that there are some inspection reports where
21 there's -- there's really not a good explanation as to
22 why the green crayons were being used.

23 In Beaver Valley, there was one that said
24 that the risk associated with the failure of the
25 refueling water storage tank level transmitters has

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1 been determined to be low because we did a Phase 3
2 analysis, and that was it.

3 I mean, there was no other explanation as
4 to what the Phase 3 analysis considered, didn't
5 consider. You know, we went through this process and
6 it's green because the process told it was green. And
7 I'm not saying that it wasn't green. I'm just saying
8 that there wasn't enough information provided to agree
9 or disagree.

10 You could write down on every finding, no
11 matter what the color was. I mean, that's -- you just
12 describe the process; you didn't describe why it was
13 that way.

14 And at Calvert Cliffs, it basically
15 explained what was found. It doesn't explain why that
16 was green or why it wasn't yellow, red, or any other
17 color. Again it just explained what was found, not
18 necessarily why it was determined to be green.

19 Browns Ferry, a similar example. You
20 know, this is different than the Grand Gulf Example.
21 It had a ventilation system that explained why it was
22 green because the safety function was still fulfilled.

23 This one basically says the safety system
24 function will not be fulfilled, but the only people
25 who are going to die are going to be the operators. So

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1 therefore, nobody off site is affected. So that's
2 okay.

3 You know, operators do have a pretty
4 important function during many accidents and to just
5 say that those consequences are limited to control
6 room operators may be true, but that isn't necessarily
7 enough reason to make it green.

8 Again, there might be a reason why it's
9 green. It's just that this doesn't seem to be the
10 right reason for making it a green.

11 Another example it at the Harris plant.
12 More than anything else it just describes what was
13 found, not necessarily why it was determined to be the
14 safety significance of green.

15 I haven't run the numbers to tell you how
16 high a percentage this is, but it's more than half the
17 ones I looked at were this way. But again, I haven't
18 looked at all of them. I started alphabetically with
19 the As and I got down through the Hs and some of the
20 Gs. So I got about half way through the plants, and
21 it seemed to be occurring quite frequently.

22 And that was discussed this morning about
23 the quality of information versus the threshold. One
24 of the ways to improve the quality is not to put this
25 information into the inspection reports at all.

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1 Therefore, you don't have to worry about why you use
2 whatever crayon was used.

3 But if you're going to put the stuff in
4 the report, you need to at least explain why it was
5 what you said it was. I think that goes to the
6 quality issue that Chip asked, the related question.

7 And one thing we don't understand, and
8 this is somewhat related to the significance
9 determination process, is that some of the inspection
10 findings are said to be of low significance because
11 they didn't effect something else or they occurred
12 during a test and not during an actual emergency.

13 Since that's part -- I thought was part of
14 the reason for doing the test was to find out if
15 things are working or not, just because it comes up to
16 be a failure shouldn't in and of itself be the reason
17 for it to be a green finding.

18 That would seem to imply that there's only
19 two colors, red or green. Either you kill people or
20 you don't. And there's got to be some gradation
21 between those two. You know, this can't be the right
22 reason for coloring things.

23 Some of these inspection findings are in
24 the initiating events' cornerstone, and it's said to
25 be like the first one at Beaver Valley was said to be

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1 of low safety significance because mitigating
2 equipment was not affected by the initiating event.

3 Well, that seems to prove the fact that
4 seven cornerstones provide back-up and redundancy and
5 all that other stuff. That doesn't address the
6 question of whether that equipment that affects an
7 initiating event worked right or not. I mean,
8 that's -- again, that seems to be the wrong reason for
9 making something a low significance.

10 It should be evaluated on its own merits,
11 not whether the back-ups to it in another cornerstone
12 were in place or not. That just doesn't seem to make
13 much sense.

14 And I think this was one that sometimes
15 inspection findings are cast against certain
16 cornerstones, but it's not clear why it was in that
17 cornerstone and not one of the other cornerstones.

18 This is a Sequoyah event where the finding
19 was put in the mitigating systems cornerstone or under
20 the mitigating systems cornerstone, and it looks like
21 it should have been under the initiating events
22 cornerstone.

23 In this case it was a reactor trip caused
24 by a spurious equipment failure basically, due to some
25 procedure change or design control change issues.

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1 It seemed to increase the initiating event
2 frequency. It did challenge the mitigating systems,
3 but it really seems to be the hit should have been
4 against initiating events and not against mitigating
5 systems.

6 I guess it could have been worse to put in
7 one of the other cornerstones, but it looks like this
8 was the wrong label for this finding, not the color.
9 I just mean where it -- which bin it ended up into
10 seemed to be the wrong one.

11 That pretty much sums up what we've found
12 on the inspection program. Going to the assessment
13 program, what we do like is green findings, and on the
14 color screen that would be green, but it's light grey
15 on this one.

16 We do like the PI summary and the PI
17 thresholds, with the exception of the alert and
18 notification system, PI summery scope, and the fact
19 that there's not a performance indicator for
20 containment integrity or containment system
21 performance, not necessarily containment integrity.

22 One of the things we do think is good
23 about the new assessment program is both the plant
24 owner and the NRC response time is improved. Neither
25 one of them has to wait until there's SALP roll-up

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1 period or a mid-cycle performance review to know about
2 a problem, whether it's a PI or an inspection finding,
3 and to react to it.

4 You know, I knew they were arguments in
5 the past that that was also under true under SALP.
6 The NRC and the licensee didn't have to wait until
7 SALPs came out, but this seems to be much quicker or
8 faster response than the old process. So it's not
9 perfect but it's a step or several steps in the right
10 direction.

11 The action matrix we really do like. In
12 fact, we like it so much we wish the NRC would use it.
13 So far, the few times that they've gone into it, it
14 seems like it's been abandoned with more frequency
15 than it's been followed.

16 MR. GARCHOW: What are some examples of
17 that?

18 MR. LOCHBAUM: The Quad Cities security
19 issue, the Indian Point 2 red finding. Both seem to
20 be -- and I'll get into this a little bit further
21 because we talk about those -- but those both seems
22 where you enter the action matrix, and the staff
23 decided they didn't want to do what the action matrix
24 called for, so they didn't.

25 MR. KRICH: Are you going to get into that

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1 later, Dave?

2 MR. LOCHBAUM: Yes.

3 MR. KRICH: Because that's not quite
4 accurate.

5 MR. LOCHBAUM: We think it is.

6 MR. KRICH: Okay. We don't think it is,
7 but we can talk about it.

8 MR. LOCHBAUM: I would have bet that you
9 wouldn't have thought that was so, but I'd also bet
10 that Indian Point 2 doesn't agree with me either, but
11 we'll see.

12 We do like the fact that senior management
13 meetings are replaced by regional mid-cycle
14 performance reviews. We think any effort that the NRC
15 does that takes control away from Whit Flint and moves
16 it closer to the plant will improve the objectivity of
17 the process.

18 To put it another way, the more you rely
19 on White Flint to make decisions, the more likely they
20 are to be political and subjective rather than based
21 on actual performance.

22 And the last thing we liked about the
23 assessment program or on the fly did we like about the
24 assessment program is that finally a line has been
25 drawn between acceptable and unacceptable performance.

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1 There never really existed such a thing in the past.

2 There were times when the agency reached
3 a determination about unacceptable performance, but it
4 was more ad hoc, and it was against ill-defined
5 criteria.

6 Again, some of the things we like about
7 the assessment program is the PI trending. There was
8 some discussion this morning about green-to-white
9 thresholds and information like that. I guess our
10 view is we don't care if there are any colors on there
11 or not.

12 You know, you've got the data trends. You
13 can see where the things are getting better or getting
14 worse. And the plant owners and the NRC are looking
15 at these things every three months. So if the NRC and
16 the plant owner realize that things are getting better
17 every quarter, that seems to be worthwhile
18 information.

19 If these parties see that things are
20 getting worse, I don't care if it's above red, below
21 red, or whatever, at least that seems to be worthwhile
22 information that everybody should then act upon, and
23 it's the indications we've had.

24 We like the fact that in general in the
25 95-5 concept for green to white threshold, we think

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1 that's a good concept. We know it doesn't apply in
2 every single case, but where it does, I think it's a
3 good idea, recognizing that it doesn't mean that
4 you're in bad space if you're in the white band and
5 have moved out of the green band.

6 Although I don't understand some of the
7 concepts of the discussion this morning about the
8 unintended consequences with the diesel generator
9 example at San Onofre, where the consequence had it
10 not been for the fix would have put the plant into the
11 white band with the acknowledgement that the white
12 band is an unacceptable form. You're just in the
13 bottom five percent of the acceptable band.

14 So it looks like if people recognize that
15 or understood why it got there, that wouldn't
16 necessarily be a bad thing. Apparently it was
17 perceived to be a bad thing enough that there was some
18 negotiation underway to make sure that the plant would
19 stay in the green band.

20 MR. GARCHOW: The issue there, Dave, that
21 we talked about the last meeting that you weren't at
22 is that for the period of time that it's there,
23 whatever the issue, it's setting yourself up to be
24 closer to a degraded cornerstone. And then following
25 the action matrix, I mean, if you don't provide the

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1 leeway like it sounds like you're suggesting they're
2 not, you're sort of stuck with the white that maybe
3 shouldn't have been a white to begin with.

4 Now, another white that should have been
5 you're into a degraded cornerstone, all of which then
6 when you unline from that and the public sounds like,
7 you know, it's not done. It doesn't sound like -- it
8 sounds like you're inventing new rules when you're in
9 the middle of the game, right?

10 So that if you shouldn't have been white
11 to begin with, that's the incentive not to be white.

12 MR. LOCHBAUM: So the solution to that was
13 to use a FAQ to get around the coloration. So it's
14 just looks like you've shifted when a negotiation
15 phase comes in. You haven't gotten around the problem
16 in the first place.

17 So from the public standpoint, whether you
18 negotiate now or negotiate later in the process, I'm
19 not sure there's a huge difference.

20 MR. SCHERER: Well, it sounds like you do
21 think there's a big difference because you said the
22 NRC shouldn't deviate from the response matrix.

23 MR. LOCHBAUM: But they do. I mean, if
24 they didn't, there would be no second negotiation, but
25 they do. So there's negotiation, whether you do it

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1 when you enter the action matrix and the people don't
2 want to take the steps that are specified in the
3 action matrix, or you do it in the front end to
4 artificially lift yourself out of a band that you'd be
5 in otherwise.

6 It's still negotiation, you know. It's
7 the plant owner coming to the NRC saying, "I don't
8 want to be here for this reason." The NRC accepts or
9 rejects that argument, excluded the "or rejects" from
10 that. And then the thing is not put into the band
11 that it should be in.

12 MR. SCHERER: Well, you said it should be
13 in, but if you remember my comment, the NRC and the
14 licensee both agreed that it was safer to do it at
15 power. So if you -- if the NRC had rejected it, we
16 would do the less safe thing, which is something you
17 don't want to see happen, right?

18 MR. LOCHBAUM: Well, it's predicated on
19 that I agree with that, and I don't. And if that were
20 indeed the case, then other plants in the country are
21 doing less safe things. Because that's the way most
22 of the other folks are doing it.

23 MR. SCHERER: Well, more people are moving
24 to doing it on -- at power for that reason, where the
25 -- where the circumstances justify. It's case by case

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1 evaluation. But for the -- for the sake of discussion
2 let's just stipulate that it is safer to do it one way
3 versus another.

4 Wouldn't you want to see the plant do the
5 safer thing, assuming for the purpose of this
6 discussion that it's safer to do it on line? Or would
7 you rather follow the matrix and drive the plant to do
8 the less safe thing?

9 MR. LOCHBAUM: Obviously we'd rather do
10 the safer thing. But I'm not sure that by doing the
11 safer thing and taking a white PI that that means
12 you're in -- that's necessarily bad. That's perceived
13 as bad because you went to great pains to avoid that
14 white label. And I guess I don't understand why --

15 MR. SCHERER: Well, I'm linking that to
16 your comment that the NRC shouldn't deviate from the
17 action matrix, and if, in fact, it's okay to take a
18 white, which you're saying, now you're in the action
19 matrix. The next one is a repeated or if you have a
20 different one --

21 MR. LOCHBAUM: Right.

22 MR. SCHERER: -- then it's a multiple
23 degraded. Now you're saying don't deviate from that,
24 even though it was a safer action that caused you to
25 get there in the first place.

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1 MR. LOCHBAUM: But the safer action, the
2 conclusion of the stipulation about the safer action
3 was predicated on the assumption that you didn't have
4 any other degraded cornerstones. And now your plant
5 conditions have now shown that that conclusion was
6 flawed, and perhaps the NRC shouldn't have been so
7 generous in granting -- reaching that conclusion.

8 MR. SCHERER: You're making a link I don't
9 think exists between one PI and another PI. They're
10 not all linked.

11 MR. LOCHBAUM: Well, the plants are
12 designed for a single failure criterion. So if you
13 start having multiple things that aren't working
14 right, you're challenging the underlying basis for
15 operation, and you could clearly increase the safety
16 such that doing the maintenance on-line with the other
17 cornerstone, which ever it was, in a degraded mode
18 reduces the safety, does not increase the safety as
19 you'd initially assumed.

20 So we would say, yes, that is a bad thing
21 to do and shouldn't be allowed, or I don't mean
22 shouldn't be allowed; shouldn't be green under the
23 current band.

24 The other thing we liked about the data
25 trending is that it shows you how close you are,

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1 although I just said we don't care what color things
2 are. It does show whether you're slightly white, very
3 white, slightly yellow, very yellow, and so on.

4 Things about the assessment program we
5 don't like are ADAMS. We don't like the fact that the
6 NRC issued a red finding to Indian Point 2 for the
7 steam generator problem, but allowed the plant to
8 restart before the plant provided a response to the
9 finding because, quote, the company's, quote, current
10 engagement in unit restart and power ascension
11 activities was the basis for the extension request,
12 end quote.

13 In other words, the even though it had
14 happened months and months before, the plant's staff
15 was so focused on restarting the plant that it
16 couldn't answer the safety findings from the red
17 violation.

18 So our contention was that the NRC's
19 response wasn't as dictated by the action matrix,
20 where it focuses more and more attention on safety
21 issues.

22 Here the focus, both the NRC and the
23 licensee, were on restarting the plant before the
24 underlying safety questions were answered. There was
25 plenty of time. The thing took about ten months from

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1 the time the event happened until the NRC issued the
2 red finding.

3 In that time the company didn't --
4 apparently didn't have enough time to answer why it
5 was or was not a safety problem. And the NRC accepted
6 that.

7 So we don't think that the intent, the
8 spirit, or any aspect of the action matrix was abided
9 by by the NRC staff at Indian Point 2. And this isn't
10 sour grapes after the fact. I've called Hub Miller
11 before this was done, shortly after the October or the
12 letter was issued last fall and expressed dismay with
13 it at that time.

14 MR. TRAPP: Dave, one clarifier there that
15 may be missing is it was a steam generator tube
16 integrity issue, and they did install four new steam
17 generators before they restarted. So the root cause
18 of that steam generator two issue was really gone
19 before restart. That might have weighed into the
20 decision.

21 MR. LOCHBAUM: That wasn't the information
22 I got from Mr. Miller.

23 MR. FLOYD: Just a point of clarification
24 additional. The red finding was that they did an
25 inadequate job of finding defects in the existing

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1 steam generators prior to restart and, therefore,
2 increased the initiating event frequency for steam
3 generator tube rupture with the other conditions at
4 the station resulting in a red finding, so --

5 MR. LOCHBAUM: But the reason --

6 MR. FLOYD: Fixing generators by replacing
7 them eliminates the deficiency.

8 MR. LOCHBAUM: For the short term, not for
9 the long term because they still then have to inspect
10 the new steam generators.

11 MR. FLOYD: Sure.

12 MR. LOCHBAUM: Because they're not
13 invulnerable to the problem.

14 What we pointed out was that all along the
15 plant owner had objected to any claim that it did
16 anything wrong, there was any deficiencies at all and
17 its inspection program. It said it did nothing wrong.
18 So our concern was if the company doesn't think it did
19 anything wrong, and it did something so wrong that it
20 garnered a red violation, if the plant owner doesn't
21 know the difference between right and wrong, why
22 you're allowing it to restart?

23 Because if it doesn't know the difference
24 between right and wrong in this case, how do you know
25 that it knows the difference between right and wrong

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1 in any other case?

2 And there's only two reasons that the NRC
3 allows a plant to start up, and additional licensing
4 is the plant meets all regulatory requirements and
5 there's reasonable assurance that the plant will
6 continue to be operated in compliance with all
7 regulatory requirements.

8 Here you have an owner saying, "I have no
9 clue what the regulatory requirements are. I don't
10 agree with you that I violated them," but the NRC
11 allowed it to restart.

12 So the two underlying principles that it
13 got its license were both undermined and the NRC
14 allowed it to restart before that answer was resolved.
15 I agree there was some margin because there were brand
16 new steam generators. That's why our petition asked
17 for them to put those new ones in.

18 But it wasn't a moot point. It just
19 determines when it comes back into play on those
20 specific components. So --

21 MR. HILL: Can I ask a question about your
22 slide?

23 I don't understand. It says up there what
24 we don't like about and then you've got this little
25 gamma or something there, red with a one.

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1 MR. LOCHBAUM: Yeah. That's -- that's the
2 yellow finding and a red flag finding, if this was
3 color coated.

4 MR. HILL: You don't like yellow or red
5 findings; is that what you're saying?

6 MR. LOCHBAUM: Yeah, if we have a
7 preference we like the green findings. And we gave --
8 although you can't see it, we gave ADAMS a red
9 finding.

10 (Laughter.)

11 MR. LOCHBAUM: Actually it earned a red
12 finding.

13 The second thing we didn't like about the
14 action matrix thing -- this goes to Rod's question --
15 the NRC opted not to issue any finding on its Quad
16 City security failure.

17 Rather than to deviate from the action
18 matrix, it just chose not to even play the game, not
19 issue a finding of any color. That's another way to
20 get around the action matrix, is to take your ball and
21 go home.

22 MR. KRICH: That would be true if it
23 was -- that's not quite the case where you have a
24 white finding was issued. So I don't know what you're
25 referring to, Dave, but if you could view the

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1 inspection report we got a white finding for that. So
2 the NRC didn't do -- take their ball and go home.

3 MR. LOCHBAUM: They basically negotiated
4 a red finding down to a white finding, and then
5 issued--

6 MR. KRICH: I don't know who they
7 negotiated with. They didn't negotiated with us.

8 MR. LOCHBAUM: Okay.

9 MR. FLOYD: I could comment a little bit
10 on that. What really happened in that whole security
11 SDP area was there was a late minute proposal, which
12 didn't get evaluated thoroughly, to link the
13 deficiencies that were found during a force-on-force
14 evaluation to the reactor safety SDP.

15 MR. LOCHBAUM: That wasn't our proposal.

16 MR. FLOYD: Oh, no. It wasn't your
17 proposal, no, no. It was actually --

18 MR. LOCHBAUM: Whose proposal was it?

19 MR. FLOYD: It was actually the industry's
20 proposal as a way of making linkage between them
21 because when we were doing that the understanding that
22 we had with the security folks at the NRC was that you
23 had these things called target sets, which contained,
24 you know, elements of safe shutdown equipment. And if
25 the intruder got in and damaged a target set, but you

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1 had other equipment available, that when you fed it
2 into the action matrix it showed that you could still
3 achieve and maintain safe shutdown, then you ought to
4 get credit for that.

5 Well, what happened is when they went to
6 apply the SDP actually in practice and started doing
7 the OSREs, the NRC instead took the approach that, no,
8 you can't take any credit for any equipment that's not
9 in a target set because the objective of our OSRE is
10 to fail the equipment in the target set.

11 And therefore, any equipment that you
12 think is necessary to achieve and maintain shutdown
13 should be in a target set, and we're going to fail all
14 that equipment so you can't get credit for any other
15 equipment.

16 So the whole basis for the SDP and the
17 approach was flawed because it wasn't thoroughly
18 evaluated, and it was sort of a knee jerk, last minute
19 change to the program to try to come up with an SDP
20 that made some sense, and it failed miserably.

21 And I think both the industry and the NRC
22 recognize that the SDP did not work because the
23 fundamental basis for it was not accepted by the
24 security people conducting the OSREs once the program
25 got implemented.

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1 And that's really why they chose to ignore
2 the security SDP findings, because it would always
3 result in a red finding if you can never take credit
4 for any equipment that's not in a target set.

5 MR. LOCHBAUM: Unless you --

6 MR. FLOYD: Regardless of how much there
7 was.

8 MR. LOCHBAUM: Unless your security's able
9 to protect the target set.

10 MR. FLOYD: All the target sets, every
11 single one for every possible scenario. And their
12 argument was if it's not in a target set, you can't
13 take credit for it. And that was never the intent of
14 the original SDP. It was to take credit for what
15 other capabilities the plant had to be able to achieve
16 and maintain safe shutdown after an intruder was able
17 to come in and damage some equipment in a target set,
18 not every single piece of equipment at the plant
19 simultaneously.

20 MR. LOCHBAUM: Okay.

21 MR. FLOYD: But they wouldn't allow that
22 to be part of the evaluation. So that's why it was
23 flawed.

24 And I think everybody recognized it just
25 wasn't going to work.

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1 MR. LOCHBAUM: Not everybody recognized
2 it.

3 MR. FLOYD: Well, maybe not everybody, but
4 the people that were close enough to it discussing it
5 were.

6 MR. KRICH: The point is that, in fact,
7 Quad Cities was issued a white finding. There were no
8 negotiations going on, and that the Quad Cities OSRE
9 inspection got used as a I called it a poster child
10 for addressing the issue of the SDP concern, and what
11 came out was the white finding with a new set of I
12 guess I call them screening criteria for security
13 issues.

14 MR. LOCHBAUM: I guess I -- that's not my
15 understanding of the history, is that there was
16 initially an opportunity for a pre-decisional
17 enforcement conference. The company decided it didn't
18 want to do that.

19 MR. KRICH: That's not true.

20 MR. LOCHBAUM: It heard that the NRC had
21 come out with a red finding in SDP space. The company
22 then asked for a pre-decisional enforcement conference
23 that was not open to the public.

24 Subsequent to those negotiations, there
25 was a commission vote and it came out the way it is.

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1 MR. KRICH: Dave, there was no pre-
2 decisional enforcement conference. There was never a
3 pre-decisional enforcement conference.

4 MR. LOCHBAUM: I'm sorry. I used exit
5 meeting. You had a chance for an exit meeting.

6 MR. KRICH: It was an exit meeting.

7 MR. LOCHBAUM: You turned it down, and
8 then after the --

9 MR. KRICH: No, we didn't --

10 MR. LOCHBAUM: -- red finding --

11 MR. KRICH: We didn't turn it down, no.

12 MR. LOCHBAUM: That's what I'm hearing.

13 MR. KRICH: No. You're wrong. It's
14 everything is out in the public. We had an exit
15 meeting. Then the NRC asked us to come in and had
16 another management meeting with them, which we did
17 hold, which I believe was closed because it dealt with
18 security issues. And that was the end of it.

19 The next thing we knew is we only got the
20 letter about two weeks ago. So your facts are not
21 quite right.

22 MR. LOCHBAUM: Somebody's facts are not
23 quite right. We'll see.

24 MR. KRICH: Well, it's not my facts.

25 MR. LOCHBAUM: Okay. It's not my facts.

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1 So --

2 MR. KRICH: But you're the one who's
3 citing these things that aren't accurate. There was
4 no pre-decisional enforcement conference.

5 MR. LOCHBAUM: I corrected that to say
6 exit meeting.

7 MR. KRICH: And there was an exit meeting
8 held.

9 MR. LOCHBAUM: The first one --

10 MR. KRICH: And then there was a
11 management meeting held at the request of the NRC.

12 MR. LOCHBAUM: The -- I mispoke earlier.
13 What I was told by the NRC was that the company
14 decided it didn't want an exit meeting; when it heard
15 the red finding was being floated, asked for an exit
16 meeting so, therefore, to explain that there was
17 equipment available at the plant that could be used to
18 protect the core for the targets at damage.

19 After that exit meeting was conducted in
20 Region 3 that was a closed meeting --

21 MR. KRICH: That was not an exit meeting.

22 MR. LOCHBAUM: It's what I was told it
23 was.

24 MR. KRICH: There was a -- there was an
25 exit meeting conducted at the end of the inspection.

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1 MR. LOCHBAUM: I'm just --

2 MR. KRICH: Well, let me finish. And then
3 there was a subsequent meeting that was requested in
4 order to provide additional information that the NRC
5 asked us to provide them.

6 Now, I think the NRC may have categorized
7 that as a subsequent exit meeting in order to make it
8 fit within their procedures.

9 But it was a meeting that was requested in
10 order to provide additional information. That was the
11 end of discussions with the NRC. The next thing that
12 happened was they issued their letter on February
13 13th, I think.

14 MR. LOCHBAUM: The staff told me it was an
15 exit meeting. If you're saying it wasn't an exit
16 meeting, then that's -- that's what the meeting notice
17 said.

18 MR. KRICH: But there -- my point is that
19 we didn't turn down an exit meeting and then
20 subsequently ask for it after we heard about a red
21 finding. We had an exit meeting with the NRC, as --
22 as we normally do at the end of an inspection. After
23 that the NRC asked us to give them more information
24 during a meeting that was held in the region. That
25 meeting was called, I think, another exit meeting in

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1 order to make it fit within the process. But the
2 meeting basically was we provided them additional
3 information that they did not have.

4 MR. LOCHBAUM: Okay.

5 MR. KRICH: And having been involved in
6 every step of the way, I think I know what happened.

7 MR. BLOUGH: Aren't we -- we're here to
8 hear Dave's perceptions about what happened and his --
9 you know, how he -- what his assessment of the program
10 is. I just -- yeah, I don't know that we're here to
11 try to change Dave's opinion on this matter.

12 MR. KRICH: No, I'm not trying to change
13 anybody's opinion. What I'm trying to do is make sure
14 that the information that's given to this panel is
15 accurate at least from the point of view of the things
16 that I know about. And what's on this slide is, in
17 fact, not accurate.

18 MR. FLOYD: Yeah, I think what I'm getting
19 of value out of this is that if Dave has these types
20 of perceptions with the way the program is being
21 executed and run and is not -- does not have these
22 explanations reasonably available to him, then that is
23 a public perception problem.

24 MR. LOCHBAUM: Then something is not
25 working, right.

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1 MR. FLOYD: And it does create problems
2 with members of the public trying to understand the
3 process if they can't do that.

4 MR. LOCHBAUM: I think regardless of
5 whether you think the Indian Point 2 or Quad Cities
6 findings were red, green, or the safest thing that
7 ever occurred in the history of the world, I think if
8 you look at the timeliness from the event to the NRC
9 finding, in both cases they were many, many months.

10 It takes the NRC relatively no time to
11 issue a green or no color finding, and an extremely
12 long -- because the negotiations take longer for non-
13 green findings. And the more significant the issue
14 might be, the longer it takes, and if you're actually
15 doing risk informed regulation, that's exactly
16 backwards.

17 You ought to be able to come to the
18 conclusion faster on the important stuff. If a
19 theater owner was told that his theater may be on
20 fire, and he reaches determination it's not, you know,
21 it takes him several weeks to figure out whether it's
22 on fire or not; I don't think he'd be doing a real
23 good job.

24 So for the NRC to take months to figure
25 out -- regardless of whether you thought the endpoint

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1 was right or wrong, the timeliness of both of these is
2 just unacceptable, although I do concede it's better
3 than what the old process was. It was unacceptable in
4 the old process as well.

5 MR. GARCHOW: Dave.

6 MR. LOCHBAUM: Yes?

7 MR. GARCHOW: When you use the word
8 "negotiation" and we really, really cover this because
9 you've brought this up before, when we had the NRC
10 folks in here at the last meeting or one of the days
11 last meeting. They made a -- truth is always
12 somewhere, right?

13 But, I mean, to the extent that you're
14 using the word "negotiation," they were using the
15 opposite of negotiation about getting the information
16 necessary to work through the significance
17 determination process correctly.

18 And I'm just -- I guess I'm -- I mean
19 you're making a point just like ADAMS is bad. I mean,
20 you keep using "negotiation." Do you actually believe
21 it's negotiation and what's that --

22 MR. LOCHBAUM: Yes.

23 MR. GARCHOW: -- what's that founded on?

24 MR. LOCHBAUM: It's founded on discussions
25 with NRC staff members. As far as the Quad City

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1 security, we were told by many NRC staff members that
2 there was utility executive after utility executive
3 who came in to meet with the Commissioners to lobby
4 for no finding being issued.

5 I don't know if it was people from ConEd
6 or Exelon or whatever they're called, but we kept
7 hearing that there was utility executive after utility
8 -- and the staffers wanted me to come in and counter-
9 lobby or point-counterpoint that. And we don't do
10 that.

11 We hope the Commission reaches a right
12 decision. In this case they didn't, but we -- we kept
13 hearing that from a number of staffers, that utility
14 executives -- it might not have been the sole purpose
15 of them coming in here, but it was clearly brought up
16 during the course of their discussions with the
17 Commissioners.

18 So, you know, that's why I think -- and
19 this whole bit, although from what I was told, this
20 bit about the exit meetings and the coloration, I was
21 told that by NRC staff. I didn't gin that story up by
22 myself. I'm not that creative.

23 So, you know, from what I'm hearing from
24 the NRC staff, that's how it look -- how it came down.

25 MR. KRICH: Well, then that's good. I

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1 mean, that's good information because that means then
2 that there are communications issues not only with the
3 public, but also within the NRC staff that need to be
4 addressed.

5 Because what you just described didn't
6 happen in reality.

7 MR. LOCHBAUM: We'll see. I -- you know,
8 I don't -- I'm not calling you a liar by any means.
9 Because I know and respect you.

10 MR. KRICH: I'm not calling you a liar,
11 but, you know, I was there so I know what happened and
12 what didn't happen.

13 MR. LOCHBAUM: All I know is I was told by
14 people I trust as well something that doesn't agree
15 with that. So I got two different fact sets and --

16 MR. KRICH: I understand.

17 MR. LOCHBAUM: -- until I understand what
18 the difference is, I've got to go with the one I --

19 MR. KRICH: But I'd like to get back to
20 Dave's question about negotiation also because you
21 continue to use that word, and as far as I'm aware of
22 there were no negotiations that went on.

23 MR. LOCHBAUM: There were -- negotiation
24 in my context is if there were no negotiations, the
25 NRC staff and the plant owner could look at an event,

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1 use a significance determination process, you know,
2 spin the wheel, whatever they used, and come up with
3 a coloration without having to go back and forth and
4 talk about individual plant data and all this other
5 stuff. Those are negotiations.

6 You're providing data. They're assessing
7 whether it's right, wrong, or indifferent. Those are
8 negotiations. They are not necessarily the bad
9 connotation -- connotation associated with
10 negotiations. But they are negotiations.

11 You're deciding whether something is or is
12 not significant. And in ConEd case, which I know a
13 little bit more about -- I thought I did -- ConEd came
14 in and explained why they thought the issue was not a
15 red finding. And they presented their numbers and
16 their results.

17 And the NRC staff issued the results from
18 their calculations and their ciphering and showed that
19 it was a red finding.

20 So you have two parties using the same
21 process coming up with completely different things and
22 then --

23 MR. KRICH: So you would refer to a pre-
24 decisional enforcement conference as a negotiation
25 because that's exactly what goes on at those -- at

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1 those meetings.

2 No. I'm talking about an enforcement
3 meeting. I mean that's exactly what the purpose of an
4 enforcement conference is -- is for --

5 MR. LOCHBAUM: Right.

6 MR. KRICH: -- the licensee to provide
7 information so that the NRC can reach a conclusion.
8 So that you could consider, under the definition you
9 just gave, that's a negotiation?

10 MR. LOCHBAUM: That's correct.

11 MR. KRICH: Okay. All right.

12 MR. LOCHBAUM: And I don't mean to imply
13 that all negotiations are bad either. I mean, just in
14 this case when negotiations drag out a determination
15 on a safety issue, we think it's a bad thing.

16 So in these two cases we think the
17 endpoint was wrong. We also think the delay was
18 wrong. So it was in this case two wrongs definitely
19 don't make a right.

20 MR. FLOYD: Dave, I've got one question
21 for you. Our observation, I just wanted to see if you
22 had any basis for differing from this observation.
23 Our observation is -- though I totally agree with you
24 it has taken in some cases longer than what's
25 appropriate to resolve some of these issues, hopefully

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1 that'll get remedied when the plant specific work
2 sheets come out and a few other enhancements are made
3 to the program.

4 But I'm not aware of any case where the
5 action to resolve the deficiency waited until after
6 the determination of what the significance of it was.
7 So the delay in characterizing it was there, but
8 actually taking action to take care of the condition
9 and resolving it and getting it in the corrective
10 action program and proceeding to address it did not
11 wait for the determination.

12 MR. KRICH: Let me --

13 MR. FLOYD: It's almost an after-the-fact
14 determination.

15 MR. KRICH: Let me give a concrete example
16 then. So once we had the exit meeting, right after
17 the Quad Cities OSRE, we identified corrective actions
18 that we were taking or had taken or were going to take
19 in the short term, and then we docketed that
20 information.

21 So we didn't wait almost a year to take
22 corrective actions for the issues that were identified
23 as a result of the OSRE. It was done within probably
24 a month and a half.

25 MR. LOCHBAUM: Okay. For the counter

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1 example, in the Indian Point 2 case that I'll go back
2 to, the company still doesn't think it did anything
3 wrong. It would be hard for me to believe that a
4 company doesn't believe it did anything wrong with its
5 inspection program could have implemented the fixes to
6 fix the program.

7 It doesn't think it did anything wrong.
8 What's it going to go out there and fix?

9 MR. FLOYD: Sorry. I just can't comment
10 on that one. I don't know all the facts there.

11 MR. LOCHBAUM: So there's a red finding
12 that was issued. I can't agree that -- I can't think
13 anybody could argue that the corrective actions have
14 been done since the company still, or at least the
15 last time I checked, still refused to claim they did
16 anything wrong.

17 So there's no way it could have fixed that
18 effort. So even though the steam generators were
19 replaced and the actual source of the problem, the
20 steps to ensure that that doesn't happen again, it
21 doesn't look like they've been taken.

22 So I would argue that that's not
23 necessarily always the case.

24 MR. BLOUGH: At IP-2, the company
25 described the changes they had made to the oversight

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1 of steam generator inspections and contractor
2 oversight and such in correspondence. But I guess
3 your point is you would question whether their heart
4 was in those things they described to us, if they
5 continue to maintain, you know, all along that, you
6 know, they hadn't done anything wrong to begin with.

7 MR. LOCHBAUM: Well, basically it's kind
8 of like if I'm given a multiple choice question exam,
9 and D is the wrong answer and there's three, A, B, and
10 C. I could go then A and then -- eventually I'm going
11 to get the right answer with that process.

12 But if they don't know the difference
13 between right and wrong and what they did wrong,
14 there's no way to ensure that the next time that comes
15 up that they're going to do the right thing. So even
16 though they've ultimately got the right answer on that
17 exam, that doesn't guarantee future performance. In
18 fact, it argues very strongly the other way, that
19 they're going to make the same mistake again.

20 Getting back to the slides, another thing
21 we didn't like about the assessment program was the
22 fact the PI data was submitted voluntarily. So to try
23 to address that problem we submitted a petition for
24 rulemaking last year that would have made the
25 submission of data mandatory, and it seemed to correct

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1 that problem, if it ever goes through.

2 The thing we don't like about the
3 significance determination process is it's based
4 exclusively on core damage frequency. Findings, for
5 example, on spent fuel storage, criticality in the
6 spent fuel pool or radway system integrity are
7 illogically forced to be green or no color.

8 The exception being is if you do have a
9 problem in one of those areas that leads to somebody
10 being over exposed, you could get a non-green finding
11 through that other pathway.

12 Another thing we don't like about the
13 assessment program is that the Alert and Notification
14 System PI is based on test failures and unjustly
15 excludes all other failures. We've gone through the
16 daily event reports as we did on the pilot program and
17 pointed out a number of failures lasting many days
18 that somehow don't count in the Alert Notification
19 System PI.

20 It's only the ones that failed during the
21 test. That seems a very easy way to compile the data.
22 It just doesn't seem to be as meaningful as one that
23 looks at the availability of the sirens themselves.

24 Attached to our comments we found from the
25 Harris, Sharon Harris, case an Atomic Safety and

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1 Licensing Board panel ruling that applied a 95 percent
2 criterion to the Alert and Notification System's
3 function.

4 And this was in a July 10th, 1986, letter
5 from Paris & Shon of the Atomic Safety and Licensing
6 Board panel to then Commissioner Lando Zech, and his
7 fellow Commissioners.

8 If you look at the threshold for the white
9 or the green to white, that's below the criterion that
10 the Atomic Safety and Licensing Board panel applied in
11 the Sharon Harris case to evaluate whether this system
12 was functional or not. And the white to yellow
13 threshold is even lower, which would seem suggest it's
14 way below.

15 I do need to point out that the 95 percent
16 criterion that was applied by the Atomic Safety and
17 Licensing Board is on notification. Ninety-five
18 percent of the population when the sirens go off will
19 hear them.

20 I'm not sure they even have to know what
21 to do, just the fact they heard the sirens. And the
22 fact that you don't have 94 percent of your sirens is
23 not a one for one correlation. But it's close enough
24 that I think it shows that there might be a problem in
25 this area.

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1 We thought it was a problem before that.
2 That just further reinforced our concern.

3 In fact, we've thought that -- I think
4 every forum I've ever had I've made that register that
5 concern. I've never ever, ever heard from the NRC
6 staff why that was a good or bad thing.

7 So there was some discussion this morning
8 about frequently asked questions. I said at the panel
9 last year that that went on to the NRC's list of never
10 answered questions.

11 We provide the forum written. We provide
12 it orally. I've done everything but pass building a
13 note and never ever get an answer back.

14 So I can make it again and apparently it's
15 falling on deaf ears. I don't know what the deal is.
16 But in terms of interfacing with the public, when the
17 public keeps raising questions and never ever hears
18 whether it's good, bad, or indifferent, I think it's
19 just testing my stamina.

20 Actually it's just making it easier for me
21 because I just go back to my last set of comments and
22 bring them forward. I don't have to do any new,
23 original thinking.

24 One of the things we don't like about the
25 action matrix, and this was discussed this morning

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1 about what information goes out to the public. We
2 think the action matrix itself is good and the summary
3 that's on the Website is good.

4 But in its current format it's very
5 difficult to use. Basically it's a one line entry for
6 every plant in the country with a little box that says
7 what column or what response category the plant is in.
8 And this thing for 103 plants turns out to be about 10
9 feet long if you could scroll through it.

10 What we thought would be a little bit
11 easier to use would be a matrix like this where you
12 had the five columns and you indicated what column the
13 plant was in so it would be a shorter more concise
14 summary of information.

15 We also think this should be or something
16 like this should be the starting point for the NRC
17 Website, not the PI indicators. If you go to see a
18 doctor, generally he tells you what your bottom line
19 is, whether your healthy or not and then provides
20 details to either indicate why you are or are not
21 healthy, depending on whether it's cholesterol level
22 or whatever.

23 He doesn't give you all the, you know, the
24 blood count data and all the little bitty stuff and
25 then at the end come out with a conclusion that you've

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1 only got a week to live or something.

2 MR. FLOYD: Dave, I'd like to explore that
3 a little bit. So your suggestion is that if you want
4 to see where a plant stands you click on the name of
5 the plant and it would go to the action matrix and
6 highlight that plant and show you where that plant is
7 in the action matrix, and then you'd click on the box
8 under the column that they're in, and then you'd go to
9 the PI's and the inspection finding summaries if you
10 wanted to delve into more depth as to why they're in
11 that column of the action matrix. Is that the concept
12 or --

13 MR. LOCHBAUM: Similar to that. I guess
14 we were envisioning that when you first called up
15 plant assessment results, you'd get this report card
16 or this --

17 MR. FLOYD: Right.

18 MR. LOCHBAUM: -- summary. And then if
19 you wanted the PI data or you wanted the inspection
20 finding data --

21 MR. FLOYD: Okay.

22 MR. LOCHBAUM: -- you could get to that,
23 but you'd start here rather than the other way around.

24 MR. SCHERER: David, how is that different
25 than what's on the Web right now?

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1 MR. LOCHBAUM: Right now you have to go
2 through a lot of things. In this you get to kind of
3 at the end. You have to go through a lot of other
4 places to get here.

5 MR. SCHERER: I went on the Website on
6 13th of February and found exactly what you're
7 suggesting.

8 MR. LOCHBAUM: But was that where you
9 started or was that after you've clicked through a
10 number of these places to get there?

11 MR. SCHERER: Just went and found a matrix
12 that's got every plant and whether it's in a licensee
13 response column, the --

14 MR. FLOYD: That's a new addition they've
15 just put on.

16 MR. LOCHBAUM: Right. But again, when you
17 start out, you start at the PI summary and then you
18 can get to that table, that listing, but you don't
19 start there. It's kind of like several steps down the
20 road today. And I think that this should be a
21 starting point, and you could get to the PI summary if
22 you want to, but you shouldn't start there.

23 MR. BLOUGH: Is it a sore subject to ask
24 if the NRR staff has that comment and has told you
25 anything yet?

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1 MR. LOCHBAUM: No, because I just -- this
2 was just recently added.

3 MR. BLOUGH: Right, yeah.

4 MR. LOCHBAUM: Within the last few weeks.

5 MR. BLOUGH: Yeah.

6 MR. LOCHBAUM: And I hadn't made that
7 comment. We are compiling comments for the public
8 comment period that's coming up on the -- in the
9 workshop in late March. So I haven't provided any
10 interim comments.

11 MR. BLOUGH: Okay. Thanks.

12 MR. LOCHBAUM: Some of these comments came
13 up this morning in the discussion. One of the things
14 we don't like is that the casual observer is saturated
15 with information on the Website. In our comments we
16 provided a brief quarterly report -- I'm sorry. We
17 concluded a monthly report that's prepared by Ontario
18 Power Corporation on each of their plants.

19 And I'm not saying that should be the
20 information that the NRC provides, but it's a very
21 simple process for people who live around the plants
22 to understand how their plant's doing. It's available
23 on the Website. You can also download it, but I think
24 it's a much better interface for the casual public
25 than the information that's on the Website right now.

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1 Right now you pretty much have to compile
2 that data yourself to come up to that conclusion. For
3 example, this panel will be providing a report to Sam
4 Collins on whatever it concludes. You know, you have
5 a couple options.

6 You could just provide him the meeting
7 minutes, the transcripts from all these meetings. Sam
8 Collins has above average intelligence and plenty of
9 time. So he could read through all that and come to
10 his conclusions on what you guys think.

11 But you're not going to do that. You're
12 going to write him a nice, fairly brief report on what
13 you've looked at and what your conclusions are to make
14 it easier for him to understand what you've done.

15 You really haven't done that with the
16 public. You make the public do the data collection
17 and compilation. So we were suggesting that a report
18 somewhat like the Ontario Power Corporation report
19 might be a better way to communicate to the public on
20 how you feel about a plant's performance.

21 This is related to the Alert Notification
22 System. There's a frequently asked question, number
23 174, and specifically the response to that question.
24 The question asked if it was okay -- whether missed
25 tests should count in the denominator for the -- for

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1 this PI. And the answer was no, even if the tests
2 were intentionally skipped.

3 So if you know a siren is bad and you
4 don't test it, it doesn't count in the denominator and
5 you can artificially inflate the response. Something
6 doesn't seem exactly right about that.

7 But again, we don't like this indicator,
8 the way it's currently done, so we obviously have a
9 bias and we're very critical of this indicator in just
10 about every aspect.

11 And we also don't like the Phase 3
12 evaluations that are done on plant specific risk
13 assessments that are not publicly available.

14 Any of these discussions or negotiations
15 are secret because the public doesn't have access to
16 the information that's being discussed, and therefore,
17 they don't seem very fair. Part of this process was
18 to be transparent, scrutable, and consistent.

19 And we don't think the current SDP process
20 achieves any of those processes. I think it's prima
21 facie evidence that it doesn't in that every time --
22 I don't know that there's ever been a case where the
23 industry agreed with the assessment done by the
24 industry or by the NRC.

25 So if both parties sitting down looking at

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1 the same event using their similar risk information
2 come up with different answers, I don't know why the
3 public should believe the ultimate number whatever it
4 ends up being, whether the NRC wins the negotiations
5 or the licensee does.

6 The fact that every single case -- it's a
7 non-green. The two parties disagree and debate and
8 negotiate about it. I think you're undermining public
9 confidence every single time. It makes my job easier,
10 but I don't think that's what you want to do.

11 When I was on a pilot evaluation program,
12 Mr. --

13 MR. LAURIE: Dave, can you go back to that
14 last slide?

15 MR. LOCHBAUM: Sure.

16 MR. LAURIE: Everybody understands what
17 you meant except me. Under the -- under your last
18 bullet, when you talk about secret negotiations, can
19 you define that for me? Are you talking about private
20 discussions or are you talking about outcomes that are
21 not made public?

22 Can you just take one minute and explain
23 that to me?

24 MR. LOCHBAUM: Yeah, what I was referring
25 to there was that the information that's being

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1 discussed, the NRC will go through its process and try
2 to determine how significant a finding was or
3 condition was. The licensee will then provide
4 information from plant specific risk assessments that
5 generally -- that history has been to say that this
6 isn't as significant as the NRC first evaluated.

7 Well, those plant specific risk
8 assessments are not on the docket. They're not in
9 publicly available. So any member of the public
10 cannot look at the reason the licensee said that this
11 should be lower, less significant than what the NRC
12 determined.

13 Now, I'm not saying -- I'm not saying that
14 the basis for that, the licensee's argument is flawed.
15 It's just there's no way to check to agree or
16 disagree. It's just not publicly available.

17 For that reason those negotiations, which
18 have some significance because they tend to determine
19 safety significance --

20 MR. LAURIE: What's the outcome of those
21 negotiations?

22 MR. LOCHBAUM: It depends. In the recent
23 case done in the South at the summer plant a finding
24 was changed from yellow to -- yellow to white or
25 something like that based on the information received

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1 from these non-public, publicly available risk
2 documents.

3 MR. LAURIE: Is the outcome always public?

4 MR. LOCHBAUM: The coloration is.

5 MR. LAURIE: Okay. And then --

6 MR. LOCHBAUM: As far as the numbers to
7 determine whether -- what the NRC looked at, sometimes
8 it is; sometimes it isn't. That's why I started out
9 with where sometimes there's a really good, well
10 documented justification, what we looked at and why it
11 is or is not significant. And sometimes it's just
12 this is green because the Phase 3 evaluation says it's
13 green.

14 MR. LAURIE: If -- if the public were
15 aware of the outcome based upon the color, and the
16 public wanted to make inquiry as to the basis of the
17 outcome, would then that information somehow be
18 available? That is, the rationale?

19 MR. LOCHBAUM: Not to my knowledge. That
20 would answer the question, but from my understanding
21 that is that information is not available.

22 MR. FLOYD: Dave, if the -- if you saw in
23 the inspection report where a plant provided some of
24 their outcome results from their PRA and then saw an
25 NRC assessment of that in the inspection report saying

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1 we looked at this and we agreed with the licensee
2 number because, et cetera, et cetera, would that fix
3 the problem for you?

4 No. Just the fact that the information's
5 not available is what drives it?

6 MR. LOCHBAUM: Yeah, because you don't
7 know --

8 MR. FLOYD: But we have that same problem
9 today though in deterministic regulation. You
10 don't -- we don't have our complete analysis, deck of
11 local analysis on, you know, in the public docket and
12 all that. It's just a tremendous amount of analysis,
13 deterministic analysis, that is not in the public
14 domain.

15 MR. LOCHBAUM: But there's less of it.
16 It's unavailable. Because right now you have the
17 FSAR. You have all the Q and A that surrounded the
18 FSAR originally. You have all the updated FSAR
19 submittals. You have a lot of technical specification
20 changes because there's very few technical
21 specification sections out there that haven't been
22 changed at one time or another over the time.

23 So if you go back and look through all
24 that information, if you have that much time, you can
25 generally understand what the parameters established

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1 for that system or that function were by the licensee.
2 And then you can look at that information and look at
3 the justification that was provided, albeit in
4 deterministic space, and see if it seems to be
5 reasonable or not.

6 You are missing some detailed calculations
7 that aren't available, aren't on the docket.

8 MR. FLOYD: A lot of them.

9 MR. LOCHBAUM: But there is -- there's a
10 smaller gap of information that's available. When you
11 look today at the PSA results and you just get a
12 number, you don't know how that was determined. You
13 don't -- there's a much larger gap between what you
14 can try to define and where the number came out to be.

15 So it -- it just makes that effort --

16 MR. FLOYD: I think, personally, I think
17 I'm hearing a little bit of misperception about how
18 the Phase 3 SDP works. I don't -- to my knowledge,
19 the NRC just doesn't take the number from the NRC's
20 Phase 3 evaluation and run with it. What they do is
21 they'll take the number, but they'll understand -- try
22 to understand what the basis for the number is, pass
23 some judgement on whether or not the licensee's model
24 is better than their SPAR model upon which their
25 analysis might be based, and then make adjustments to

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1 their SPAR model, give them credit for equipment that
2 maybe their model didn't have in it.

3 And I'm just wondering if they documented
4 that rationale for that additional basis, the fact
5 that we got this result of a yellow because we didn't
6 know you had this system and, in fact, you do have
7 this system, and when we consider the credit that that
8 system adds, then we agree it's a white.

9 I mean, if they had that in the inspection
10 report would they -- is that the type of information,
11 I guess I'm wondering, that would help you get more
12 comfortable with what's going on?

13 The fact that they're not just letting the
14 licensee run a number and say, "Oh, okay. You got a
15 different number. We'll go with that."

16 MR. LOCHBAUM: That would help.

17 MR. LAURIE: Okay.

18 MR. LOCHBAUM: Right now all we see, we
19 see the fact that there's a conflict between what the
20 licensee thinks and what the NRC thinks.

21 MR. LAURIE: Okay.

22 MR. LOCHBAUM: We see that there's a
23 meeting of whatever label wants to be thrown on it and
24 at the end there's a -- there's a color that comes
25 out. And you only read the inspection report or the

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1 finding; it's very difficult to figure out how that
2 went from what it was to what it ended up being.

3 Any means that would enable that to be
4 transparent that it's billed to be would sure help,
5 because right now, you know, we don't -- the process
6 is like I said secret. I mean, that's why we pretty
7 much say it's secret. There's no information coming
8 out that allows anybody outside the negotiations to
9 understand what it came --

10 MR. LAURIE: Sure.

11 MR. LOCHBAUM: -- out to be.

12 MR. LAURIE: Okay.

13 MR. LOCHBAUM: And I don't -- I don't want
14 to be a party to all those negotiations.

15 MR. LAURIE: Right.

16 MR. LOCHBAUM: That's not what I'm bucking
17 for.

18 MR. LAURIE: I understand.

19 MR. LOCHBAUM: So --

20 MR. SHADIS: I'd like to make a comment on
21 that reference to public confidence.

22 And by the way, you look very good in that
23 chair, first of all.

24 MR. LOCHBAUM: Who is that, by the way?

25 MR. SHADIS: The other person that was

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1 occupying that chair.

2 I brought up the issue of the summer plant
3 finding, contrasted it to Millstone, similar
4 situation, and, you know, there was this -- the
5 sequence of events was that I believe the summer plant
6 first finding, preliminary finding came out. There
7 was then the Millstone finding came out. Then the
8 summer plant finding was adjusted and brought into
9 line with the Millstone finding.

10 And the significance was laid down. And
11 from the -- just from the public perspective this is
12 a little unnerving. This makes it seem as if the
13 agency is uncertain.

14 When we asked about it in our lab meeting,
15 we were told that yes, and there were calls from
16 region to region to find out how and why they were
17 handling it the way they were handling it.

18 You know, this undermines the whole notion
19 of consistency and predictability, and it really
20 doesn't do anything for public confidence. If exit
21 meetings and enforcement conferences are not
22 accurately recorded and if there wasn't a full
23 disclosure of the conversation that took place in
24 those meetings, then the public can only, you know,
25 see them from the results.

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1 And if the licensee and the NRC get
2 together and the result of it is pretty consistent
3 that the licensee walks away with a lesser finding, a
4 less safety significant finding, then the public can
5 predict with some confidence that that's the way those
6 meetings are going to go and that's what the purpose
7 of them is.

8 I don't know of any instances in the New
9 England plants where there was one of these exit
10 meetings or enforcement conferences or whatever that
11 resulted in the NRC coming down with heavier findings
12 or more safety significant findings. It's always gone
13 as far as I know, in the other direction.

14 MR. MOORMAN: Ray, in New England --

15 MR. SHADIS: Yeah.

16 MR. MOORMAN: -- just to correct, I don't
17 think we've ever decreased the significance color of
18 a finding for Region 1 after a rad conference. I'm
19 not aware of it if we have.

20 MR. FLOYD: I think the -- and again, this
21 probably begs better public understanding and
22 communication, but the Phase 2 SDP work sheets, which
23 is the preliminary color, are intentionally
24 conservative so that you don't have false negatives
25 being slipped through the program.

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1 So the whole idea behind having a Phase 3
2 was the expectation that there would be some
3 sharpening and recharacterization of the risk when you
4 go from a simplified model to a more detailed model of
5 a plant that has more information and is more
6 complete.

7 It doesn't always change the answer, but
8 it might. But the whole idea was, in fact, one of the
9 tests I believe in the matrix is that in the Phase 3
10 the colors don't go the other way. If they go the
11 other way, we don't have the SDP right at the Phase 2
12 level because we don't want false negatives at the --
13 at the Phase 2 level.

14 But that means we have a certain
15 percentage of false positives, which the Phase 3 is
16 then designed to put in proper perspective.

17 So, I mean, it's the way the program was
18 constructed. Now, if the public doesn't understand
19 that, and they're seeing that as, oh, a deal being cut
20 in the back room, then that's a clear -- that is a
21 public perception problem.

22 It doesn't mean the process is flawed. It
23 means it hasn't been properly communicated and
24 articulated.

25 MR. SHADIS: I think -- I think then it

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1 really needs to be.

2 MR. FLOYD: Yeah.

3 MR. SHADIS: That this the intent of this
4 process is for the industry to have another cut at
5 explaining it and, you know, clarifying the issues.

6 MR. FLOYD: Yeah.

7 MR. SHADIS: And lightening the findings.

8 MR. FLOYD: Right. Like Dave's comment,
9 that he needs more explanation in the inspection
10 report as to why it was changed, and a better
11 understanding of it.

12 MR. LOCHBAUM: I was aware of that
13 conservatism or the way that was structured, and I
14 used that to evaluate -- the difference between those
15 that got downgraded and those that didn't were how
16 successful the negotiations went for which party.

17 MR. FLOYD: I don't think that's it.

18 MR. LOCHBAUM: That's the way it's
19 perceived.

20 MR. FLOYD: Yeah. That's --

21 MR. LOCHBAUM: That's the way I measured
22 it.

23 MR. LAURIE: When you use -- when you use
24 the term "negotiation" is that -- is that a term of
25 art or is that your perception of reality?

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1 Is it a negotiation or is it a factual
2 interchange or exchange with the commission then
3 coming back and making a decision.

4 MR. LOCHBAUM: As I use the term, it's the
5 process between the licensee, the plant owner, and the
6 NRC staff. The Commission very seldom gets engaged.

7 MR. LAURIE: Okay.

8 MR. LOCHBAUM: It did in the Quad Cities
9 case.

10 MR. LAURIE: NRC staff.

11 MR. LOCHBAUM: And it's that process of,
12 you know, paper, rock, scissor to figure out what
13 color, you know, a finding should be. That's what I'm
14 referring to, is that negotiation process.

15 MR. LAURIE: Right.

16 MR. GARCHOW: But, Dave, in answering this
17 question, I mean, have some -- the process and how
18 it's perceived 100 percent it's perceived how you see
19 it perceived. I mean, that's your perception.

20 I mean, in fairness that this question is
21 exactly the process. Something happens; more
22 information given. It isn't like two people sitting
23 across a table saying, "Well, can this end if it's
24 white? Okay. It's white." We all walk away. It's
25 white.

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1 That's not what happens. Information is
2 exchanged and then at a later point, through some
3 discussion internal to the NRC. which the licensee
4 typically is not privileged to, a determination is
5 made. And that's communicated in a public way back to
6 the licensee.

7 MR. LAURIE: And --

8 MR. GARCHOW: That is the processed way
9 that it occurs. How that lands on the public or you,
10 I mean, that's a good discussion. We're here to get
11 your input on that, but having been involved in a
12 couple of these myself, it's a -- they send us mail.
13 We say, "Hey, there's more information that might be
14 beneficial here."

15 The mail on the bottom says, hey, if I
16 want to get some information, there's a process to do
17 it. A meeting is scheduled. We provide the
18 information in the meeting. We go away from the
19 meeting. And at another point in time, much like Rod
20 said, another piece of mail comes up and says it's
21 white; it's green; it's yellow; it's blue; it's gone
22 away. And that is the way the process --

23 MR. LAURIE: And that goes to -- that does
24 go to my question of who the decision maker is, and
25 the decision maker is the NRC staff.

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1 MR. GARCHOW: That's correct.

2 MR. LAURIE: And I -- I distinguish in the
3 -- in my own work that I do between information
4 gathering and exchange and decision making.

5 MR. GARCHOW: Right.

6 MR. LAURIE: And, in fact, I'm faced with
7 the same question that you are in licensing cases.
8 And I try and differentiate or I try and determine
9 where the decision is being made, and then does the
10 decision maker have the capability of providing an
11 explanation.

12 And then it's a question of whether
13 parties are free to exchange information under
14 informal circumstances, as opposed to public forums,
15 for example.

16 And is that the issue that we're faced
17 with here? Is that there's a public distrust of that
18 exchange of information?

19 MR. LOCHBAUM: It's broader than just that
20 exchange of information. The public distrust of this
21 agency is incredible. I mean, the reason that the
22 public in general doesn't like the voluntary
23 submission of PI data is that people don't trust this
24 agency.

25 You know, if there was trust in this

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1 agency, I'd be out of a job, because the agency does
2 a pretty good job, in general. I mean, it is a very
3 good regulator. But the average people living around
4 the plant don't trust this agency. Whether that's
5 valid or invalid or for the right reasons or for the
6 wrong reasons, that's the case.

7 MR. LAURIE: I understand the issue.
8 Thank you.

9 MR. LOCHBAUM: During the pilot program
10 Mr. Lieberman was pretty much by himself in
11 maintaining that crosscutting issues weren't being
12 handled properly. I disagreed with him then, and
13 still not fully agree with him yet, but I'm moving
14 towards his conclusions.

15 And looking at the data from some of the
16 inspection reports it seems to suggest that he might
17 be right. The River Bend inspection report issued
18 some time last fall, the finding coloration was no
19 color. The finding itself was that there was a
20 declining human performance trend with approximately
21 27 findings over the previous 12 months having a
22 direct or credible impact on safety, and that
23 warranted no finding, no color finding.

24 That clearly was human performance is
25 clearly a crosscutting issue. Our own reports on

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1 River Bend have shown that back in the '97 through '98
2 period, it was the worst plant in the country that we
3 looked at in this area. And this suggests that it
4 hasn't gotten any better.

5 The way the system currently works, and
6 that was the construct that Dave Garchow mentioned
7 this morning, is that you -- it's currently
8 assuming -- the reactor oversight process assumes that
9 that will manifest itself at some point in a finding
10 or a PI changing threshold.

11 At this point, and the mistakes have been
12 incredibly high, much higher than they should be, much
13 higher than any other plant that we've seen. The
14 company seems completely unable to fix that, over a
15 period of multiple years.

16 Are we waiting for somebody to die before
17 we step in there and try to correct that?

18 You know, their performance is clearly not
19 good. It's been not good for a number of years. You
20 know, 27 findings in 12 months may not be the right
21 number, but at what point do you step in and you do
22 something?

23 Do you wait? Do you wait for the accident
24 and try to prevent the second accident? Or do you
25 look at this trend and say this is not good and we

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1 need to -- we need to do something sooner?

2 I think Mr. Lieberman might be right. I
3 think we may need to step in a little bit sooner and
4 address some of these crosscutting areas.

5 The problem we see is that the reactor
6 oversight process lacks the criteria to determine when
7 human performance problems build up to the point where
8 some action is required.

9 And you could -- you could say whether
10 that's a problem of identification resolution. It
11 could be training. You know, there's a number of
12 issues that fall into this category that we may need
13 to go back and take a look at.

14 And lastly the containment itself is a
15 barrier that mitigates accidents, but it's not covered
16 under the Barrier Integrity or Mitigating Systems
17 performance indicator. There was an attempt in the
18 initial phase to have a containment barrier PI, but
19 that was not one that was very good.

20 And the solution was just to get rid of it
21 altogether. I understand it's being looked at under
22 the risk-based performance indicator program, but that
23 -- you know, we think that needs to be expedited,
24 because there really needs to be one.

25 We don't think the one they had was a good

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1 one.

2 MR. BROCKMAN: Could I hold you just for
3 one second? I want to make sure on your -- your
4 problem, your human performance issue, that I
5 understand it correctly, and the concern I hear you
6 expressing is that there doesn't seem to be a way to
7 get to this declining trend before you actually get
8 what I call an event of white, yellow, red
9 significance.

10 You see it coming, a predictiveness as
11 opposed to an indication aspect if you wish.

12 MR. LOCHBAUM: Right. You know, it's --
13 you know --

14 MR. BROCKMAN: I understand.

15 MR. LOCHBAUM: The inspector could have
16 gone out there and logged or documented 1,000
17 requirements. As long as none ever cross that
18 threshold, his hands are pretty much tied.

19 MR. BROCKMAN: I understand your comment.
20 Very good. Thank you.

21 MR. FLOYD: But I thought on this side of
22 Dave, your concern was going to be that as it was on
23 some of the other items that you don't see the basis
24 for the conclusion. You just see the conclusory
25 restatement without any of the justification.

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1 How did the -- how did the inspector
2 conclude that 27 findings over a 12 month period had
3 a direct or credible impact on safety?

4 There's no basis provided for that. I
5 thought that was going to be your comment.

6 MR. LOCHBAUM: Well, on this one the
7 inspection report did actually provide some additional
8 details. I just left them out for the -- for brevity.
9 But they did explain for -- I'm not going to say for
10 all 27, but for the more salient of the examples, they
11 explained what, at least in the inspector's mind, what
12 that tie was.

13 So the information was there whether you
14 agree or disagree with that, but at least that was in
15 the inspection report on this one.

16 MR. FLOYD: Okay.

17 MR. LOCHBAUM: I've got more on the
18 assessment program we don't like. There was a paper
19 that was issued last February, just about a year ago,
20 on human performance that looked at human performance.
21 And it looked at the accident sequence precursor
22 program events that were reported from 1992 to 1997.
23 There were -- they looked at 48 of them. I don't know
24 if they looked at all of them, but it looked at 48 of
25 these accident sequence precursor program events and

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1 concluded that 38 of the 48 items, or 79 percent,
2 involved human performance issues.

3 I also noted that few of the items
4 involved errors by control room personnel, which I
5 assume means the rest of them were caused by personnel
6 outside the control room, not licensed operators.

7 What we think this report shows, that the
8 NRC needs better assessment of human performance
9 trends in individual plants, with some predefined
10 thresholds for response.

11 We also think that that needs to look at
12 broader -- the entire worker population, not just the
13 control room operators. Although the control room
14 operation performance is very important, it's not
15 limited to their performance.

16 CHAIRMAN PLISCO: Dave, I don't think got
17 that page in this package, if we can get a copy of
18 that.

19 MR. LOCHBAUM: Okay. That's true. That
20 was slide 28. Slide 21.

21 What we don't like is the distraction
22 imposed by the SDP Phase 2 and Phase 3 exercises. As
23 I said earlier, the stated intent of the reactor
24 oversight process is to focus NRC and industry
25 attention on risk significant items.

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1 And the protracted delay as this
2 information exchange goes back and forth seems to work
3 counter towards getting to what the significance of an
4 item is and reacting to it appropriately.

5 Related to that, the significance
6 determination process for non-green findings is just
7 to slow. The NRC response time is inversely
8 proportional to the risk significance, and also
9 inversely proportional to common sense. The more
10 important something is the longer it takes you to
11 reach that determination.

12 That just seems wrong.

13 We think the SDP process is fundamentally
14 flawed and should not be used at all. Our example
15 again is that the ConEd, Indian Point-2 steam
16 generator two rupture event. ConEd thought it was
17 either white or yellow. The NRC determined and
18 steadfastly maintained that the event was red.

19 If these two parties months after the fact
20 can't look at an item and come to a fairly close
21 agreement, then I don't know how the NRC and the
22 industry should expect the public to have greater
23 confidence than it itself has.

24 Now turning to the enforcement program,
25 what we like is that the page on the NRC Website is

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1 pretty good and, in fact, we like anything that allows
2 you to get information without going to ADAMS.

3 There have been protracted debates over
4 security levels and associated civil penalty amounts
5 in the future that are avoided now or that are
6 eliminated now, and replaced by discussions on
7 resolutions. We think that's a good thing, with some
8 of the caveats I mentioned earlier.

9 What we don't like is ADAMS. We don't
10 like ADAMS. We don't like the D.C. Cook plant for
11 getting a green finding for intentionally and
12 illegally suspending its maintenance rule monitoring
13 efforts during the time the plant was shut down. An
14 NRC inspector discovered this omission after D.C. Cook
15 Unit 2 restarted, and the monitoring was not
16 reinstated.

17 And it got a green finding because the
18 mistake had been made when the plant was shut down,
19 which maybe, in fact, was true. But it doesn't get
20 the plant off the hook for restarting a plant without
21 reinstating the program.

22 So it looks like it should be greater than
23 green for that failure. Plus there were at least two
24 indications of safety related or important to safety
25 equipment that was rendered less than fully functional

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1 due to this specific maintenance rule violation.

2 And in a report that we're about to issue,
3 probably within the next month or so, we looked at the
4 enforcement actions taken against, or not taken
5 against, individuals over the last two years by the
6 NRC staff. And we found that the actions, enforcement
7 actions are not in any way corresponding to the
8 underlying risk significance.

9 The example, the classic example is Ms.
10 Gail C. VanCleave, who was banned from the industry
11 for three years by the NRC because she used her dead
12 mothers Social Security number to get a job as a clerk
13 at the D.C. Cook plant.

14 And D.C. Cook, when it found out about it,
15 they fired her immediately. The NRC piled on and
16 banned her from the industry for three years.

17 In that same two-year period, the NRC
18 found cases of licensed operators admitting to using
19 cocaine in the control room, while they were serving
20 in the control room, not necessarily in the control
21 room itself.

22 They found licensed operators who failed
23 fitness for duty tests for THC and other illegal
24 substances, who got a warning letter from the NRC
25 asking them not to do it again.

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1 Ms. Gail C. VanCleave was banned for three
2 years.

3 They also found cases of -- seven, eight
4 cases -- eight cases of managers or supervisors who
5 discriminated against employees for raising safety
6 concerns in what the NRC determined was deliberate
7 misconduct.

8 In none of those cases the responsible
9 managers and supervisors got anything worse than a
10 warning letter. In one case there was no action taken
11 whatsoever against the individual for breaking the law
12 and discriminating against a worker for raising safety
13 issues.

14 In that same case, which is involved the
15 D.C. Cook plant, the plant owner got a non-cited, non-
16 color violation for that fact. You know, we don't
17 like the SDP process, but we think the enforcement
18 actions against individuals are the worst single
19 aspect of the new oversight process.

20 MR. HILL: I'm not familiar with this
21 example. Why did she use somebody else's Social
22 Security number? Was there something with her that
23 you're not citing?

24 MR. LOCHBAUM: Yes. She -- that's a good
25 point. I'm glad you asked that because the report

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1 does point out what she was trying -- why she did
2 that.

3 In her past she had been convicted of a
4 misdemeanor theft charge at a previous employer. And
5 she was worried that that misdemeanor theft conviction
6 would keep her from getting a job as a clerk at D.C.
7 Cook. So she used her dead mother's Social Security
8 number so that the background check wouldn't reveal
9 that fact.

10 At the same time there was a case at
11 Millstone, where a current worker was arrested. that
12 worker did not report that fact to management. There
13 was no action taken against that -- the individual did
14 get a warning letter from the NRC asking them not to
15 do it again. Next time you're arrested for a felony
16 or something, could you tell us about it? That worker
17 continues to work at Millstone.

18 What really happened in Gail C.
19 VanCleave's case was she told the NRC inspectors that
20 she'd do it again, and therefore, the NRC banned her
21 from the industry because they didn't like her honesty
22 about her dishonesty.

23 In the other cases, the people refused to
24 admit any blame like in the D.C. Cook case. We start
25 -- we had no idea that rule was applicable to us. So

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1 that ignorance of the law got them off the hook. But
2 because she said she'd do it again.

3 Indian Point 2 cases, they don't know the
4 difference between right and wrong, and they can
5 restart the plant, without knowing the difference
6 between right and wrong.

7 Ms. Gail VanCleave knows the difference
8 from right and wrong and says she'd do it again to get
9 a job as a clerk at a plant in Michigan. For that
10 reason she's banned from the -- that's just totally --
11 if you look at the NRC's enforcement policy and the
12 criteria they use for determining what actions you
13 take or not, there's four of them.

14 There's the risk significance of the item.
15 There's the seniority level of the employee doing the
16 work. There's the actual or real consequences of the
17 event. And there's whether it was willful or not.

18 In those 23 cases we looked at, Ms. Gail
19 C. VanCleave was the lowest level employee. Her
20 action had the absolute lowest risk to the public.
21 She was as wilful as anybody else. Yet she received
22 the most severe penalty. I mean, that --

23 MR. SCHERER: Dave, I don't know anything
24 about the facts that you're citing, but did I hear you
25 say that you were opposed to individuals being held

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1 responsible under this process?

2 MR. LOCHBAUM: No, just the opposite. We
3 think -- the reason we did the report that we're going
4 to issue soon is that we think that managers and
5 supervisors who violate the law and discriminate
6 against workers who raise safety issues should be held
7 accountable for those actions.

8 What the report shows is they are not
9 being held accountable for their actions. The only
10 people being held accountable for their actions are
11 low level workers. Those people are getting the book
12 thrown at them.

13 The higher you are up in the management
14 chain, the less likely it is that you're going to
15 severe -- receive any kind of enforcement action from
16 this agency.

17 And we think the result of that, the NRC
18 is basically essentially an accomplice in the illegal
19 action --

20 MR. SCHERER: So you want to see -- I'm
21 just trying to understand. You want to see more Ms.
22 VanCleave, not less?

23 MR. LOCHBAUM: What we would like to see
24 is the NRC to implement its enforcement policy as it's
25 written. As it's written the NRC is not doing that.

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1 The NRC has criteria in the enforcement policy that
2 spell out when it does and doesn't take action. It's
3 simply not following that guidance. It's doing
4 something else.

5 So either change the criteria to match
6 what you're doing or change what you're doing to match
7 the criteria, one or the other, whichever, your
8 choice. But don't tell us one thing and do something
9 completely different.

10 And that's what's happening now. We think
11 in terms of safety I'm not trying to condone what Ms.
12 Gail C. VanCleave did, I mean, but more importantly,
13 until the NRC takes people who -- retaliation against
14 whistle blowers seriously, it's not going to stop.

15 And the data, if you look at the last
16 report that came out from the Office of
17 Investigations, OI report, it shows that. The number
18 of alleged discrimination cases is going up, and the
19 number of alleged using your dead mother's Social
20 Security number cases is going down because the NRC
21 takes severe action against the workers who do that,
22 not against the managers who do the discrimination
23 cases.

24 So the risk-reward is totally out of
25 whack, and that needs to be fixed.

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1 MR. SCHERER: Well, as I understand it,
2 you filed a petition for rulemaking in this area
3 asking for that. I was just trying to -- well, when
4 I heard you the first time, I thought you were arguing
5 that the NRC should have fewer cases of Ms. VanCleave.
6 Again, I don't know the facts of the case.

7 MR. LOCHBAUM: Sure.

8 MR. SCHERER: But now I'm hearing that you
9 want to see more of them. I'm just trying to
10 understand your position.

11 MR. LOCHBAUM: It's not that we want to
12 see more people banned from the industry. What we
13 want to see is if the NRC is going to take enforcement
14 sanctions against individuals, they need to be
15 consistent with the enforcement policy, and they're
16 not right now.

17 If they were consistent with their
18 enforcement policy, if they're going to ban Ms. Gail
19 VanCleave for the action that she did, there's
20 managers and supervisors at power plants today that
21 shouldn't be working in industry because their actions
22 had a much greater threat to the public health and
23 safety than anything Ms. Gail VanCleave did or didn't
24 do.

25 So all we're asking is that the NRC

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1 implement its enforcement program consistently and
2 hold people accountable for violating federal safety
3 regulations.

4 The reason we think that's important is
5 that one of the crosscutting areas is safety culture.
6 If the NRC is going to turn its back on managers and
7 supervisors who discriminate against whistle blowers,
8 you're basically condoning a less than adequate safety
9 culture of plants, and that has got to stop.

10 And we did this report to show the problem
11 that exists in the enforcement program, and this
12 shouldn't be a great surprise to bill because we sat
13 down with Bill a couple of weeks ago, and I recognize
14 that Bill doesn't fully agree, doesn't agree with the
15 report or its conclusions, but I think he understands
16 what we went through to do it.

17 As far as about the oversight program
18 itself, what we like are the quarterly performance
19 results for all plants are available on the NRC Web
20 site, and you don't have to get into ADAMS to do it.

21 What we don't like, again, is ADAMS, just
22 in case there's any misunderstanding about that.

23 The other thing we don't like about the
24 program is we can't understand why D.C. Cook restarted
25 under the manual chapter 0350 process, but Indian

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1 Point 2 restarted under the reactor oversight
2 process. We think that the reactor manual Chapter
3 0350 should have been used in both cases or should
4 have been used in neither case, not the way it was
5 done.

6 We've raised this point in various public
7 forums before and still have not got an answer from
8 the NRC staff as to why it was different.

9 The closest I got was I talked to Mr.
10 Miller at Region I about why he didn't institute the
11 0350 process, and the answer I got basically was
12 they're doing everything 0350 required, and it just
13 would have been additional paper work to implement a
14 process that they were doing already, and that might
15 be the right answer, but you know, just to save some
16 paper work doesn't seem like exactly the right answer.

17 MR. GARCHOW: Within the context of the
18 program, is it your belief, David, the program isn't
19 clear to how a plant should exit?

20 Let's say we work through the action
21 matrix in some hypothetical plant, and you end up red.
22 NRC chooses to use a confirmatory action letter on
23 whatever issue. I mean, I'm ignorant of the program
24 to that level of detail.

25 Is there some discretion whether we would

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1 use 0350 or not, and is that the issue that you're
2 bringing up, that there's discretion now and it's not
3 clear? It's not clear which way or is it clear and
4 we're not doing it?

5 I mean, you know, there's a phoney in here
6 somewhere.

7 MR. LOCHBAUM: Right, or some kind of
8 interim.

9 As I looked at the 0350 process, the
10 revised manual Chapter 0350 process that was written
11 for the reactor oversight process, not the old one,
12 it's pretty clear from our reading of the entry
13 conditions that Indian Point 3 was into 0350 space.
14 I mean it almost looked like it was written --

15 MR. GARCHOW: Indian Point 3?

16 MR. LOCHBAUM: Indian Point 2. I'm sorry.

17 That Indian Point 2 was -- it almost
18 looked like the manual chapter was written for Indian
19 Point 2, and yet --

20 MR. GARCHOW: So what you're saying is
21 that the new program does account for it. There's a
22 criteria, and then we could have the debate whether we
23 met it or didn't. That's a different discussion. The
24 program sounds like it was written to accommodate it,
25 not conveyed in this one case whether it was followed

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1 or not, but I see that as a different discussion.

2 There isn't a big -- you're not saying
3 there's a big hole in the program relative to whether
4 you should or shouldn't use 0350?

5 MR. LOCHBAUM: No.

6 MR. GARCHOW: Okay.

7 MR. LOCHBAUM: It looks like 0350 is very
8 clearly invoked by the procedure. It just wasn't
9 followed.

10 MR. GARCHOW: Okay.

11 MR. LOCHBAUM: Another thing -- some
12 things we don't like about the overall reactor
13 oversight process is it's really not user friendly.
14 For example, on the Web site, the cornerstone
15 description for the RHR system PI is described as --
16 and I'm not going to read that long thing, but that's
17 -- if you were to assign an eye glaze factor to that
18 thing, it would be way, way up there. I'm not sure
19 there's too many people out in the general public that
20 would understand what is trying to be conveyed there.

21 I don't have a suggestion for better
22 words, but the guidance that UCS gave to me the first
23 week I was there was if you can't explain it to your
24 grandmother, you ought to just shut up, and my
25 grandmother is not a nuclear engineer, and I tried

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1 this one on her. She didn't do too good. She didn't
2 understand what it meant.

3 So I just think some more communication
4 effort needs to be expended on explaining what some of
5 these things are. If the audience of the Web site is
6 the general public, this doesn't work. I mean this
7 might be great for internally between the licensees
8 and the NRC staff, but for communicating to the public
9 this is a little bit on the weak side.

10 MS. FERDIG: Dave.

11 MR. LOCHBAUM: Yes.

12 MS. FERDIG: Would this go back to your
13 suggestion earlier that there might be some kind of
14 summary format like Ontario --

15 MR. LOCHBAUM: Sure.

16 MS. FERDIG: -- that for one who wanted
17 to, we also -- it's a summary --

18 MR. LOCHBAUM: Right.

19 MS. FERDIG: -- but still more information
20 than you get now that allows more transparency and
21 scrutability for what goes into decision making.

22 MR. LOCHBAUM: One of the things I do like
23 about the NRC's process is that it is tiered. So you
24 can start out at a high level issue. If you just live
25 next to a plant and you want to check once a year how

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1 it's doing, you should be able to do that, or if
2 you're somebody who wants to follow up on every single
3 finding and every section, it does allow you to do
4 that.

5 It's just that it's really aimed at the
6 person who's really heavily involved and less aimed at
7 the person who just wants to know whether I need to
8 move or not, and I think there's some more work needs
9 to be done on the high level over views, but I think
10 that would answer or would address it.

11 I notice going through there's a lot of
12 information available on the NRC Web site, but nowhere
13 on there does it indicate that the public comment
14 period is currently open. The only place you find
15 that is in the Federal Register itself and in the
16 meeting minute notice.

17 It looked to me like if you really were
18 seeking public input that you'd somewhere on that
19 eight or ten Web pages, you might mention that the
20 public comment period is open and here's how you
21 submit comments. It seems like an easy thing to do.

22 MR. BOYCE: Question. There is a -- Tom
23 Boyce from NRR -- there is an E-mail link where you
24 can mail in comments. Is that what you're referring
25 to?

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1 MR. LOCHBAUM: No.

2 MR. BOYCE: I mean, it's the bottom of the
3 oversight process home page. Do you want something
4 more than that?

5 MR. LOCHBAUM: No, I've seen that, but the
6 public who goes to look at those Web site pages now
7 doesn't know that there's a public comment period with
8 the questions and doesn't know that the NRC staff is
9 actively soliciting comments on certain areas.

10 MR. BOYCE: Okay. Over and above the
11 external workshop link that we have up there saying,
12 you know, we're having an external workshop. Here's
13 the location, and we're looking for input.

14 MR. LOCHBAUM: Yes.

15 MR. BOYCE: Over and above those?

16 MR. LOCHBAUM: When I prepared those
17 comments, I didn't see that external Web site thing.

18 MR. BOYCE: Okay.

19 MR. LOCHBAUM: Having gone through that
20 exercise, the next step for me was to evaluate using
21 the yardstick that I had developed to determine
22 whether I like or don't like the new process. So the
23 question I asked myself -- this goes to Ray's question
24 -- is the inspection program under the revised
25 oversight process better than the inspection program

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1 under SALP?

2 We think it is despite the flaws that were
3 noted. We think the revised inspection program
4 redirects more attention to risk significant areas,
5 and we think equally important, the revised assessment
6 program insures more timely and objective inspections
7 above baselines.

8 So we think the new program is better than
9 what was being used in the past.

10 Asked the same process for the assessment
11 program: is the new assessment program better than
12 what was had before? And we also think the question
13 to that is yes, even though that the SALP is
14 fundamentally flawed.

15 The revised process raises more timely and
16 objective warnings than what we had in the past. The
17 green to white thresholds identify problems, enable
18 them to be fixed while these negotiations are going
19 on, the point that Steve raised earlier yesterday.

20 MR. GARCHOW: So I think I've listened to
21 this enough that the fundamentally flawed is the
22 process and interchange communication between the NRC,
23 what you're calling negotiation; are you suggesting
24 that the fundamental flaws are trying to use risk in
25 sites and setting targets on core melt frequency? Is

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1 that fundamentally flawed or is the whole thing
2 fundamentally flawed?

3 Because you weren't really talking like
4 that when you were into that section of your
5 presentation.

6 MR. LOCHBAUM: The flaws with this
7 significant termination process are using plant
8 specific risk assessments when the NRC hasn't
9 identified criteria for what is or is not a good risk
10 assessment.

11 MR. GARCHOW: Okay.

12 MR. LOCHBAUM: And hasn't evaluated the
13 risk assessments against those standards and doesn't
14 make the risk assessments publicly available. Those
15 are things that would change that process.

16 MR. BLOUGH: But, Dave, I also had a
17 question on that. Your earlier slide said that the
18 use of the SDP should be stopped, I thought, because
19 of the problems with it, and yet the SDP is an
20 integral part of the assessment process.

21 If we actually stopped using the SDP, what
22 would we do to still achieve -- get a more objective
23 threshold based, you know, ongoing type of assessment?

24 MR. LOCHBAUM: With the SDP process, with
25 the Phase 1, you basically learn whether it's not a

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1 color, green, or something other than green. If you
2 just truncated the SDP at that process and forgot all
3 about this Phase 2 and Phase 3 stuff, that would be
4 enough.

5 That would be a whole lot better than
6 going through the Phase 2 and Phase 3 process because
7 at that point you'd know that there's a problem in a
8 specific area, and the NRC would be required and the
9 plant owner to do some follow-up work to make sure
10 that it gets fixed.

11 I would end the debate over whether it's
12 yellow or red or whatever and just focus on getting
13 the thing fixed.

14 MS. FERDIG: I want to ask an ignorant
15 public question. Does this relate to what Steve was
16 saying earlier where there's a more whatever,
17 conservative initial look; then there's this exchange
18 of information where people try to get smarter by
19 learning more from each other and then develop a more
20 refined assessment about what is reality?

21 And so you're suggesting to not take that
22 first step until that information has been
23 exchanged --

24 MR. LOCHBAUM: No.

25 MS. FERDIG: -- and then come to a

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1 conclusion and don't change it? Don't go from a Phase
2 2 to a Phase 3 to get to a good answer.

3 MR. LOCHBAUM: No, not exactly. It was
4 just the opposite. I would eliminate all of that
5 information exchange and go with the initial cut.

6 The initial cut just gets you past at
7 worst, but gets you past the green to white threshold.
8 It wouldn't assign a color any greater than the fact
9 that it's not green. It's something other than green.

10 That would invoke all of the response of
11 both the licensee and NRC staff tracking up on it as
12 both Rod -- excuse me -- and Dave and Steve have
13 mentioned earlier where, you know, the corrective
14 actions are already in place. The resolution is
15 already in place. Why the negotiations are going on
16 and the information exchange and all of the figuring
17 out what color it should be, that seems like a waste
18 of effort on both the licensee's part and the staff's
19 part. All you need to know is that it's not green
20 anymore, and it needs to be fixed and just stop the
21 game at that point.

22 MS. FERDIG: Sir, I just want to get real
23 clear on what I think I continue to hear about your
24 connotation of the word "negotiation." It's as if it
25 implies that continuing clarification exchanges

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1 information to make sure we got it right is somehow
2 compromising --

3 MR. LOCHBAUM: It's not --

4 MS. FERDIG: -- somehow discrediting what
5 might be an initial first impression based on the best
6 data we have in this moment.

7 MR. LOCHBAUM: It's not so much that it's
8 compromising it. It is -- that process is getting to
9 a more complete understanding of the issue, but it's
10 not changing what's being done about it. You know, no
11 matter what that color came out at Quad Cities, that
12 didn't change what you would have done. The change in
13 Indian Point 2 wouldn't have changed at all what
14 anybody did.

15 So why does both the NRC staff and the
16 licensee expend the resources and the effort and the
17 postage to send this information back and forth to
18 understand an issue that doesn't affect what they do
19 down the line?

20 MR. FLOYD: Well, I think the answer to
21 that is that it doesn't affect, you're right, the
22 corrective action that's taken, but it certainly does
23 affect what the agency's response is, whether it's a
24 white, a yellow or red.

25 A single yellow is a degraded cornerstone,

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1 whereas two whites make a degraded cornerstone.
2 Multiple yellow starts getting you into multiple
3 degraded cornerstone, and you know, the action and
4 response is quit a bit different from the agency, and
5 the public perception of the performance of the plant
6 is quite a bit different.

7 So that's the element that I think you
8 ignore if you just stop at the Phase 2 determination.

9 MR. LOCHBAUM: You'd have to make some
10 significant adjustment. First of all, you aren't
11 going to determine yellow or red. You'd have to make
12 a significant adjustment to the action matrix if you
13 did that. I mean but you could.

14 MR. KRICH: I agree with you. I think
15 that the key point is that if something's wrong, make
16 sure it gets fixed, and I think that's happening.

17 The other part of the process as I have
18 always understood it though is to know where the plant
19 is in safety space, and the point of going through the
20 final determination of what the color is is to know
21 where the plant is relative to reactor safety. So as
22 things add up, you can see if it's degrading and take
23 further action to stop it from degrading.

24 So I think the only reason -- and believe
25 me, we don't want to go through this process either,

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1 Dave. So on that aspect we're in violent agreement.

2 MR. LOCHBAUM: Right.

3 MR. KRICH: But the key part is to know
4 where do we then need to focus attention so that we
5 don't degrade any further.

6 MR. SCHERER: I guess next me take that
7 next. If I understand your suggestion, it is that
8 there would be green and other than green, black and
9 white. Either it's green or it's not green, and you
10 would only have SDP Phase 1 as this green.

11 My concern with that is that would seem to
12 me philosophically to move away from risk informing
13 the regulation and go back to a compliance based
14 regulation because it's either green or it's something
15 else.

16 But there's no steps. It's either black
17 or white, and that moves us back to the SALP process
18 of either it's in compliance or it's in violation, and
19 its safety significance doesn't matter.

20 MR. LOCHBAUM: I would agree with you, and
21 I also agree with Rod's assessment, is that the real
22 reason for finding out what the color is is to figure
23 out what the overall plan is, not the specific thing
24 that garnered that finding, but what are the overall
25 plans.

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1 If I had any confidence that the action
2 matrix would be acted upon, then that process would be
3 useful because it's important to know what the overall
4 plant performance is. I have no confidence whatsoever
5 that the NRC is ever going to do what that action
6 matrix says. So why spin everybody through that
7 process for no gain down the line?

8 So I would agree with you if you wanted to
9 risk inform a process, you'd do that, but you'd also
10 follow it up by doing what the action matrix says, and
11 I wouldn't even bet a dollar that that's going to
12 happen.

13 So I'd just punt. When I see something
14 that looks like it's going to be a waste of effort
15 forever, just cut it off and go with what will
16 actually work.

17 So it seems to be a somewhat pessimistic
18 view, but I don't see any reason for optimism at this
19 point.

20 Okay. Is the enforcement program under
21 the ROP better than the enforcement program under
22 SALP? And yes, with the exception of enforcement
23 actions taken against individuals, and it's the same
24 as it was before.

25 What we like about it and the reason we --

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1 the justification for the yes is that the debates for
2 the severity levels have been replaced by discussions
3 over corrective actions. While there are still
4 negotiations and debates over the coloration of
5 issues, the old debates and discussions over the
6 severity level and the associated civil penalties were
7 much, much more protracted and much, much less
8 productive for safety. So that significant gains have
9 been made in that arena.

10 So the last slide was overall reactor
11 oversight program has both benefits and shortcomings.
12 Despite all of its flaws, we think the reactor
13 oversight process is much better than its predecessor.

14 Having said that, we think an effective
15 oversight program is the public's best protection
16 against any safety issue whether it's plant aging or
17 management changes or economic pressure, cost cutting
18 pressures. Whatever the safety concern is, an
19 effective oversight program is the best protection
20 against it.

21 So we think that it's important to the NRC
22 staff just doesn't stop at being better, but
23 continually tries to improve the program, and we think
24 from what we've seen the NRC staff is doing it. They
25 have metrics to evaluate the process and to make

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1 corrections as necessary down the road to make it more
2 effective.

3 So we're pleased to see the staff isn't
4 content at just being better. The staff wants to
5 constantly try to improve the program, and I don't
6 mean ratchet up the thresholds, but constantly improve
7 the effectiveness of the program.

8 And we're also pleased by the fact that
9 the reactor oversight program as it is is better than
10 what we had before.

11 Thank you.

12 MR. HILL: May I ask a question?

13 MR. LOCHBAUM: Sure.

14 MR. HILL: You kind of summarized what you
15 like, what you don't like, and you've kind of said
16 that overall it's better than the previous. Is there
17 something that you would particularly like this
18 committee to see out of this? Is there something that
19 you're recommending that we would have in our report
20 or not have in our report?

21 I mean, just saying what you like and you
22 don't like doesn't necessarily tell me what you're
23 trying to tell us that we should present.

24 MR. LOCHBAUM: I guess I deliberately
25 didn't try to make any recommendations on what the

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1 panel should do. You know, I think it's input that
2 the panel, having heard from other folks, other
3 stakeholders as well.

4 I mean you have -- the discussions I heard
5 this morning are you're debating the issues and
6 determining what your consensus opinion will be or
7 what your views will be. I think you understand where
8 we -- what we like and don't like about the process.

9 You know, we're going to make specific
10 recommendations in this public comment period, and so
11 I didn't do it here because you have that charter and
12 you'll come up with those answers.

13 I tap danced around that one. I
14 understand that.

15 (Laughter.)

16 MR. HILL: Except you don't like ADAMS.

17 MS. FERDIG: Yeah, how do you feel about
18 ADAMS?

19 MR. LOCHBAUM: We don't like ADAMS at all.
20 If they kept the box, I would recommend putting ADAMS
21 back in the box and sending it back.

22 MR. KRICH: Dave, if I could ask on the
23 last item there, I think that's a good point, and let
24 me just ask you to expand that a little bit or at
25 least make sure I understand it.

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1 So what you like is that the NRC is
2 looking to constantly improve their oversight of
3 licensees. Does that also include raising the bar for
4 licensees?

5 MR. LOCHBAUM: No. We don't think that's
6 a necessary requirement that you constantly improve,
7 raise the bar. I know we disagree with the State of
8 New Jersey and Jill Lipoti who thinks that that should
9 be a constant thing.

10 MR. KRICH: That's what I was trying to
11 get at.

12 MR. LOCHBAUM: You know, I saw the
13 question on the list this morning about is the NRC
14 willing to accept all green. I don't know if the NRC
15 is, but we would. You know, if that were the
16 condition, we wouldn't then turn around and say,
17 "Well, you need to bump the thresholds up.

18 MR. KRICH: Okay.

19 MR. LOCHBAUM: So that's not the criteria
20 we're using.

21 MR. KRICH: All right.

22 MR. MOORMAN: David.

23 MR. LOCHBAUM: Yes.

24 MR. MOORMAN: The Ontario power generation
25 nuclear report card that you that you've included, is

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1 that included as an example for presentation or
2 content?

3 MR. LOCHBAUM: Pretty much. Not so much
4 the actual information in there, but just if somebody
5 were living near a plant and just wanted to get a feel
6 for how the plant nearby was performing, we think that
7 approach is pretty good because it kind of explains
8 what they looked at and what the results were.

9 It didn't go into a lot of detail about
10 why it looked at that versus other detail, but I think
11 if you were living near the plant and didn't study
12 this on a weekly basis, you would get the information
13 you needed to know.

14 MR. MOORMAN: I'm just trying to
15 understand. It's got one nuclear performance index.
16 It looks like it deals with safety and everything
17 else.

18 MR. LOCHBAUM: And also, I don't
19 particularly like the indicators they use. I think
20 the NRC has better indicators than that, just in terms
21 of format, the amount of information, how much
22 background information you have to know before you can
23 read the information.

24 I think that's pretty good as a starting
25 point. Again, I wouldn't say that those are the

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1 indicators the industry should use. That's not what
2 I'm trying to advocate.

3 MR. MOORMAN: Okay. Thank you.

4 MS. FERDIG: Dave, I have a question about
5 how you view the program today relative to how you
6 thought you were feeling about it a year ago or even
7 earlier in the initial development stages. What do
8 you think?

9 MR. LOCHBAUM: I think it's better than
10 what their expectations were. Again, there are some
11 things we don't like about it. We never liked the
12 SDP. So it wasn't that that view changed.

13 I don't think there's been any huge
14 surprises one way or the other. I've never had any
15 confidence going in that the action matrix would be
16 followed. I mean, we made that comment at the March
17 Commission briefing, and the Commission put out some
18 guidance in it they should document any deviations
19 from the action matrix, but in every case it's been in
20 there it has not been followed.

21 So a lot of what we felt was going to be
22 good and bad about the program was pretty much brought
23 up. I think the one thing that's been better than we
24 thought, I think the -- I think it's been accepted by
25 the industry and NRC stakeholders more.

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1 I'm disappointed that there's no public
2 stakeholders I work with that thinks -- that agrees
3 with UCS that this is a good program. They all have
4 different reasons for not liking the program, but I
5 kind of still am alone in thinking this is a good
6 thing, and I'm disappointed by that.

7 Of course, going around criticizing it
8 might be one of the reasons why we haven't. It might
9 be a self-fulfilling prophesy in there somehow, but I
10 think that it is much better than the old process, and
11 I'm disappointed more people don't recognize that.

12 MR. GARCHOW: You'd have to change your
13 name to the Union of Non-concerned Scientists.

14 (Laughter.)

15 MR. GARCHOW: That would be a problem
16 right out at the start.

17 MR. LOCHBAUM: We looked at changing our
18 name, and that didn't work. That wasn't the name we
19 were going to go to.

20 Yeah, that's probably the biggest area,
21 and we thought going in that more people would like
22 the program, but that hasn't been what the record
23 shows.

24 But I still think despite all of the falls
25 and the warts on the program, I think it's much better

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1 than the old process.

2 MR. TRAPP: Are there any of those
3 stakeholders that don't like the new program that
4 could be of benefit to this Committee? Do you know of
5 anybody?

6 MR. TRAPP:

7 MR. LOCHBAUM: Well, Jim Riccio, who has
8 made presentations in the past, he wasn't overly
9 anxious to come in for a repeat, but he would be the
10 one I would suggest.

11 Well, you knew I was on the panel earlier
12 and failed, but I was glad to see both Ray Shadis and
13 Mary, who I've known both of these individuals for
14 over a year, and I think it was good that the NRC
15 added these people to the panel. Either one of them
16 would have been more than a capable replacement for
17 me. I was glad to see that we got two, two
18 replacements, and that was good.

19 And also I need to apologize to both of
20 them because it would have been much easier for them
21 if I'd have stayed on the panel, and they wouldn't
22 have had to make all of these trips, but I personally
23 appreciate them coming out and serving that role.

24 So I think to answer your question, I
25 think the public side is more than adequately

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1 represented on the panel by Ray and Mary.

2 MR. SHADIS: Dave, do you think that the
3 other initiatives that NRC has undertaken in
4 regulatory reform have colored public advocates' view
5 of this reactor oversight process?

6 MR. LOCHBAUM: I think in some cases. I
7 wouldn't say it has in every case. In trying to get
8 at least one other person to agree with me on this
9 thing, I've come across a bunch of different reasons
10 why people don't like it.

11 Some people just don't trust NRC, and
12 there's nothing that can be done. Some people don't
13 like the voluntary submission of data. So I tries to
14 fix that problem

15 I tried to get one other person to agree
16 with me, but I haven't found any general thread going
17 through there.

18 MS. FERDIG: Of course, you can't speak on
19 their behalf, but would you say that some of those who
20 are generally opposed to this program were less so of
21 the previous program, less -- in other words, is it
22 the new program they don't like or they just don't
23 like anything to do with nuclear?

24 MR. LOCHBAUM: The amazing thing is many
25 of the people I deal with thought the old program is

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1 better and this is worse, and that's the problem I'm
2 having trouble with because I can't imagine any aspect
3 where this is worse than the old process, but a lot of
4 people I deal with thought that the SALP process --
5 for example, the bi-annual watch list meetings they
6 thought were great because it was a good chance to go
7 in there and beat up the industry, or at least the
8 people that are on the watch list.

9 In this new process you kind of lose --
10 that's diluted, and you don't have those forums to
11 beat up the industry anymore, and there are certain
12 people that think that's a bad thing.

13 There are certain people who thought the
14 SALP process would get you to a bad score and give
15 Wall Street cause to pause, which would get the plant
16 owners' attention and force some things, but you know,
17 this is a much better process.

18 I think this process would avoid serious
19 safety problems that led to some of the shutdowns of
20 some of the old plants. So we may not have the extent
21 of plant shutdowns, but I don't think that means that
22 the new program is not working. I think it's just the
23 opposite. It's showing that it is.

24 I haven't been able to find even -- I'm
25 amazed. I can't even get like the states. Jill

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1 Lipoti, the State of Illinois; I haven't heard the
2 State of Pennsylvania, but I'm sure we'll find out
3 what the views are there. Bill Sherman at the State
4 of Vermont, he would like me to become more critical
5 of the program, if that's possible.

6 MS. FERDIG: State of Illinois.

7 MR. KRICH: Yeah, I guess I'm surprised.
8 The State of Illinois came in and said that they were
9 pretty much happy with it.

10 MR. LOCHBAUM: I talked to Neil Howey last
11 week about what he liked and didn't like, and what he
12 was telling me is that he didn't like aspects of it.

13 MR. KRICH: Let me give you the name of
14 the person to talk to.

15 MR. LOCHBAUM: Okay.

16 (Laughter.)

17 MR. GARCHOW: They're actually on the
18 record in here.

19 MR. KRICH: Yeah, the guy who came in and
20 presented here.

21 MR. LOCHBAUM: Okay. That would be great.
22 Yeah, I was going to make up a name if I had to.

23 (Laughter.)

24 CHAIRMAN PLISCO: Any other questions for
25 Dave?

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1 (No response.)

2 CHAIRMAN PLISCO: We appreciate your
3 taking your time to come talk to us again.

4 MR. LOCHBAUM: Appreciate it. Thank you.

5 CHAIRMAN PLISCO: Thank you.

6 Let's take ten minutes.

7 (Whereupon, the foregoing matter went off
8 the record at 2:59 p.m. and went back on
9 the record at 3:15 p.m.)

10 CHAIRMAN PLISCO: We're going to go ahead
11 and get started.

12 MR. FLOYD: I'm going to get started.

13 I'm here representing NEI today, not a
14 panel member obviously. What we've done is we've
15 taken a look at the results as they're portrayed on
16 the Web site through the end of 2000. So it's the
17 first three quarters of the program, and thought it
18 would be useful just to take a look at what some of
19 the trends look like, what some of the finding results
20 look like.

21 We've also taken a look at the
22 crosscutting area to see there's any information yet
23 in the program that would give us any indication about
24 how effective an area that is, and is the presumption
25 that's in the program correct, and then we have a few

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1 summary observations.

2 The first thing I need to point out to in
3 your packages, after the title page the first and
4 second page are out of order. There's a significant
5 personnel error there.

6 What we've done on the performance
7 indicators, rather than showing you what the threshold
8 value is, we've expressed where the industry is in
9 terms of an average with respect to percent of using
10 up the green zone band, if you will.

11 So what you see on these charts is just an
12 understanding of where is the average plant in the
13 country relative to the green-white threshold on the
14 performance indicators, and the point that we did this
15 for, and we did it for our executives also, was to
16 show them that if you're tripping the threshold, then
17 in most of the cases you are anywhere between about
18 three to five times the occurrence rate of the average
19 plant in the industry, just to give them some comfort
20 level, that you probably are somewhat of an outlier if
21 you're tripping the thresholds the way the thresholds
22 have been established.

23 MR. GARCHOW: So 100 percent, Steve, would
24 be the white?

25 MR. FLOYD: Yeah, that would be the

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1 beginning of the white band. Okay? So you can see on
2 this indicator that we're running at about 25 to 30
3 percent through the green band as an industry average.
4 So on this particular one, you have to have a SCRAM
5 rate three to four times what the typical plant in the
6 industry has in order to trip the threshold.

7 Unplanned power changes, this one shows a
8 slight positive trend. Of course, the unanswered
9 question here is are people managing the indicator and
10 is that why the trend is going up or is performance
11 actually getting better in the industry?

12 I think it's probably a little bit of
13 both, quite honestly. I think the NRC claims they
14 have some evidence of managing the indicator and
15 people changing their behavior as to how they run
16 their plant, but we also know that the plants have, in
17 the last couple of years, have been achieving record
18 capacity factors. Those have been going up, and the
19 forced outage rate has gone down considerably.

20 So we know that there are actually fewer
21 unplanned shutdowns going on out there in the
22 industry.

23 MR. LAURIE: Steve.

24 MR. FLOYD: Yeah.

25 MR. LAURIE: Why is the non-nuclear force

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1 shutdown in California, for example, so exceedingly
2 high in relationship to the data that you just put up?

3 MR. FLOYD: The non-nuclear?

4 MR. LAURIE: Yeah.

5 MR. FLOYD: I don't know. I don't know
6 about the non-nuclear one.

7 MR. GARCHOW: Somebody chose the wrong
8 fuel type.

9 MR. FLOYD: Yeah, that might be it.

10 MR. BROCKMAN: It might be biased.

11 MR. FLOYD: That's obvious.

12 MR. BROCKMAN: It would count as one. I
13 mean that's not a function of duration of perception.
14 A power change of greater than 20 percent is a hit of
15 one.

16 MR. FLOYD: Yeah, this is not a rate,
17 yeah.

18 MR. LAURIE: No, I understand.

19 MR. FLOYD: Okay. We see a little bit
20 different picture when we get into safety system
21 unavailability. On this indicator the industry
22 average seems to be pretty much mid-band in the green
23 zone. So there's less margin on this one to the
24 green-white threshold than there are for the other
25 performance indicators.

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1 This one happens to be on emergency AC
2 power. I think the ground rules for this one have
3 been pretty well understood throughout the industry,
4 and it's a relatively easy system to read the
5 guideline manual for and come to the right
6 interpretation, and you're seeing a fairly level and
7 flat performance.

8 MR. KRICH: Do you know how much of that
9 is on-line maintenance?

10 MR. FLOYD: No, I don't. No, sure don't.

11 MR. SCHERER: Overhauls are not included
12 in that number.

13 MR. FLOYD: Yeah, if you have an overhaul
14 exception because you have a risk informed AOT
15 extension, that wouldn't be included in it.

16 MR. KRICH: That's not included. Okay.
17 That's what I wanted to know.

18 MR. FLOYD: Yeah, but of course, other
19 elements are.

20 On some of these others, like high
21 pressure injection and you'll see in a few of the
22 others, you're seeing what appears to be a slight
23 downward trend, and what we think is really going on
24 here, just to give you a perspective, is that we know
25 that, for example, fault exposure hours were not being

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1 universally reported in the historical data, which is
2 what you're seeing at more of the leading edge of the
3 graph, and as people have tightened up as a result of
4 this program being put under regulatory oversight,
5 they're tightening up the reporting of the
6 definitions.

7 And we're actually seeing what appears to
8 be an increase in unavailability, but we think it's
9 actually more accurate reporting of the unavailability
10 data, and we've gotten that from a number of utilities
11 that have gone back and taken a look at their
12 historical performance data and said, "Well, gee, if
13 we had to report the historical data for today's
14 rules, which we don't have to go back and correct, if
15 we had to, we would have to add considerably more
16 hours than what we had today."

17 So we think that's why we're seeing a
18 slight downward trend because, again, the actual
19 system performance in service doesn't look like it's
20 any different than what it has been.

21 MR. HILL: Why is that one system
22 different though than like the emergency power or the
23 one you're fixing to talk about? In other words --

24 MR. FLOYD: Well, I think this particular
25 one, high pressure injection, this was one that people

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1 told us that they really weren't reporting fault
2 exposure on; whereas the diesel one people told us
3 that they were pretty much following the ground rules
4 on that one.

5 Whether that's true or not, I don't know.

6 MR. SCHERER: They were reporting for
7 exposure, but on a limited subset, essentially the
8 primary components.

9 MR. FLOYD: Okay.

10 MR. SCHERER: Currently we're broadening
11 the definition of where we report fault exposure to
12 supporting equipment and being more rigorous in that
13 approach, and to some extent I think as an industry
14 we're seeing a trend come down as a more conservative
15 and a broader NRC definition than that which had
16 previously been done when it was a WANO PI.

17 MR. HILL: Well, I can understand that,
18 but I don't see why that would be different than RHR
19 or something else. In other words, taking that logic,
20 then it would seem like it would be fairly well
21 consistent across unavailability.

22 MR. SCHERER: It was just more supporting
23 equipment in terms of HPSI that got affected at least
24 for the data that I --

25 MR. FLOYD: What you see in every one of

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1 these, I mean, even to go back to emergency power,
2 it's not as dramatic, but there still is a slight
3 downward trend on emergency power. There's a little
4 bit bigger one on high pressure injection.

5 You go to heat removal, and this is aux.
6 feedwater and HPSI -- excuse me -- RCIC, aux.
7 feedwater and RCIC. You see reasonably flat, maybe
8 slightly downward trend.

9 The one that's really been a problem, RHR,
10 with interpretations on it, does show again a slight
11 downward trend, and again, we think this is
12 predominantly as a result of reporting improvements in
13 the quality and the accuracy of the reporting
14 information.

15 MR. GARCHOW: So without pinning it into
16 the wall, right? I mean I didn't really hear that we
17 had a really good answer on what separated -- it was
18 maybe reporting, and we don't know what else is doing
19 it.

20 MR. FLOYD: Yeah.

21 MR. GARCHOW: I mean, it does look
22 different, I think Richard's point.

23 MR. FLOYD: The one looks a little
24 different, yes. Yeah, but they all, every one of them
25 does show at least a slight negative trend, which we

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1 think is consistent with putting it under a program
2 that has tightened up the interpretations of the data
3 using the WANO guidance.

4 Safety system functional failures. We
5 actually show a positive trend on this one overall in
6 the industry. Again, I think this is consistent with
7 improving capacity factors and availability of the
8 units. If your safety systems are failing, you're
9 having to take the plant off line, entering action
10 statements in the tech specs, and that has occurred
11 less and less over the last several years. I think
12 you're seeing it in the trend.

13 The next three I kind of lumped all
14 together and these are the emergency preparedness
15 performance indicators. ERO participation, this is
16 one that really has the exact desired outcome that the
17 NRC staff was after when they wanted this indicator
18 put in the program, and this was the issue where the
19 NRC felt that there were a number of plants in the
20 country that when it came time to have a graded
21 exercise or a plant drill were pretty much just
22 drilling the A team, and you had the other shifts that
23 were not getting their experience, and yet obviously
24 an event could happen regardless of what crew happens
25 to be on shift.

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1 And as you can see, we've gone as an
2 industry from about 70 percent through the green band
3 to probably about what's that? About 15 percent
4 through the green band. So there's been a very
5 dramatic improvement, which is exactly -- and here's
6 a case of an intended consequence that a performance
7 indicator can have, an area where you wanted
8 performance to improve. So you establish an
9 indicator, and sure enough, it did improve.

10 The other shows slight upward trends,
11 drill exercise performance, and Alert Notification
12 System performance, notwithstanding Dave's comments
13 earlier about that one.

14 The other one that I've got to show you is
15 the protected area security equipment performance
16 index. This is another one where the NRC wanted some
17 improvement out there. This one, as you recall,
18 measures the compensatory hours that have to be put in
19 place when an IDS or camera system goes down and you
20 have to comp. for it. It's not really a safety
21 indicator, but it is an indicator in the NRC's view of
22 how well you're implementing your program in the way
23 that you've said you were going to run your program,
24 and that was rely upon perimeter intrusion detection
25 equipment to detect possible intruders.

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1 And, again, with the emphasis that's been
2 put on this one, there's been about a factor of two
3 improvement in this indicator since the onset of the
4 program going back to first quarter '99 data.

5 Just a snapshot of non-green PI results.
6 This is what they look like by region, and the total
7 in the program since the -- and this is for the first
8 three quarters of the current assessment year. So
9 it's second, third, and fourth quarter of 2000. There
10 have been 30 PI thresholds crossed as an industry.
11 Okay?

12 CHAIRMAN PLISCO: How did you count this?
13 Once they went over the threshold they're counted as
14 one.

15 MR. FLOYD: They're counted as one, right.

16 CHAIRMAN PLISCO: They stayed for the
17 second quarter?

18 MR. FLOYD: They stayed there because the
19 data, you know, it takes a while to work off. I
20 didn't recount it.

21 CHAIRMAN PLISCO: It's still counted as
22 one?

23 MR. FLOYD: Yeah, I didn't give it a
24 second count, nor did I count one if it jumped down to
25 be a yellow, and then because of hours coming off or

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1 whatever, it then transgressed to a white. I didn't
2 change -- I didn't count that as another hit, as a
3 color change. So it's the first occurrence of a
4 threshold being exceeded unless there was another
5 reason to have it go down again.

6 So that's pretty much what the spread
7 looks like. I think we do ourselves a little bit of
8 a disservice when we look at just the green PI summary
9 table that's on the Web site and do a calculation of
10 the 1,800 outcomes and say, "Oh, gosh, the industry is
11 98.2 or 98.8 green," because what this really tells
12 you is that the thresholds have been exceeded 30 times
13 across the industry.

14 And when we set the program up, we thought
15 that, again, this was based upon 1995 to 1997 data,
16 was the baseline for the thresholds. The expectation
17 was that in the course of a year about five percent of
18 the PIs would be tripped, and there's 1,800 possible
19 outcomes. So you expect somewhere around 90 times
20 during an assessment year based on '95-'97
21 performance. That's about the number of exceedences
22 of at least green-white thresholds that you'd have.

23 And three quarters of the way through the
24 program we've got about 30, which says if we keep it
25 this rate for another quarter, we'll have about 40

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1 exceedences against an expected 90. So it's running
2 about half.

3 But then performance in the industry has
4 improved quite significantly since '95-'97 time frame.
5 When you start looking at '99 and 2000 performance,
6 you can -- it really does show up in just about any
7 metric that you want to look at.

8 So I don't think this is inconsistent at
9 all with the program.

10 CHAIRMAN PLISCO: Steve, can you tell me
11 how many different facilities this includes? Because
12 I know some plants had more than one.

13 MR. FLOYD: Some plants have more than
14 one. Well, the overall action matrix results, I
15 think, gave you a pretty good clue if you throw in the
16 inspection findings, too, and this is another reason
17 why it's inappropriate to just look at the PI results.

18 If you look at the action matrix, there
19 are 79 units that are in the licensee response column,
20 16 in the regulator response column, five in the
21 degraded cornerstone column, and one in the multiple
22 degraded cornerstone column, which really means as
23 opposed to the statistic that's thrown out there, oh,
24 the industry is 98.8 percent green -- it's not true.

25 There's 22 percent of the units in the

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1 country that are not in the green band or the licensee
2 response band. They're in a higher level of band and
3 getting increased attention from the regulator at
4 least at some level.

5 The conclusion that we had in this area is
6 that despite some earlier concerns I think that the
7 industry had about being able to meet the 21-day
8 deadline following the end of the quarter, the
9 experience to date has been that it can be reported
10 timely and accurately.

11 There were some very minor instances
12 identified in the early part of the program of
13 inaccuracies in data reporting while people learned
14 what the indicators really meant and how they were to
15 be reported. That rate has dropped off almost to a
16 nonexistent level in the last couple of quarters here.

17 And as you'll see in a minute when I go
18 through some more data here, we do see an apparent
19 correlation with some of the crosscutting issues, the
20 PI&R program, and I'll show you that.

21 And we think that some of the performance
22 indicators have resulted in definite performance
23 improvements, and there were intended consequences for
24 selecting some of the PIs, and for those, if we could
25 have that be all the set that we could always get

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1 after, we could probably drive performance to them.

2 But certainly some of these here have the
3 intended consequences.

4 I wanted to shift now to findings per
5 unit, and this is what these charts start to look
6 like, and there's several of them to go through here.
7 There's all different ways that you can slice and dice
8 this data, and I've given you several snapshots of
9 this.

10 This is what we see for green findings per
11 unit. You can see that the industry average is a
12 little bit over seven findings, green findings per
13 unit in the first three months of the program. Region
14 2 is running at about 4.3 I think is the number that's
15 on there. So they're the lowest, and Region 3 is
16 running a little bit over nine, but they're not
17 significantly different from Region 4 and Region 1.

18 Region 2 is quite a bit below the rest of
19 the industry in terms of number of findings per unit.

20 MR. GARCHOW: So this is the total number
21 in the first three quarters as an average per?

22 MR. FLOYD: What we did is we took each
23 plant in the region, identified the number of green
24 findings that they had, and then divided by the number
25 of plants in that region to give you what the regional

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1 per unit hit is, okay, on green findings.

2 MR. SCHERER: For what time?

3 MR. FLOYD: This is for second, third, and
4 fourth quarter of 2000. Yeah, all of my data here is
5 for the first three quarters of the program during the
6 first year.

7 Another way to look at this is how are
8 they stacking up and explain this chart. It deserves
9 a little explanation. I couldn't figure out exactly
10 how to put it on the slide.

11 What this tells you is if you look at the
12 number of plants that had between zero and five green
13 findings, you find that there are 52 units in the
14 country that had between -- or 51, 51, 51 or 52 of the
15 units had been zero and five; about 26 units had
16 between five and ten; about 12 units had ten to 15.
17 I think that's four units had 15 to 20, and there were
18 five units in the country that had greater than 20
19 green findings.

20 And that becomes important because I'll go
21 back and use these numbers to correlate to some other
22 things that we looked at, particularly in the
23 crosscutting issues area.

24 Significant inspection findings, the non-
25 greens. Most of them have fallen in the -- or not

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1 most of them, but the highest percentage has fallen
2 in the Region 1 area, and again just as in the case of
3 green findings, Region 2 for some reason has the
4 lowest number of significant inspection findings.
5 Region 3 and 4 are reasonably close to each other.

6 The total to date though across the
7 industry is about 20, 21 non-green or greater than
8 green inspection findings.

9 MR. HILL: Did you look to see if there's
10 any correlation between the non-green PIs and non-
11 green findings?

12 MR. FLOYD: Yeah, that's coming up, yeah.

13 MR. KRICH: So this is all greater than
14 green?

15 MR. FLOYD: This is all greater than
16 green, right.

17 I probably shouldn't have colored them
18 green, should I?

19 (Laughter.)

20 MR. BROCKMAN: Blue would have been nice.

21 MR. FLOYD: Blue?

22 MR. BROCKMAN: Are these final?

23 MR. FLOYD: These are final. These are
24 ones that have been posted to the Web site.

25 CHAIRMAN PLISCO: And so that's through

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1 December?

2 MR. FLOYD: Through December. This is for
3 the first three quarters of the program. There are 21
4 finalized greater than green findings on the Web site,
5 and there's your distribution.

6 This next chart is pretty interesting to
7 take a look at. This is a summary by action matrix
8 outcomes, and what I've got here is the percentage of
9 units that are in each of the columns, the four
10 columns that have activity in the action matrix right
11 now, the percent green findings, the percent greater
12 than green findings, and percent greater than green
13 performance indicators.

14 As I mentioned, there's 79 units that are
15 in the licensee response column, and they account for
16 about 60 -- what's that? -- about 66, 67 percent of
17 the green findings. So that you can see that there's
18 a lower number of green findings associated with the
19 licensee response column than in the population of
20 plants in the column. Okay?

21 Now, that starts to change as you move
22 across the action matrix, which is about what you'd
23 expect if finding green findings and a greater number
24 of green findings has any relationship, particularly
25 with some of the green findings being the crosscutting

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1 area, a relationship to performance.

2 For example, if you move to the licensee
3 response column, you can see you've got about 16
4 percent of the plants -- excuse me -- in the
5 regulatory response column, and they have a slightly
6 higher percentage of green findings across the
7 industry than what their population of plants are.

8 They have a little bit even greater
9 percentage of -- quite a bit greater percentage of
10 green findings and greater than green PIs. Obviously
11 during the licensee response column you don't have any
12 greater than green PIs or findings.

13 When you go over to the degraded
14 cornerstone, you can see that the ratio between the
15 percentage of the units and the percent green
16 findings, they have about double the number of the
17 percentage of the green findings in the industry
18 compared to the population, and they have quite a bit
19 more greater than green findings and greater than
20 green PIs given where they are in terms of the
21 distribution in the plants, and then when you get to
22 the multiple degraded cornerstone, there's even a
23 greater difference percentage-wise between the
24 percentage of plants in the column and the number of
25 greater than greens and green findings that you have,

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1 which is about what you'd expect.

2 If there are more problems at a plant that
3 are being discovered, you'd expect to see a greater
4 percentage of findings and PIs being identified for
5 plants.

6 Switch just for a second taking a look at
7 no color findings per unit. Here's the distribution
8 that we see. We find that Region 4 writes the least
9 number of no color findings, followed by Region 2.
10 Region 3 writes the most number of no color findings
11 per unit, followed reasonably closely by Region 1.

12 MR. GARCHOW: Steve.

13 MR. FLOYD: Yeah.

14 MR. GARCHOW: Just since you're using data
15 and I don't know this off the top of my head, the
16 distribution of number of plants per region, is there
17 a wide variety of distribution or is it approximately
18 the same number?

19 MR. FLOYD: There's roughly -- it varies
20 a little bit. There's like 28 in one. There might be
21 23 in another, but it's roughly -- but these are all
22 on a per unit basis.

23 MR. GARCHOW: Oh, per unit. Okay.

24 MR. FLOYD: Okay? So that equalized out
25 anyway. It's not the number of no color findings per

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1 region. It's the number per unit per region.

2 Now, crosscutting green findings. What we
3 did was -- and I don't recommend you -- well, I
4 recommend you do do this if you really want to get
5 some insights. As I mentioned there's about 700
6 and -- I think the number is 727 green findings on the
7 Web site right now and 203 no color findings or
8 miscellaneous findings.

9 Tom Houghton and I read every single one
10 of those last week together, and we bend them as to
11 whether or not they were in the human performance
12 procedures or corrective action area, okay, just to
13 get a sense for what it was telling us.

14 MR. GARCHOW: Are these per unit or is
15 this total?

16 MR. FLOYD: These are total numbers per
17 region. Okay? These are not per unit.

18 MR. GARCHOW: Okay.

19 MR. FLOYD: Okay. Is that right? Yes.
20 Yeah.

21 MR. BROCKMAN: Did you read the executive
22 summary or did you read the detailed write-up?

23 MR. FLOYD: No, I read what's posted on
24 the Web site, the summary of it, yeah. That's how we
25 got it.

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1 What we found is that you can see that
2 there's a fairly level distribution in terms of
3 procedure problems across the four regions. Region 1
4 is a little bit higher, but the rest are all
5 relatively even, and what we really saw in the
6 inspection reports anyway was a fairly even rate of
7 human performance or -- excuse me -- procedure related
8 issue.

9 When we get to corrective action, we saw
10 a much greater percentage in Region 1, in Region 4,
11 and somewhat less in Regions 2 and 3.

12 Human performance. This one was a tough
13 one. As you'll see later on, I combined human
14 performance and procedure compliance together as a
15 human performance element. This one tried to break it
16 out to see if it told you much different. What it
17 would really tell you if you added human performance
18 onto procedures on this, it would make Region 1 really
19 stand out in terms of the total number of human
20 performance related findings that they have been
21 writing up and documenting compared to the other
22 regions because the human performance rating in
23 Regions 2, 3, and 4 are not rate, but numbers is
24 fairly low.

25 Now, this next one shows you crosscutting

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1 no color findings, again, by region, looking at human
2 performance procedures and corrective action, and
3 again, you can see that Region 1 writes the most
4 number of no color findings in the corrective action
5 area.

6 Region 2 has a fairly high number, but if
7 you noticed on the previous charts, Region 2 had the
8 least number of overall no color findings that they
9 wrote, and what that really tells me here is that --
10 let's see. What was it? Hang on. Go back.

11 MR. GARCHOW: Do you have any feeling what
12 drives the inconsistency?

13 MR. FLOYD: I'm going to get to that.
14 Yeah, I did find a couple, yeah.

15 My overall observation on this was that
16 there does appear to be a difference between the
17 regions in the thresholds for documenting no color
18 findings and green findings, and what my general
19 observations are are that when you take a look at what
20 Region 2 writes up, they have a very, very low rate of
21 no color findings, but they write a reasonable number
22 of green findings, and not a very high percentage, but
23 the ones that they do write up appear to be at a level
24 that's higher than what some of the other regions have
25 as a threshold for writing the green findings, and

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1 Region 2 it looks like doesn't avail themselves that
2 much of the no color finding technique or tool that's
3 out there.

4 Region 3 writes a fair number of no color
5 findings overall, and their threshold seems to be
6 lower for what is a no color and a green finding than
7 what I saw in some of the other regions.

8 Region 4, my observation there, looking at
9 the data, is giving the choice between writing a no
10 color finding and a green finding, Region 4 tends to
11 lean more towards writing a green finding, and is a
12 much greater percentage of green findings in Region 4
13 than no color findings, and yet when you look at the
14 nature of the conditions as described on the Web site,
15 you see an awful lot of items that are written up as
16 green findings in Region 4 that are no color findings
17 in the other regions, and I'm suspecting those same
18 issues exist at Region 2 plants, not written up at all
19 perhaps in Region 2.

20 So I do see a difference in consistency.
21 Now, as I mentioned this morning, most of the
22 inconsistencies that we see are in the area that has
23 the least significance, and that's the no color and
24 the green findings.

25 Obviously the great equalizer is the

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1 significance determination process and the thresholds
2 for the PIs that at least insure that there's
3 consistency going on for the items that have greater
4 significance.

5 When I look at crosscutting issues by the
6 action matrix, and this one is kind of important, I
7 think, when you take a look at the licensee response
8 column, again, what I've done here is I've looked at
9 the percentage of units in each of the four active
10 columns in the matrix, the percent corrective action
11 program findings, and percent human performance
12 findings, and this is where I lump together procedure
13 findings along with human performance findings that
14 were specifically spelled out separately as human
15 performance findings.

16 The real distinction on those in the
17 inspection reports is primarily the human performance
18 findings were related to where an operator made an
19 error and turned off something that they should not
20 have turned off. It wasn't a matter they didn't
21 follow the procedure. They just didn't take the right
22 action in a particular case as opposed to a procedure
23 violation, which is just that, missing a step or not
24 performing a step in a procedure as required.

25 But when I lump those together, what you

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1 see, again, as you would expect, in the licensee
2 response column, the percentage of plants is greater
3 than the percentage of corrective action program and
4 human performance findings.

5 When you go to the regulatory response
6 column, you see that you have a greater percentage of
7 corrective action and human performance findings than
8 you do the percentage of plants, but then an
9 interesting thing starts to happen here.

10 You can see from the data that when you go
11 further across the action matrix at least for the data
12 we have to date, the corrective action program
13 findings seem to have a much greater emphasis and a
14 much greater impact on where the licensee might be in
15 the action matrix than the human performance findings.

16 You start to see it's a relatively close
17 relationship in terms of percentages between the
18 degraded cornerstone, and it really drops off in the
19 multiple degraded cornerstone, and yet the percentage
20 of corrective action program findings is about two and
21 a half times what the population distribution would be
22 in degraded cornerstone, and it works out to be about
23 eight or so times or six times in the multiple
24 degraded cornerstone.

25 So our conclusion from that, again,

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1 preliminary data -- we need more data to evaluate this
2 further -- but there does appear to be to us a
3 correlation between corrective action program findings
4 and where a plant is likely to fall in the action
5 matrix.

6 And remember you've got here in the action
7 matrix not because you have had CAP or human
8 performance findings, but because you tripped
9 performance indicator thresholds or you had greater
10 than green inspection findings.

11 So it looks to us like the premise for
12 corrective action program that's in the program at
13 least has some early indications of being valid. The
14 human performance findings we don't see a very good
15 correlation between the human performance findings and
16 where a licensee is likely to fall in the action
17 matrix. At least it's certainly less obvious than it
18 is for the corrective action findings to date.

19 MR. BROCKMAN: Steve, have you had a
20 chance to analyze that data in looking at it to
21 determine, let's say, which is the chicken and which
22 is the egg? Because the performance is going down.
23 It's just providing the opportunities to see more
24 corrective action problems as opposed to
25 identification of corrective action problems being

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1 somewhat predictive of indicating that you --

2 MR. FLOYD: No, I tried to look at that,
3 and quite honestly I think given only nine months of
4 the program it's probably not realistic to find it.
5 You know, whether the CAP finding was there before the
6 issue was or whether the issue was there before the
7 CAP findings, it's awfully hard over a nine-month
8 period, especially since not all of the modules are
9 being looked at every quarter cycle.

10 MR. SCHERER: I think you'd have to --

11 MR. FLOYD: Have a couple of years on
12 this.

13 MR. SCHERER: I think that's an excellent
14 question, and it's something that I think would have
15 to be looked at because in many cases when you have a
16 degraded performance, one of the findings is the
17 corrective action program wasn't effective at
18 correcting the performance earlier.

19 So whether that's a leading indicator or
20 a lagging indicator, it is not clear to me yet, but I
21 think that's a good question, and it's something when
22 we analyze the data in the future we need to be
23 careful of not assuming it's a direct correlation, but
24 it might be a result.

25 MR. FLOYD: A trend, right. Let's see.

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1 I just had something I wanted to add here. I'll just
2 say it.

3 When you looked at the plants that have the
4 greatest number of overall findings in every single
5 case when you get to the ones that are well over ten
6 findings per unit, without exception they have all
7 tripped at least a PI threshold or they have a greater
8 than green inspection finding.

9 And when you get up to the plants that had
10 greater than 20, 25 inspection findings in the unit,
11 those are the ones that have tripped -- right now in
12 the program they may only have one effective one, but
13 they have tripped multiple PIs during the course of
14 the program or had at least one inspection finding
15 identified.

16 So, again, there appears to be a
17 reasonable correlation with the number of issues that
18 an inspector is able to find at a station, and the
19 likelihood that that plant either has or will have to
20 watch and see, but this is the premise of the program,
21 that that continues; that in all likelihood they will
22 exceed a threshold in either a PI or inspection
23 finding in ensuing quarters. We'll have to see if
24 that's true.

25 But at least for the plants thus far that

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1 have the highest percentage of inspection findings,
2 they all have tripped a PI or inspection threshold, at
3 least one, and some of them multiple ones.

4 Our overall inspection conclusions were
5 that we think the inspection procedures are more
6 objective and risk informed, at least the scope of
7 them and what is looked at. The licensees tell us
8 that the inspection conduct itself is really not a
9 whole lot different than what it was under the
10 previous program.

11 Where it's risk informed is the inspectors
12 are tending to look at the more important systems at
13 the plant based upon the risk insights, but when they
14 look at it, they're still looking at it pretty much
15 the way they used to look at the system in terms of
16 looking for any kind of deficiency across the board
17 related to it.

18 But where it's risk informed is in the
19 outcome, when a finding is identified and it's run
20 through the significance determination process, then
21 a characterization is put on it that does seem to be
22 more objective and certainly more risk informed than
23 what the previous finding outcomes were.

24 The licensees here are spending less time
25 responding to low value issues, the level four

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1 violations, since they are non-sited. The point here
2 is that they're still taking the corrective action.
3 They're still going into the program, and they're
4 still evaluating what needs to be done to be fixed and
5 taking the actions, but at least they've saved the
6 administrative routine of responding to the lowest
7 category of violations in the past.

8 And probably the best feedback, the most
9 positive feedback we get from the industry is that the
10 dialogue between the licensee and the NRC is certainly
11 much, much more focused on safety, I think just as
12 Dave's observation was, and rather than on what was
13 the severity level of the violation and who found it
14 and when they found it and things like that, trying to
15 figure out the ground rules for how much civil penalty
16 to assess.

17 Pretty much now the dialogue is almost
18 exclusively focused on what's the safety significance
19 of this issue and what needs to be done about it.

20 MR. SCHERER: Steve.

21 MR. FLOYD: Yeah.

22 MR. SCHERER: The second bullet, I guess
23 I don't quibble at all with the words that you use,
24 but part of the meaning, I may have a problem with it.

25 Basically it's our experience at least,

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1 and certainly I believe it's true of the Region 4
2 plants that the scope of the inspections have changed
3 to the extent that the NRC, when they come in and look
4 at a safety system, will tend to look at the more risk
5 significant safety systems.

6 MR. FLOYD: Yes, yes.

7 MR. SCHERER: Or consider that a positive.

8 MR. FLOYD: Right.

9 MR. SCHERER: But so when you say the
10 scope of the inspections is not much different, they
11 are spending the same amount of time. They're sending
12 the same sort of people, but they're looking at the
13 safety significant systems and tending to shy away
14 from the less safety significant.

15 MR. FLOYD: Right. The feedback we get is
16 exactly right. They're looking at the more safety
17 significant systems. They're not spending as much
18 time looking at the lower risk significant systems in
19 the plan, but even when they look at the more safety
20 significant systems in the plant, they're not
21 necessarily looking at what aspects of the system are
22 really making it safety significant.

23 They're still pretty much carrying out the
24 inspections that they have in the past by looking at
25 documentation reviews and, you know, looking for

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1 instances of procedure compliance and documentation
2 requirements whether or not they in and of themselves
3 have much significance to them.

4 So there's still a lot more that could be
5 done to, I think, approve the overall safety focus of
6 the inspection, even after you've picked a risk
7 significant system, but nonetheless, again, the great
8 equalizer is the SDP process for at least getting an
9 even consistency across the regions as the
10 significance of what's being found, looking at at
11 least some aspect of more risk significant systems.

12 MR. SCHERER: My point is if all things
13 had remained equal, and if the NRC simply started
14 focusing more on the safety significant systems, then
15 you would expect an up tick in the number of non-green
16 findings simply because the NRC is looking at the more
17 safety significant systems.

18 I'm trying to point out that the NRC is
19 looking at the more safety significant systems.
20 They're focusing on them more, and still we're getting
21 the results that you outlined.

22 MR. FLOYD: Yeah, and I gave you some
23 statistics on where we thought PI results would be.
24 Inspection finding results, when the NRC was putting
25 the program together, we know they went back and took

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1 a look at licensee event reports that were filed, and
2 on the basis of that the numbers that were thrown
3 around was we thought that there would probably be
4 somewhere around 50 greater than green inspection
5 findings found in a typical assessment cycle year.

6 As I said, we've got 21 for the first
7 three quarters. So what's that going to give you,
8 about 28 or 30 for a full year? A little bit less,
9 but pretty much in line with the same ratio that we're
10 seeing between inspection -- excuse me -- performance
11 indicator results and what the expectation there was.

12 Again, those same LERs were drawn from the
13 -- I believe those were 97 and 98, were the batch of
14 LERs that were evaluated. So, again, a couple of
15 years older in performance, and again, I think it's
16 reflecting the improvements in the overall performance
17 in '99 and 2000 across the industry. So not
18 inconsistent.

19 My overall summary is that we see the
20 combination, and this is really what the purpose of
21 the program is all about, is can the assessment
22 process help the agency identify which plants need
23 beyond the baseline inspection so that they can focus
24 their resources and elevate attention on the more
25 significant issues.

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1 So the real question we've got is can the
2 program do that, and so far we see that the
3 combination of performance indicators and inspection
4 findings are able to discern performance differences.

5 As I stated, there's 22 percent of the
6 plants that was receiving beyond the baseline activity
7 right now because they have tripped either performance
8 indicator thresholds or inspection finding thresholds
9 or both, and we do see a correlation in the corrective
10 action area with the action matrix results. Whether
11 it's the leading or lagging I don't know, and we see
12 much less correlation between human performance
13 findings and the action matrix results.

14 MR. TRAPP: Steve, that human performance
15 finding, it looked like the first two columns. It was
16 only the last column, and I was wondering. I mean,
17 there's probably only one plant.

18 MR. FLOYD: Yeah, there's one plant in the
19 last column, right. I think the point that I really
20 had on it was --

21 MR. TRAPP: With data scatter, you know,
22 you'd expect, you know, if you only had one plant,
23 you're not going to have very much data.

24 MR. FLOYD: Let's see. Where was that?
25 I should take one off, right?

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1 MR. TRAPP: So the regulatory response in
2 the degraded cornerstone, it looks like you do have
3 the correlation you might expect, which is the last
4 one.

5 MR. FLOYD: Well, I think the point I've
6 got here is that I see a nice up check on both
7 corrective action and human performance findings in
8 the regulator response column.

9 When I go to the degraded cornerstone
10 column, which is a five plant population, I see what
11 I would expect to see, and that is a greater
12 contribution in the corrective action. If you look at
13 the ratio between here and here, it's much greater
14 than from here to here.

15 So that tells me that, hey, corrective
16 action program findings seem to be a little more
17 significant here, and yet I actually see quite a bit
18 of a lessening in the percentage that are contributing
19 from human performance.

20 And you're right. It's just one plant,
21 and it's probably not a very good data point. You can
22 almost ignore that one, but I would expect if the
23 premise was that human performance findings are
24 equally as important with the corrective action
25 program, I would expect to see a uniform trend, and I

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1 don't see that.

2 I do see the trend in corrective action,
3 but I don't see it in human performance.

4 MR. GARCHOW: You also showed that there
5 was some difference between the regions and how they
6 choose to document something. So that includes --

7 MR. FLOYD: Yes, it does, yep, yeah.

8 MR. SCHERER: And, again, I think we need
9 to look at whether the corrective action program is,
10 in fact, a cause or an effect.

11 MR. FLOYD: Well, you know, you've
12 probably heard me say this before, but when people
13 say, "Gee, we don't have any leading indicators in the
14 program," you know, I argue that the entire program is
15 a leading indicator. That's what it's meant to be.
16 It's leading from who might go from here to here to
17 here to here.

18 And the fact that we have thresholds set
19 up, you know, you have to ask yourself leading to
20 what. If it's leading to have a significant impact on
21 public health and safety, that's defined down near the
22 yellow and red zones, and is this process able to pick
23 up and watch plants migrate across these columns, and
24 I think so far the answer is, yes, it is able to pick
25 plants up and identify them.

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1 We've had several plants now that have
2 migrated from the regulatory response column to the
3 degraded cornerstone column, and if you go back in
4 history and look at the plant that was here and
5 backfit as they did in the inspection report for
6 Indian Point 2, go back and take a look at if they
7 were under the program a year before, would it have
8 picked up the decline in performance, and the answer
9 was clearly it would have.

10 They would have been in the degraded
11 cornerstone column and multiple degraded cornerstone
12 column before they even had the event at IP-2 for the
13 steam generator leakage event. So it looks like it
14 would have picked them up and maybe more attention
15 would have been put on the plant sooner.

16 That's all I have.

17 MS. FERDIG: Steve, I have got a question.

18 MR. FLOYD: Sure.

19 MS. FERDIG: What does Dave's assertion
20 that the action matrix isn't being used mean to you?

21 MR. FLOYD: Well, I wasn't really quite
22 clear on that. His example, one of them was the
23 security condition at Quad Cities. Was it Quad?
24 Yeah, it was Quad, and that was really an agency-wide
25 decision that the SDP process for entering the action,

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1 possibly entering the action matrix from the security
2 area had some fundamental flaws in it because the
3 premise upon which that was built is not how the
4 agency executes their force-on-force evaluations and
5 the conclusions that they draw.

6 So there's a definite broken linkage
7 between what the assumptions are for the OSREs and the
8 SDP.

9 The other one was on IP-2 and the fact
10 that I guess it was that they allowed the IP-2 to
11 start up without correcting their deficiencies or
12 acknowledging their deficiencies. I really don't have
13 all of the details. I don't know that one that well.

14 But when I look at the action matrix,
15 they're in the fourth column. They're getting a
16 diagnostic examination. They're getting a fairly
17 extensive round of team inspections looking at
18 multiple areas across the plant, which is what the
19 action matrix column for activity calls for.

20 And the plants that are in the degraded
21 cornerstone, I know they're getting for cause
22 inspections in the areas that are degraded, and
23 without exception when you go through and read the
24 findings on the NRC summary page, all of the plants
25 that have tripped a PI threshold or a white

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1 inspection, gotten a white or greater inspection
2 finding, you can read a supplemental inspection that
3 has been followed out under 75001 procedure and what
4 the results of that inspection were posted on the Web
5 site.

6 So it looks to me like the action is
7 pretty consistent with the action matrix. Dave may
8 have an issue with a couple of them, but I think
9 overall the action is as the action matrix has called
10 for.

11 MR. BROCKMAN: Yeah, I think Dave did
12 state that they were for the ones -- the couple of
13 examples at the upper level of significance, and they
14 had not done an analysis down at the 95001 level.

15 MR. FLOYD: Right.

16 MR. BROCKMAN: Which would be the vast
17 majority of experiences thus far.

18 MR. FLOYD: Yeah, but there have been
19 five, 95, or six 95002s carried out. Yeah, and they
20 were much more extensive than the 95001s.

21 Other questions?

22 CHAIRMAN PLISCO: I have one.

23 MR. FLOYD: Yeah.

24 CHAIRMAN PLISCO: Most of your
25 presentation talked about, you know, the inspection

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1 program and the results. What about other parts of
2 the program? I mean, from what you hear from
3 utilities, are there big issues or concerns in those
4 other areas?

5 MR. FLOYD: Well, I didn't want to go into
6 the whole litany of them. I think they're pretty much
7 what we've got captured on our list that we've been
8 going through.

9 And that was one comforting thing I think
10 we've gotten. When we go from the knowledge that we
11 have from working with the NRC at the task force level
12 -- excuse me -- on the overall program, we don't see
13 any surprises in terms of issues that come out of that
14 meeting versus what came out of the regional NRC
15 workshops versus what came out of we had a separate
16 industry lessons learned workshop at the end of
17 January, and we didn't have any surprises come out of
18 there.

19 It's all pretty much the same issues, and
20 I think we have them characterized pretty well in our
21 matrix there that we've been going over this morning.

22 A lot of them center around, as we talk
23 about the unavailability definition, that's the one
24 that I think people would really like to see fixed and
25 made consistent with what the regulatory requirements

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1 are so they can get some consistency in thresholds and
2 eliminate this potential for having an unintended
3 consequence of not doing enough maintenance so as not
4 to trip the threshold.

5 That's probably the most significant
6 comment that we get from the industry. As far as how
7 the action matrix is going and the conduct of the
8 supplemental inspections, we're getting very positive
9 feedback from the industry that appears like the
10 agency is following what those supplemental procedures
11 call for. The actions seem appropriate. The response
12 seems appropriate.

13 The only other growing concern that I --
14 well, there's two. There's two growing concerns out
15 there. One is in the ALARA inspection area. I didn't
16 have time to pull the data together, but I've got some
17 folks back at NEI taking a look at it.

18 But when you read through the inspection
19 reports, there seems to be a growing number of no
20 color and green findings being written up in the ALARA
21 area, and it's escalating by quarter at the same time
22 that the dose exposure continues to go down in the
23 industry.

24 So we're wondering what's going on there
25 and what's happening there and what's driving that.

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1 The other issue that we have is there is
2 a lingering concern about the -- although it's the low
3 significant area, the inconsistency across regions for
4 what is the threshold for documenting a green finding
5 and no color finding, and I think that's out of a fear
6 that there may be somewhere in the program down the
7 road a desire to aggregate and try to look at the
8 number of no color findings or green findings as a
9 predictor for when somebody might trip the greater
10 threshold.

11 And therefore, even though there are not
12 shades of green in the program and no action is
13 supposed to be taken until a threshold is tripped, I
14 think there's a growing concern that, gee, it might
15 happen, and if we're not careful about consistency
16 across the region as to what the threshold is, some
17 plants may get a disproportionate share of additional
18 attention, and others that may be warranted, but that
19 region chooses not to document those won't get it. So
20 it's a fairness issue, I think, more than anything.

21 But other than that, the overall feedback
22 we get from the program is that it seems to be working
23 reasonably well, and similar to Dave's comment, better
24 than what people expected for where we are in the
25 first year of implementation.

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1 CHAIRMAN PLISCO: Any other questions?

2 MR. SHADIS: Yeah. These regional
3 differences.

4 MR. FLOYD: Un-huh.

5 MR. SHADIS: Just your opinion. Do you
6 see anything other than the way that the NRC regions
7 look at these findings at thresholds? Do you see any
8 other contributors that would allow for --

9 MR. FLOYD: Do you mean is there actually
10 a difference in the performance of the plants? Huh?

11 MR. SHADIS: Yeah. Do you think?

12 MR. FLOYD: I would say there would be if
13 the populations weren't so relatively even in the four
14 regions in terms of numbers of plants. I can't
15 believe all of the good plants just happen to be in
16 one region and all of the poor performers just happen
17 to be in another region.

18 I'm sure that's somewhat of a factor for
19 some of the regions, but if you take a look at it, I
20 think Region 4 had a fairly high number of green
21 findings and -- yeah, a fairly high number of green
22 findings, and yet they have the lowest number of
23 plants that have tripped either performance indicator
24 threshold and I believe inspection findings. They
25 have the least number of green inspection findings.

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1 Yet they are pretty high up on the total number of
2 green findings.

3 And, again, when we looked at what they're
4 documenting as a green finding some of the other
5 regions are documenting as a no color finding, and it
6 appears to us anyway that Region 2 isn't documenting
7 it at all.

8 So Region 2, in our view, appears to be
9 carrying out what we thought was the threshold for
10 documentation in the inspection program. Now, they
11 don't typically write up minor violations.

12 We see a number of violations that are
13 acknowledged to be minor violations written up in the
14 inspection reports from the other regions, and it was
15 our understanding that that was not to be the case,
16 that minor violations wouldn't be written up.

17 MR. GARCHOW: So, Steve, are the whites
18 just -- maybe you know this or not; fair to say if you
19 don't, right? -- but are the white -- excuse me.
20 Drawing B -- are the regulatory response to greater,
21 to multiple to greater, are they pretty much
22 distributed across the country or do they focus in on
23 one region or another?

24 I don't see a graph on that, I don't
25 believe.

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1 MR. FLOYD: Yeah, there is. There is a
2 graph on that.

3 MR. GARCHOW: Because that would answer --

4 MR. FLOYD: You mean the greater than?
5 Well, there's the green stack-up, okay, green
6 findings, but then when you take a look at -- here's
7 how non-green PI results stack up. Okay? And I have
8 a similar thing for the inspection findings.

9 MR. GARCHOW: This slide states sorted by
10 region. Is there anything funny about the
11 distribution to the right of the action matrix? This
12 slide, Steve. Is there anything, you know -- is this
13 more one region than the other?

14 MR. FLOYD: Well, obviously when you get
15 to the last column there is only one plant in there.

16 MR. GARCHOW: Region 1 would win.

17 MR. FLOYD: So let's see.

18 MR. GARCHOW: That was the only question.
19 If you don't have the data, that was sort of --

20 MR. FLOYD: I'm trying to think of who's
21 in there. Is that -- well, there's a Region 1 plant.
22 No, I'm sorry. Yeah, there's a Region 1 plant in that
23 column. There's a Region 4 plant in that column, and
24 let's see. There's a Region 3 plant in that column.
25 I don't believe there's a Region 2 plant. That's the

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1 only region that doesn't have a plant in the degraded
2 cornerstone or multiple degrades cornerstone column.

3 MR. GARCHOW: So it's sort of spread?

4 MR. FLOYD: It's sort of, yeah.

5 MR. GARCHOW: With the exception of the
6 last column, which only has one plant.

7 MR. FLOYD: Yeah.

8 MR. GARCHOW: Okay.

9 CHAIRMAN PLISCO: Any other questions?

10 (No response.)

11 CHAIRMAN PLISCO: Great. Do you need a
12 couple of minutes, Rich, or do you want to go?

13 Okay. Our next presenter is Rich Janati
14 from the Pennsylvania Department of Environmental
15 Protection.

16 MR. JANATI: John, I guess since I'm the
17 last one I have unlimited time or what?

18 I don't have any slides or transparencies,
19 but I have copies of all of the comments available.

20 CHAIRMAN PLISCO: Is this what you want to
21 hand out?

22 MR. JANATI: Right. Basically I'm going
23 to go over my comments. Please stop me if you have
24 any questions or any areas that need further
25 clarification. I'll be happy to answer your

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1 questions.

2 Well, my name is Rich Janati. I'm the
3 Chief of the Nuclear Safety Program for the Bureau of
4 Radiation Protection, Pennsylvania Department of
5 Environmental Protection.

6 First of all, let me thank you for the
7 opportunity to comment on the new reactor restart
8 program. As you know, Pennsylvania did not have any
9 pilot plan. Therefore, our experience is limited to
10 the past ten months or so.

11 I have personally participated in some of
12 the NRC Region I workshops during the promulgation of
13 the pilot program, and I also attended the NRC Region
14 I training for NRC inspectors, and that was very, very
15 helpful and useful to us in understanding the process
16 better.

17 I'd like to thank Randy Blough and Region
18 I management for making that available to us.

19 I believe this committee has done a
20 commendable job in identifying or capturing the issues
21 that will need to be addressed by the NRC staff in
22 order to improve the reactor oversight program. Since
23 this new program is an evolving process, it's
24 reasonable to expect that some changes will have to be
25 made as time goes forward to enhance the effectiveness

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1 of the program.

2 However, I would like to point out that in
3 my view too many changes to the existing program
4 without providing adequate justification could
5 potentially jeopardize the stakeholder's confidence in
6 the process.

7 Because of this committee's good work, I
8 had some difficulties coming up with any new issues.
9 What I'd like to take this opportunity and talk to you
10 a little bit about our experience with the new program
11 and also communicate to you some of the comments or
12 issues that have been brought to our attention by the
13 interested members of the public in our state.

14 On page 1 of our comments, the questions
15 that -- obviously the important question is does the
16 new program satisfy the goals established by the NRC
17 and those goals are maintaining safety, enhancing
18 public confidence, improving effectiveness and
19 efficiency, and reducing our necessary regulatory
20 burden.

21 Looking at Item 1, maintaining safety,
22 there are no signs of economy plant (phonetic)
23 performance at any of our power plants in Pennsylvania
24 since the new reactor oversight program was
25 implemented in April of last year.

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1 However, additional data is needed to
2 confirm the ability of the program to identify the
3 economic safety (phonetic) performance trends in a
4 timely manner.

5 We support the NRC's initiative to develop
6 industry trans-assessment process, to evaluate the
7 long-term effectiveness of the new reactor oversight
8 process as it relates to the goal of maintaining
9 safety.

10 It's important that the extent that the
11 stakeholders know if the NRC staff, particularly the
12 regional staff, have confidence in the new oversight
13 process and its ability to allow the NRC to recognize
14 or identify declining safety performance in a timely
15 manner.

16 I believe from an NRC recent survey of its
17 internal stakeholders, particularly regional staff,
18 shows that there is agreement among the staff,
19 particularly regional staff, over this issue. Then I
20 believe that that would help enhance public confidence
21 in the process.

22 And finally, there is a disparity between
23 the NRC's goal of maintaining safety and the
24 industry's goal or the standard of excellence. This
25 disparity in the performance standards could confuse

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1 the members of the public and other external
2 stakeholders.

3 To give you an example, under the new
4 factory oversight process or program, one of the
5 plants in Pennsylvania is a licensee response MAT
6 (phonetic), all green findings. The same plant has
7 received an input rating of three which indicates that
8 there are some relatively significant issues that
9 would have to be addressed or corrected by the utility
10 in order to achieve the industry's standard, and those
11 issues are related to equipment performance,
12 engineering, training, and standards for performance.
13 The input fields is low within this particular
14 utility.

15 Now, I don't consider that to be a major
16 problem or major issue as far as we're concerned.
17 However, at least at a minimum this could result in a
18 public perception issue, and i think it's something
19 that the industry and the regulatory industry perhaps
20 could be able and prepared to explain to the public.

21 Is there any question on the first goal or
22 objective of maintaining safety that I talked about?

23 MR. SCHERER: Do you have any examples
24 where, that you're aware of, where a regulatory agency
25 regulates to excellence?

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1 MR. JANATI: Not that I'm aware of, and I
2 really didn't raise that, as I said, a major issue,
3 but again, looking at, as I said, the industry report
4 and industry findings versus NRC findings, that could
5 potentially be a public perception.

6 MR. SCHERER: I'm not trying to overstate
7 you --

8 MR. FLOYD: Sure.

9 MR. SCHERER: -- position, but I don't --
10 this was raised before, and I asked the same question
11 in that context. You know, I can understand
12 regulators regulating to a minimum acceptable level of
13 safety and there are plenty of examples of that. I'm
14 just not familiar with many examples, and it's an
15 honest question.

16 MR. JANATI: No, I agree with you that
17 it's really the industry that's responsible to achieve
18 a goal of excellence. I don't argue with that.

19 MR. BORCHARDT: You know, I think EPA had
20 entered into some activities which if not regulating
21 to excellence came pretty close. Jim may be able to
22 help me out. There was a 30-50 program --

23 MR. SETSER: It's the 33-50 rule and then
24 what is the White House initiative? I can't recall
25 the title of it right now, but the whole thrust of it

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1 is to go beyond compliance, to encourage going beyond
2 compliance by reducing a number of parameters.

3 MR. GARCHOW: OSHA does that with their
4 VP, their VIP or VPP program where they're voluntary
5 or they'll come in and try to get you to do more than
6 the regulation to improve safety and give you an
7 award.

8 MR. BLOUGH: And I think Jill Lipoti -- I
9 don't know if she talked before this panel, but she
10 talked to me about some of the things done in New
11 Jersey with the mammography program and whatnot that
12 it isn't regulating to excellent, but it sets up a
13 program that's going to encourage continuous
14 improvement, if you will.

15 MR. JANATI: I think there are incentives
16 available, and we're doing it in Pennsylvania. As far
17 as regulating it, I mean, obviously that's a different
18 situation.

19 MR. SETSER: Controversial or not, the
20 regulatory agency may be the person to stimulate,
21 provide motivation or incentives to allow the industry
22 to go forward and meet this goal.

23 As I said, in some people's view, that
24 might be controversial, but that's where it works.

25 MR. LAURIE: Rich, could I just for my own

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1 education get 30 seconds of an explanation of what
2 Pennsylvania's nuclear safety inspection program is?

3 MR. JANATI: Sure.

4 MR. LAURIE: Is it one person?

5 MR. JANATI: No. Actually we have an
6 independent oversight program. There are nine
7 reactors in Pennsylvania, nine operating reactors at
8 five sites, and we have one nuclear engineer assigned
9 to each nuclear power plant site in Pennsylvania.

10 We don't have regulatory authority as
11 independent oversight. We conduct inspections, joint
12 inspections with the NRC. We have all staff attending
13 daily meetings at various power plants.

14 MR. LAURIE: Do you have some minimum
15 understanding with either NRC or the owners regarding
16 your ability to conduct those inspections?

17 MR. JANATI: Our mandate comes from
18 Radiation Protection Act of 1984.

19 MR. LAURIE: Is that federal or --

20 MR. JANATI: No, it's a state act.

21 MR. LAURIE: Okay.

22 MR. JANATI: And the state basically gives
23 us the mandate or authority to have access to nuclear
24 power facilities in Pennsylvania, but the regulatory
25 authority obviously sets with the Nuclear Regulatory

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1 Commission.

2 PARTICIPANT: There's an MOU between
3 Pennsylvania and the NRC.

4 MR. JANATI: There is an MOU specifically,
5 for certain, for example, for doing transportation
6 inspections, but I don't believe there's an MOU for
7 necessarily doing conducting inspections, except when
8 we have joint inspections that there's certain
9 protocol when they do too far.

10 MR. LAURIE: Okay.

11 MR. JANATI: There's an independent
12 oversight process.

13 MR. BLOUGH: I'm sorry. The agreement
14 with Pennsylvania and NRC dates way back to the '70s
15 really, you know, which, you know, then we agreed on
16 the protocols, whenever Pennsylvania is going to
17 accompany our inspections, and so they've been --
18 they've been accompanying inspections with us for
19 many, many years, and it's always gone really well,
20 and then they've done some additional things in the
21 rad waste areas that go beyond what other states have
22 done.

23 MR. SCHERER: Is Pennsylvania an agreement
24 statement?

25 MR. JANATI: Not yet. Our goal is to

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1 become an agreement state in two years or so. It's a
2 lengthy process. So we're lining up our staff and
3 training for our staff.

4 The second goal is to enhance public
5 confidence. It's very difficult, if not impossible,
6 to measure public confidence in the new reactor
7 oversight process in this relatively short period of
8 time. It might take several years before the NRC is
9 able to conclude whether the new ROP has public
10 confidence.

11 A question here is how would NRC measure
12 public confidence. Would there be public surveys,
13 focus groups? What criteria would NRC use to
14 determine whether the new ROP has achieved its goal?

15 And obviously we'd be interested in
16 learning more about that.

17 Now, based on our experience in
18 Pennsylvania, particularly as it relates to TMI-1
19 restart and operation following the Unit 2 incident,
20 public confidence develops over a period of time, and
21 to a large extent it's a function of plant performance
22 or how well the plant is running and public awareness
23 and education.

24 As far as plant performance is concerned,
25 obviously the industry and not just the regulatory

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1 agency has an obligation to insure that the plants are
2 being operated safety and in a reliable manner. Good
3 operating record, no surprises, no significant events
4 helps improve public confidence.

5 For NRC to improve public confidence in
6 the new reactor oversight process through public
7 education awareness, we have some recommendations. On
8 page 2, Item B, we believe that NRC regional offices
9 should continue to conduct annual performance review
10 meetings, PPR meetings, in the vicinity of the nuclear
11 power plants. This would insure that the interested
12 citizens had sufficient understanding of the new
13 process, and would also provide an opportunity to
14 inform the public about plants' overall performance,
15 what it means, and how it compares to the performance
16 of other plants in the same category.

17 For example, if it's a PWR, how does it
18 compare to other PWRs in the region, or if it's a BWR,
19 the same thing.

20 MR. KRICH: Rich, if I could ask a
21 question.

22 MR. JANATI: Sure.

23 MR. KRICH: Do you mean you'd like the NRC
24 to do something other than or in addition to the
25 annual assessment meetings that they're going to have?

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1 MR. JANATI: No, as part of the annual
2 assessment meeting, having a table, simple table,
3 showing that this plant, TMI or any other plant,
4 has -- this is the overall performance and how it
5 compares to performance of other plants in the region.
6 I think that would be helpful.

7 MR. KRICH: I understand that part, but
8 the first part of your recommendation was that they
9 should conduct annual meetings like the PPR meetings
10 in your vicinity.

11 Right now the process calls for annual
12 assessment meetings to be held at the site.

13 MR. JANATI: It's the same meeting.

14 MR. KRICH: Okay.

15 MR. JANATI: The same meeting. It was not
16 an additional meeting.

17 MR. KRICH: Okay.

18 MR. JANATI: The accuracy consists of
19 timeliness of the information to the public, are
20 important factors in agencies' credibility. Posting
21 of performance indicators and assessment information
22 on the NRC Web site helps improve public confidence in
23 the process and should continue.

24 And finally, under public confidence, NRC
25 should establish an effective mechanism to receive

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1 public input continuously and on a plant specific
2 basis. The NRC resident inspector should play a
3 proactive role in this process by being more available
4 and accessible to the local community.

5 It is recommended that the resident
6 inspectors periodically brief interested members of
7 the public, including the local officials on
8 significant plant issues and inspection assessment
9 findings. These periodic meeting would also provide
10 an opportunity for the public to ask questions and to
11 provide input to the NRC.

12 The NRC has recognized the importance of
13 public involvement, and we're aware of it. However,
14 the agency should focus more on public involvement
15 information at the local level in the vicinity of
16 nuclear power plants.

17 We have not seen a lot of interactions or
18 face-to-face dialogue between NRC inspectors and the
19 interested members of othe community, and I think
20 that's a weakness in the program.

21 I've had a member of the public in our
22 state saying that, you know, they don't have access to
23 resident inspectors because they're inside the plant,
24 and obviously there are some advantages to that, but
25 that's one of the things that we're hearing from

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1 member of the public, and some members of the public
2 have no idea that there are resident inspectors at
3 these power plants.

4 So I think we're really going to have to
5 improve the public involvement in the local community
6 and not necessarily at national levels. It's nice to
7 have meetings here and workshops inviting the states
8 and the public to attend, but people who live near
9 these power plants are people who have concerns, and
10 they need to be educated.

11 Related to the goal of public confidence,
12 the question is is the process more objective and
13 predictable. We believe that the new process is more
14 objective and predictable, and this is mainly due to
15 the combination of performance indicators, and the
16 more objective and structured NRC inspection
17 assessment program, including the significance
18 determination process.

19 Now, I'm going to talk about its various
20 components of the reaction oversight process.
21 Starting with performance indicators, I'd like to
22 repeat some of the comments that I made in Region I at
23 the workshop we had several weeks ago.

24 There's some strength associated with the
25 performance indicators. PRs are actual plant data and

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1 objective criteria for evaluating plant performance.
2 PRs have been collected consistently and in a timely
3 manner. The public is able to review and scrutinize
4 the performance indicators, and PRs can help licensees
5 focus their attention on areas that may need
6 improvement.

7 To give you an example, one of our
8 facilities in Pennsylvania had a relatively high
9 number of percentage of their sirens inoperable.
10 Sirens available to being a performance indicator
11 receive high level management attention, and the
12 utility took timely and appropriate measures to
13 correct the problem.

14 This resulted in a wide finding, but the
15 problem was corrected in a timely manner. The same
16 utility has so far received two white findings
17 associated with the PIs, which indicates that the
18 process is working as it relates to the performance
19 indicators.

20 And, by the way, this particular plant is
21 a good, solid performer, but there are problems that,
22 you know, resulted because of the PIs, and so that's
23 a positive aspect of the new program.

24 As far as challenges and weaknesses, the
25 first two items here that I have listed, radiations in

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1 plant designs, are an intended consequence of PIs, are
2 known through the agency and through the industry,
3 although I don't necessarily believe that the manual
4 at SCRAM, for example, has intended consequences.

5 But these complicated factors should have
6 been identified and addressed during the
7 implementation of the pilot program. Now that the
8 program has been fully implemented, we are talking
9 about making all of these changes. So that's an issue
10 that you might want to consider in the future.

11 Again, I go back to the comment that i
12 made that too many changes to the existing program
13 could potentially jeopardize stakeholders' confidence
14 in the process.

15 MR. KRICH: Rich.

16 MR. JANATI: Sure.

17 MR. KRICH: Could you tell me what you
18 mean, give me some examples maybe of how variations in
19 plant designs or tech specs or operating --

20 MR. JANATI: Well, for example, right, we
21 have heard that the way utilities measure RCS leak
22 rate.

23 MR. KRICH: yes.

24 MR. JANATI: That's, for example, one
25 example.

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1 MR. KRICH: The tech spec.

2 MR. JANATI: The tech spec change. So
3 that's one. I have some other examples I have not
4 listed here, but I could get it for you.

5 Item C, the basis for setting the existing
6 PI thresholds are inconsistent. The thresholds of
7 some PIs are based on PRA insights, such as reactor
8 SCRAM, safety system unavailability.

9 Others are based on regulatory
10 requirements or tech spec limits, RCS leak rate, RCS
11 specific activity, and some are based on professional
12 judgment, security, or measured response.

13 Additional thresholds for PIs that are
14 based on regulatory comments are high, and some of the
15 PI thresholds that are based on PR insights have very
16 high thresholds and may have undesired results with
17 the public.

18 For example, thresholds of six and 25 for
19 unplanned SCRAM, thresholds of ten and 20 for SCRAM
20 with loss of normal heat removal. I think the numbers
21 are high.

22 Now, that's really a dilemma because now
23 NRC is looking at developing this space performance
24 indicators, and that could result in some high
25 numbers. So I'm just raising that as an issue for you

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1 to consider.

2 Now, the relatively large number of green
3 findings is probably due to high thresholds for some
4 of the PIs, but I do not wish to make a firm
5 conclusion at this point.

6 The issue with color coding, we really
7 don't have a problem with it. However, the only
8 problem is that it is difficult to differentiate
9 between superior plants and plants with average level
10 of performance, particularly for the members of the
11 public, because we know, since we have our own
12 independent oversight and we interface with NRC
13 frequently, we know who the solid performers are or
14 which plants are having some problems, but the public
15 might not know, and I think that's an issue.

16 The significance determination process,
17 the strength of the SDP is that, first of all, it
18 allows for more consistent risk based decisions by the
19 NRC.

20 Under the new reactor oversight program
21 and because of the SDP process, the licensees are more
22 inclined to perform risk analysis to identify the risk
23 associated with certain events, and I think that's a
24 positive.

25 I've heard from utilities who are doing

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1 risk assessment, risk analysis for the licensee and
2 reports that are being documented. So that's a
3 positive aspect of the process.

4 The challenges are that, first of all,
5 SDPs are complex and a complicated process for the
6 public to understand, but I would not consider that to
7 be a major weakness, and let me tell you why.

8 Based on our experience, the public is not
9 very interested in risk analysis or risk assessment.
10 It's a difficult subject to understand. The public is
11 interested in risk management. What are the risks,
12 and what actions the industry is taking, the
13 regulatory agency is taking to mitigate the
14 consequences of an event?

15 For example, what monitors are in place to
16 detect any release from a power plant. The measured
17 response program, how effective it is.

18 So risk analysis is really difficult to
19 understand for the members of the public. I would not
20 consider this to be a major weakness.

21 Second, unnecessary challenges to the SDP
22 non-green findings by licensees. We have experienced
23 that, and this is mostly due to a result of licensees'
24 disproportionate concern about non-green findings.

25 We had an example in Pennsylvania. One of

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1 our utilities received a white finding. It was
2 related to misclassification of a shipment of a low,
3 low waste. A shipment was packaged properly. It was
4 disposed of at a disposal facility. It was placed in
5 an appropriate trench.

6 So the risk associated with this
7 particular finding was small. However, the SDP
8 clearly indicated that the result was a white finding,
9 and I think the utility had some problems with it.

10 Now, the question is: should you revise
11 the SDP to reflect the concern that has been expressed
12 by the utility or not? That's a different issue, but
13 the SDP was being challenged, and I think in this
14 particular case I think the utility might have gone a
15 little overboard.

16 Obviously there are going to be
17 negotiations. I mean, this is a complex process. I
18 am not going to use the word "negotiations" for this
19 particular case, but if the risk associated with this
20 particular event is low, then obviously you need to
21 revisit the SDP and see if there's a change, the
22 change is required in this process.

23 I think NEI should probably play a role in
24 also changing the culture within the utilities. The
25 white finding necessarily is not bad. As I said, one

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1 of our good, solid performers has two white findings.

2 And finally, at present the NRC regional
3 offices do not have adequate number of risk analysts.
4 Does the NRC expect the resident inspectors to develop
5 this expertise, or is NRC considering increasing the
6 risk analysis expertise in the regional offices to
7 implement the process effectively or a combination of
8 both?

9 I think that is something the NRC is going
10 to have to look at and decide what you want to do.

11 I have been told that the resident
12 inspectors are expected to do more, particularly for
13 Phase 1 and Phase 2 SDPs. Am I correct in that?

14 MR. MOORMAN: You are correct.

15 MR. JANATI: Okay.

16 MR. SCHERER: I'm curious. You come to a
17 conclusion that the NRC regional offices do not have
18 an adequate number of SRAs. How do you reach that
19 conclusion?

20 MR. JANATI: Oh, at some of the workshop
21 meetings I've attended, I've been told that there's
22 only one or two individuals who have expertise in this
23 area in the regional office. Considering that --

24 MR. SCHERER: Is this anecdotal or you
25 have --

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1 MR. JANATI: No, no.

2 MR. SCHERER: -- two in the region, how do
3 you determine that two are inadequate, that they need
4 three or four or five? On what basis have you --

5 MR. JANATI: The basis that I have is that
6 considering that there's a lot more focus on risk
7 significant issues, having one or two experts is
8 common sense. You don't have to make that conclusion
9 based on the fact that, you know, wow, you have to
10 look at this or look at this chart. You're going to
11 need more people to do that.

12 And being at meetings, being at workshops,
13 I have come to that conclusion that that's the case.
14 If I'm wrong, fine.

15 MR. TRAPP: I think it's a great comment.

16 (Laughter.)

17 MR. SCHERER: You've been talking to the
18 SRAs.

19 MR. JANATI: Well, that may be the case,
20 but obviously, again, being there and talking to the
21 various people in meetings and workshops you learn
22 that, and I've not seen anything in writing which
23 would indicate that's the case, but there have been
24 discussions over that issue.

25 Inspection -- sorry?

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1 MR. BLOUGH: You're not wrong on that
2 point. In fact, you know, there's been a lot of
3 discussions among staff on how to address this. You
4 know, now that we're already into the ROP and we need
5 the inspection forces to do the inspection, but we
6 also need to bootstrap the --

7 MR. JANATI: Okay.

8 MR. TRAPP: This week we've actually in
9 the region -- I think each region is selecting two
10 people to get additional training.

11 MR. JANATI: That would be good.

12 MR. TRAPP: So we're actually moving
13 forward on that. This week a couple of people will be
14 chosen.

15 MR. JANATI: Actually, we'd like to get
16 some training in that area, too. I think it would
17 help us understand the process better.

18 CHAIRMAN PLISCO: And I think as we
19 discussed at our last meeting with the SRAs, the
20 complication in assessing what we need because we
21 don't have the Phase 2 work sheets, it's really hard
22 to tell what resources we really need once we get int
23 the routine program. We can't really tell right now
24 because the SRAs are really doing more now than was
25 intended because of the last of the Phase 2 work

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1 sheets.

2 MR. SCHERER: I guess that was my concern.
3 How do you derive and what's the answer? Is it four?
4 Is it six? Is it 18? How do you come to that answer
5 other than intuitively?

6 MR. JANATI: I don't know how many more,
7 but it seems that there appears to be a need for
8 additional RAs.

9 Inspection program, I think we talked
10 about the transfers. Inspections are more focused on
11 the significant issues, and that's good. The quality
12 of inspection reports has improved. I really believe
13 that.

14 I have a report here from Region 1 for
15 Susquehanna plant, dated January 30th, 2001. It's an
16 excellent report. It's well written, adequate amount
17 of information, signed and approved by Randy Blough.

18 (Laughter.)

19 MR. JANATI: And again, I made a copy
20 available for you if you want to review it. It's just
21 the amount of information here is adequate for us, and
22 I really think that's probably one of the best
23 inspection reports I have seen.

24 I've seen some other reports that are
25 probably at as I don't want to say adequate, but they

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1 don't have as much information as this particular
2 report does. It's a very good report.

3 MR. MOORMAN: Rich, did you have a chance
4 to compare that report to the previous reports that we
5 issued or have you been --

6 MR. JANATI: Under the old process?

7 MR. MOORMAN: Yes, under the old process.

8 MR. JANATI: Yes. Yeah, this is much
9 better. Actually I'll have a tendency on my part to
10 read the whole report with this new process. The old
11 process, I mean, the reports are very lengthy, wordy,
12 and this is more focused. It's more focused on the
13 significant issues. That's my conclusion.

14 Communication with the NRC inspectors,
15 licensees, the staff have improved. That's a
16 strength. For example, the exit meetings are not as
17 rigid. They're more informal, more open.

18 NRC inspectors are being used as a
19 resource by the licensees more than before, and I
20 think that's a good sign.

21 Weaknesses, well, the baseline
22 inspections, in my view, should focus more on
23 crosscutting issues and specifically corrective action
24 program. It's recommended that NRC use the import
25 report findings as an additional resource, only as an

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1 additional resource, to focus on areas that are more
2 problematic or have the potential of being precursors
3 to larger problems.

4 I think IMPO (phonetic) does a very good
5 job as far as human performance is concerned,
6 corrective action measures, and that, again, is an
7 additional resource.

8 I'll give you an example. Recently
9 Excelon Corporation completed a self-assessment study
10 of its nuclear power plants. As you know, they have
11 17 nuclear power plants. It's called the Excelon
12 state of the free assessment.

13 The utility has concluded that one of the
14 areas that needs improvement for the majority of the
15 power plants is corrective action program. I'm
16 certain that this situation applies to many other
17 plants nationwide.

18 Actually, the unusual event that we had at
19 one of our facilities was the result of poor
20 corrective action measures. So I think that's one
21 area that I believe we need to focus on at least for
22 a while.

23 Now, it appears to me that the licensees
24 are struggling with a relative large number of issues.
25 So we have a large number of issues, and you're going

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1 to have to prioritize those issues, and I hope that
2 the way they're prioritizing the issues is not based
3 on whether it's an NRC finding or not. You should
4 prioritize the issues based on how significant the
5 issues are.

6 It could be a licensee identified issues
7 as more significant than NRC identified issues, but I
8 think that the real problem here is that there are
9 just so many of them, and I respectfully disagree with
10 the suggested recommendation that NRC should reduce
11 the frequency or the scope of PI&R inspections, at
12 least not at this point.

13 No color issues of findings in the
14 inspection reports are causing some confusion to the
15 public, particularly the no color issues that result
16 in violations that are assigned a color code.

17 I'll give you an example. Again, a
18 facility received a no color finding for the failure
19 to properly evaluate a change under 50.59. They had
20 made a modification. It was related to reactor water
21 clean-up system, the pump room. So it was a 50.59
22 that was not evaluated properly, and then the finding
23 of that was assessed, and it was a green finding.

24 And I had somebody calling me and asking
25 me what does this mean. I don't necessarily believe

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1 that no color issues should not be included. I think
2 the more information we have, particularly on issues
3 that are relatively significant issues that result in
4 nonviolations, whether they recite a violation, they
5 should be documenting inspection reports, but might
6 want to provide some additional information as to what
7 it means for the members of the public who have access
8 to these inspections, inspection reports.

9 And then just a couple other comments on
10 the inspections. Changes to the inspection should be
11 communicated to the extent of the stakeholders in a
12 timely manner. I know tat least one other state had
13 that comment. We're planning to observe or do an
14 inspection with NRC obviously it would be appropriate
15 for NRC to let us know if there were any changes to
16 the schedule in a timely manner.

17 And finally, I believe NRC should promote
18 and encourage the state's participation in or
19 observation of NRC inspections, particularly those
20 states that have their own independent oversight
21 program.

22 I believe the state's involvement in the
23 process would enhance stakeholder's confidence in the
24 process, knowing that the state has a role in the
25 process, that all issues or concerns are being

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1 addressed, and we're doing joint inspections with NRC.

2 I really believe that that would help
3 improve public confidence in the process.

4 And even inspection reports, if they are
5 routine interactions, on site interactions with the
6 NRC resident inspectors, I think that those
7 interactions should be documented. I think it would
8 be helpful to the public to know that the state is
9 involved.

10 The other goals three and four, improve
11 effectiveness and efficiency, reduce unnecessary
12 regulatory burden, I believe those two goals are
13 related, and I also believe that NRC and the industry
14 are in a better position to make that determination,
15 whether the program has achieved these goals or
16 objectives.

17 However, I believe that the NRC and we
18 recommend that the NRC should conduct a survey of its
19 staff, particularly the original staff, and the
20 licensees in order to determine whether the process
21 has accomplished these goals or not.

22 We have some observations, and those are,
23 first of all, NRC inspectors are focusing more on
24 inspection preparation and less on inspection
25 documentation. NRC inspectors are spending more time

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1 on their own documents, less time on actual physical
2 inspections, and this is not necessarily a criticism.
3 It's an observation.

4 If you're doing more risk assessment,
5 you're looking at the licensee's corrective action
6 program, very fine PIs, that doesn't necessarily mean
7 that it's bad, but it's just that we've seen less
8 physical inspections.

9 Licensees are spending a considerable
10 amount of time on data collection and reporting,
11 especially with the PIs. However, this increasing
12 burden has been offset by changes in the assessment
13 and enforcement program.

14 There are less, much less non-cited
15 violations for licensees. You don't have to respond
16 to those violations. We don't see as many licensee
17 reports because of the NRC's changes to the reporting
18 requirements.

19 And finally, some members of the public
20 continue to be skeptical of the idea of reducing
21 unnecessary burden on licensees, and the perception is
22 that the NRC has significantly reduced its oversight
23 program, and some actually are under the impression
24 that performance indicators are the only mechanism
25 that the NRC is using for evaluating power plants or

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1 licensee's performance.

2 And, again, to a large extent that's due
3 to a lack of understanding of the new process. So NRC
4 needs to do a better job in informing the public and
5 making sure that they understand the process better.

6 Overall at this point it's premature to
7 make a firm conclusion as to whether the reactor
8 oversight process satisfies the goals established by
9 the NRC Commission. I think we're going to need more
10 time.

11 We've seen some positive things, some
12 positive aspects of the program, but we're going to
13 need more time to make a firm conclusion.

14 The new process is more objective and
15 predictable than the old process, but there are areas
16 that require improvement. NRC should continue to
17 evaluate the effectiveness of the new reactor
18 oversight process periodically and make improvements
19 in a systematic and timely manner.

20 And finally, NRC should continue to
21 receive feedback from its external stakeholders,
22 particularly members of the public in order to improve
23 public confidence in the process.

24 That concludes my presentation. I'll be
25 happy to answer any questions you might have.

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1 Overall, I think this is a better process,
2 and we've seen, as I've said, some positive points
3 about the process.

4 MR. SCHERER: I have a curiosity question
5 more than anything. I was surprised at the discussion
6 in the roll-out of the new reactor oversight process.
7 How small a percentage of the population not actively
8 involved in nuclear power plants knew of the existence
9 of a federal regulator, much less one that had
10 resident inspectors at the plants?

11 Have you done any polling in Pennsylvania
12 as to what percentage of the public knows of your
13 involvement and the state's involvement in --

14 MR. JANATI: No.

15 MR. SCHERER: -- oversight at nuclear
16 power plants?

17 MR. JANATI: No, we haven't done that for
18 our nuclear safety process. We did some survey for
19 our low level waste process several years ago.
20 Obviously I don't have the results of the survey, but
21 not for nuclear safety.

22 MR. SCHERER: Do you have any feel for the
23 public awareness? I mean any anecdotal. I'm just
24 curious.

25 MR. JANATI: In our state as to how --

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1 MR. SCHERER: In your state, yeah.

2 MR. JANATI: I tell you that the
3 interested members of the public, people who are
4 really interested in the process, are aware of our
5 program, and one of the reasons that we have our own
6 emergency response program, like several -- many other
7 states, and that's how the public gets involved, and
8 they're aware that we do have a program.

9 I don't have facts or numbers at this
10 point.

11 MR. SCHERER: Thank you.

12 MR. FLOYD: Rich, I was struck by your
13 comment that you thought the program should focus even
14 more on crosscutting issues because there's already a
15 big difference between the old program and the new
16 program in terms of focus on crosscutting issues.

17 If you look at the 200 hour PI&R
18 inspection model and ten percent of every other module
19 is supposed to look at corrective action, there's
20 about 20 percent of the total number of inspection
21 hours that are supposed to focus on crosscutting
22 issues in the baseline.

23 MR. JANATI: Right.

24 MR. FLOYD: In fact, I was looking through
25 the data on some of the statistics I was giving you

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1 and looking at the data entry that I had, and I went
2 back and took a look at the findings, and this is
3 pretty consistent across the four regions. The number
4 varies between 20 and 25 percent of the total number
5 of findings and each of the four regions are related
6 to crosscutting issues. Green findings I'm talking
7 about.

8 MR. JANATI: You asked that question
9 right. I don't have the actual numbers, but looking
10 at, for example, the inspection schedule, I've seen
11 inspections, three or four inspections, for example,
12 for safety and one for PI&R.

13 I don't know how many hours the resident
14 inspectors -- how much time they are spending on
15 corrective action and PI&R inspections. I assume they
16 are looking at some, but just going by looking at the
17 schedule, it appears to me that, you know, we're
18 spending time on some other areas whereas we could
19 have probably spent more time on corrective action
20 program that is a key component, at least for a while
21 until we feel confident that the utilities are doing
22 an effective job.

23 MR. FLOYD: Yeah. It sounds like an
24 education piece because you're right. There is only
25 one annual PI&R inspection scheduled that you'll see

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1 on the schedule, but imbedded in the program is ten
2 percent of every inspection module regardless of the
3 subject matter, is to go query the corrective action
4 program and look for issues.

5 That's how you get about 20 percent of the
6 total hours in the program. In fact, I was actually
7 quite --

8 MR. JANATI: That may not be a bad idea to
9 actually publish those number of hours of inspections
10 so we know, at least on the Web site or inspection
11 reports so that we know how much time the actual
12 inspectors are spending on --

13 MR. FLOYD: I was amazed at the
14 correlation between, I mean, having 20 percent of the
15 hours in the program devoted to corrective action and
16 seeing 20 to 25 percent of the findings in the
17 corrective action area. That pretty much reinforces
18 what you inspectors -- what you find.

19 MR. JANATI: And it may not be only the
20 hours, but also the scope and also quality of
21 inspections.

22 MR. FLOYD: Yeah.

23 MR. JANATI: I think that's something that
24 we're going to have to look at. I used the IMPO
25 (phonetic) report findings because I really believe

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1 IMPO does a very good job, and I think that's a good
2 basis for looking at some of the problems that
3 utilities have.

4 MR. SETSER: Rich, you indicated in
5 several different ways that there's more need for
6 outreach education at the local level, but I think the
7 interesting thing is you pretty much suggested that as
8 a role for us regulators, and that's true, and I
9 support that.

10 Yet that's one of the most painful things
11 for a regulator to think about doing because they
12 don't view themselves as --

13 MR. JANATI: I know we do that.

14 MR. SETSER: -- doing this kind of thing.
15 Their role is to regulate, not to tell the people they
16 serve how good a job they're doing, you know.

17 And so I think our real future holds in
18 focusing on just what you said, you know, not the
19 industry. The industry is supporting the community in
20 many different ways.

21 MR. JANATI: I'm aware of some of that,
22 sure.

23 MR. SETSER: But we as regulators need to
24 be out there with proactive education and outreach
25 programs to tell them what we're doing and what is

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1 going on.

2 MR. JANATI: Particularly some of your
3 technical people because they have the knowledge.
4 They know the details, you know. They need to be
5 trained. It's going to take some time. It's not
6 going to be easy, and you need public involvement
7 people also, but you also need technical people who
8 are able and capable of dealing with the public and
9 can communicate with members of the public.

10 I don't see that as much happening, at
11 least not at the local level.

12 MS. FERDIG: Would those technical people
13 tend to be people like yourself, associated somehow
14 with the state or a government function that has a
15 concern about public safety and monitoring activity?

16 MR. JANATI: Are you saying the public
17 within the community or do you mean the resident
18 inspector?

19 MS. FERDIG: No, public, technical people
20 and the public who would be inclined to --

21 MR. JANATI: For example, well, obviously
22 there are radiation health physicists in the
23 communities. There are emergency responders, by the
24 way. They're very interested --

25 MS. FERDIG: Oh, sure.

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1 MR. JANATI: -- they're very much
2 interested in nuclear safety, plant operations issues,
3 reactor waste issues.

4 I don't see too many emergency responders
5 attending the public meetings. I think the NRC should
6 probably do a better job in advertising these meetings
7 or actually formally inviting some of those public
8 officials that basically respond to attend the
9 meetings.

10 MS. FERDIG: Good idea.

11 MR. JANATI: We've experienced that we
12 were developing a disposal facility, radioactive
13 disposal facility for a compound. Basically
14 responders are interested in those issues, and some
15 members of the -- well, local officials also, from the
16 county officials, particularly the officials in these
17 counties around the nuclear power plants.

18 CHAIRMAN PLISCO: Any other questions for
19 Rich?

20 MR. MOORMAN: Yeah, I have one. Rich, you
21 talked about the accuracy, consistency, and timeliness
22 of the information to the public are important factors
23 in our credibility. We've had some instances where
24 we've published some information and then later on
25 changed it, maybe refined it a little bit more,

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1 changed color of some findings. I just wondered what
2 your perspective is on that type of occurrence.

3 Would it bother you if we were more
4 conservative initially on an inspection finding and
5 then after other information comes to light, we --

6 MR. JANATI: Yeah, because once it's on
7 the Web site and you change it, obviously that's going
8 to create some problems.

9 Again, working for the state and being
10 involved on a day-to-day basis, it probably wouldn't
11 bother me as much, but I can understand that somebody
12 from the public who's not involved on a daily basis
13 would be a lot more disturbed by that.

14 MR. MOORMAN: So for a significant issue,
15 it would be preferable to get the information right
16 and be four months or six months down the line, or it
17 would be preferable to get it out initially and then
18 perhaps --

19 MR. JANATI: If you get it out initially,
20 make sure that you provide adequate explanation so
21 members of the public who will have access will know
22 what's going on.

23 MS. FERDIG: You want both.

24 MR. JANATI: But it is an issue. It's a
25 dilemma.

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1 CHAIRMAN PLISCO: Do it fast and be right.

2 (Laughter.)

3 MR. JANATI: I mean, it's a balance.
4 Obviously there's a balance, but again, looking at it
5 from a member of the public's point of view obviously,
6 I can see why that could create some problems. In
7 working for the state and being involved in the
8 process, it's not as disturbing to me.

9 MS. FERDIG: But do I hear you say that
10 further information about what leads to that first
11 initial assessment and what has led to --

12 MR. JANATI: A change.

13 MS. FERDIG: -- might be okay?

14 MR. JANATI: Might be okay, might be
15 helpful, but again, I'm sure the perception is going
16 to be that, you know, there was apparently some
17 negotiations that resulted in changing the findings,
18 and it's a difficult issue.

19 I personally wouldn't have as much of a
20 problem with it, but I can understand the public
21 might.

22 CHAIRMAN PLISCO: Any other questions?

23 MR. SHADIS: In Pennsylvania, do you
24 proactively communicate your concerns to the public
25 about any given plan? Do you rank them?

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1 For example, I mean, I'll just follow
2 this. Do you --

3 MR. JANATI: We don't rank them, but we do
4 have members of the public who are interested. They
5 call us. they write to us, and in the past we'd do it
6 obviously, try to give them as much information as
7 possible.

8 We invited individuals to our offices,
9 spend time with them. We've done it. I have done it
10 personally, and I think that has been helpful.

11 MR. SHADIS: But I mean do you --

12 MR. JANATI: We don't rank, no. We don't
13 have our own official ranking.

14 MR. SHADIS: And you don't proactively
15 report out your concerns? I presume you report to the
16 legislature or to the governor's office of some --

17 MR. JANATI: We do report through our
18 management obviously, for example, yes, through the
19 legislators to the governor's office, sure. They're
20 aware of the issues, but we don't have our own ranking
21 system for power plants.

22 MR. BLOUGH: The protocol though for when
23 you're involved with NRC inspections, if they see
24 something that they think the inspector hasn't noticed
25 or if they think we sized an issue up wrong, that's

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1 part of the inspector company.

2 MR. JANATI: Right.

3 MR. BLOUGH: They communicate that to the
4 inspector --

5 MR. JANATI: Sure.

6 MR. BLOUGH: -- all along, and if at the
7 end we get clear to the end of it and knowing what the
8 state thinks would come out different, then they have
9 the option of writing a letter that would be public
10 that just says they disagree with the NRC finding.
11 That's part of the protocol.

12 I don't think we've ever gotten to one of
13 those where we got clear to the end, but that's all
14 part of how that works.

15 Pennsylvania is fairly visible because,
16 you know, they have a state-of-the-art emergency
17 response facility that's been widely recognized, and
18 a lot of people come to see it, and it's a matter of
19 pride for the state. So when it's discussed, the fact
20 that it's used for all types of events, including if
21 there's nuclear events.

22 MR. SHADIS: I think just generally the
23 public does not go about saying, "Gosh, they're
24 telling us this plant is more dangerous than it really
25 is." I don't think that's a comment you can find

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1 frequently from the public.

2 And in terms of being candid and open with
3 the public -- and I'm not necessarily getting into the
4 heavy dangers -- but when there are issues, you know,
5 I think it goes a long way to public confidence if
6 they're expressed openly, and I'm finding in talking
7 to different state regulators they have the same
8 problem apparently that NRC does in being terribly
9 reticent because of fear of overreaction to whatever
10 they might say.

11 And I'm just, you know, wondering if
12 that's the case in Pennsylvania.

13 MR. JANATI: Well, particularly dealing in
14 emergencies, I mean, you really have to be careful as
15 to what you say. You don't want to make the situation
16 worse than it is. So you need to have actual
17 information and actual data, and later to the public
18 officials, to members of the public, and we've
19 experienced that in the past.

20 You know, the public has access to us. We
21 have an 800 number. They know where our offices are.
22 So I'm sure that the RA is a big improvement as far as
23 the state getting the public more involved. Sure,
24 they are, but we're available, and we're accessible to
25 the members of the public.

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1 MR. LAURIE: Of course, California is
2 probably at the other extreme. We have no state
3 regulation when it comes to inspections. We have
4 state regulations who are involved in emergency
5 response, and we haven't received any invitations from
6 either the NRC or the owners for such.

7 One of our plants, Diablo, has a special
8 arrangement where they have an oversight committee
9 unconnected to any governmental agency, and I don't
10 know how that was done as in response to -- do you
11 know how that was created, Ken?

12 It's some form of independent --

13 MR. BROCKMAN: Yeah, the governor's select
14 committee, if you want to call it that, that he put on
15 there was part of the original negotiations on the
16 siting because of the intervenors' extreme interest in
17 that area, and I believe it was driven mostly by the
18 fees.

19 MR. LAURIE: It's part of the licensing
20 process.

21 MR. BROCKMAN: Yes. It's been in place
22 ever since initial licensing.

23 MR. LAURIE: And certainly we find or I
24 found that when it comes to the communications element
25 of government, the closer you are to the people, the

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1 better you are at communicating. Local government
2 people can sit there all day because that's how
3 they're trained. You get state, and then you get
4 federal, and the further away you get, I think the
5 less training folks have in dealing with people
6 wearing black arm bands sitting in your audience.

7 So I can see the benefit of that. I'd be
8 interested in gaining some knowledge and understanding
9 about your actual inspection work and how you avoid
10 basically taxpayer paid duplication of effort, which
11 is something that I would be concerned about.

12 So I'm interested in getting educated
13 about the kind of work that you do. I'd like to call
14 you up and talk to you about it sometime.

15 MR. JANATI: If you'd like to, we can talk
16 about it after the meeting, some information.

17 MR. LAURIE: Thanks.

18 CHAIRMAN PLISCO: Any other questions for
19 Rich?

20 (No response.)

21 CHAIRMAN PLISCO: We've got one more
22 stakeholder input, Judith Johnsrud.

23 DR. JOHNSRUD: I guess I need one of
24 these; is that right?

25 CHAIRMAN PLISCO: If you'd like, you can

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1 just sit here.

2 DR. JOHNSRUD: Oh, okay.

3 CHAIRMAN PLISCO: Judith, if you could
4 introduce yourself and your title so the transcriber
5 can have that.

6 DR. JOHNSRUD: Yes. My name is Judith
7 Johnsrud, and it's J-o-h-n-s-r-u-d. I live in State
8 College, Pennsylvania.

9 Rich Janati and I have worked together.
10 I serve on our state's advisory committee on low level
11 radioactive waste and have done so since its
12 inception, oh, 15 years ago, and I have a long history
13 of working in this realm.

14 My doctoral degree is in the field of the
15 geography of nuclear energy, and I'm, therefore,
16 interested in the totality of the production system;
17 have specialized -- well, many years ago I was the
18 intervenor, legal representative in the original
19 licensing of Three Mile Island Unit 2 and have been
20 involved in NRC licensing proceedings for most of the
21 reactors in Pennsylvania.

22 In recent years, I've focused much more on
23 radioactive waste issues, serving as Sierra Club's
24 national energy chair and head of their nuclear waste
25 group, and come down every so often at Chip Cameron's

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1 invitation to serve on your various panels.

2 So I've tried to follow the issues with
3 particular focus on the roles of the regulatory
4 process and have had a deep concern over the years
5 about many of the problems that you've mentioned today
6 with regard to particularly the relationship between
7 the regulators, who have a job to do under the Atomic
8 Energy Act, and those they service, the affected
9 publics in the vicinity of nuclear facilities.

10 I would want to make it clear Pennsylvania
11 is probably quite different from some other states.
12 We have a long history of some issues that brought
13 statewide interest and involvement, one of which was
14 the Energy Park issue 25 years ago with proposals
15 throughout the state that activated citizens.

16 Certainly the Three Mile Island accident
17 was and remains a significant matter of public
18 participation and concern, and within the past decade
19 or so, of course, the low level radioactive waste
20 disposal issues associated with our status as host
21 state.

22 So a number of years ago -- I've been
23 trying all day to remember what language, what
24 designated that the agency gave to some of the first
25 workshops on the beginning of the shift in regulatory

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1 philosophy. I recall at that time it was probably
2 what, six, seven years ago or more?

3 I recall one of the industry associated
4 attorneys who spoke emphasizing that it would be
5 helpful to the industry to see a moving away from
6 prescriptive, conservative regulatory processes, such
7 as had always characterized the agency, and to utilize
8 the, well, generic letters and notifications, a lesser
9 role in the day-to-day decision making on the part of
10 the utilities.

11 And I have felt, as I have daily received
12 information concerning our plants in Pennsylvania, I
13 have felt that I have seen a lot of changes in that
14 direction. I'm glad that the agency has not chosen to
15 avoid formal rulemaking as appeared to be a
16 possibility some time ago, and I certainly hope you
17 don't get rid of formal rulemaking, but I have
18 observed the curtailment of the opportunities for
19 effective public participation in NRC license related
20 proceedings, tech spec changes, and so forth.

21 It has become an onerous burden for
22 members of othe public to attempt to participate in
23 the formal proceedings. So as the performance based
24 risk informed regulatory philosophy came into being
25 and acceptance, I was very much concerned that

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1 performance based would, to put it in simplistic terms
2 that I think members of the public may tend to think
3 of it, well, if the valve is performing and hasn't
4 failed, we needn't worry about it.

5 I would hate to feel that that is the
6 direction in which this kind of regulation will move.

7 Now, having said all of that, I want to
8 commend, first, the extent to which the Commission has
9 moved to include at least portions of the public. I'm
10 appreciative of being able to be a participant in your
11 various round tables, as I know Ray is.

12 At the same time, a caution that the
13 stakeholder designation from the perspective of the
14 rest of the public is not an adequate service to the
15 public as a whole. There are many views. None of us
16 from the public interest organizations has the right
17 or the arrogance to say that we represent the public.

18 There are a lot of folks out there who
19 will feel excluded and can be excluded, their views
20 not sought. I have to say that as the Commission does
21 still send out its staff people, the lessons of
22 effective communication with members of the public in
23 the vicinity of facilities is still imperfect, shall
24 I say?

25 There remains a sense of frustration, I

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1 think, among people living in the vicinity of plants
2 who are occasionally treated to visits from staff,
3 from D.C. or from the regions, with the lingering of
4 the arrogance of old. I regret to say it, but it's
5 still there. It's part of a culture. It's true for
6 many regulatory agencies, and I'm very pleased that I
7 have sensed in the past few years a shift toward
8 trying to be much more effective in these
9 communications, and similarly, that I feel that the
10 utilities have changed markedly. I sense much less of
11 the arrogance of old, if I may use that term.

12 Well, let me add concern remains about
13 risk, the utilization of risk analysis. It rings
14 bells, and they are warning bells in the minds of many
15 members of the public in that it's very difficult for
16 people to get a grip on the underlying assumptions
17 that have gone into risk analyses.

18 And so the question then remains: is the
19 use of the risk informed process -- well, what's
20 behind the risk part of risk informed? I think that's
21 a question that needs some illumination for the
22 public.

23 Now, I want to add today I was very
24 pleased to hear the apparent concern about not only
25 the higher priority issues, but also the effort to

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1 pick up on what may seem to be minor problems, the
2 trend analysis approach that you discussed. Because
3 my sense is that there may be problems, you know, that
4 are sort of under the surface, likely to be avoided or
5 just ignored until they suddenly do become serious
6 matters in conjunction with other problems in multiple
7 failure situations.

8 Finally, if I understood what you were
9 saying earlier this morning, I am concerned about the
10 apparent dismissal as a high priority matter of P-10
11 and P-11, public radiation safety, and physical
12 protection matters. I think I heard it proposed that
13 they might simply be removed from your list.

14 And I would very strongly urge that the
15 concerns for off-site affairs is a very high priority
16 in your relationship with the public.

17 I don't often come to an NRC meeting and
18 feel pleased with as much of what I've heard as I
19 think I was today. And so I do want to thank you for
20 your work, which I believe is on behalf of the
21 public's well-being.

22 CHAIRMAN PLISCO: I did want to say I
23 think, just to clarify on P-10 and P-11, yeah, I
24 think, I don't want to speak for the whole panel, but
25 the concern had to do with certain performance

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1 indicators. I think the staff is not satisfied that
2 it's good enough.

3 DR. JOHNSRUD: I don't -- I suspect that
4 the members of the public, even those who have a
5 continuing interest or whose interest will pick up if
6 there are events, I don't think that -- that what
7 performance indicators are and how you're using them
8 has gotten through yet at all. So some explication
9 there may be in order.

10 CHAIRMAN PLISCO: Well, I'd be interested
11 in your insights. I think one of the things the group
12 that developed the performance indicators wrestled
13 with and for example, say, like effluents. If -- if
14 a plant -- you know, no plant exceeds any of the
15 requirements and the performance indicator is always
16 green, is it still worth keeping that performance
17 indicator, to communicate the public that fact?

18 That's I think what we've wrestled with on
19 a couple of those because if we're using it to drive
20 our inspection and assessment programs to identify
21 problems and essentially set NRC action in motion, but
22 there's other benefits that providing those
23 performance indicators and for the public confidence,
24 just to provide that information and make it
25 available, even though it may never trigger our

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1 action. And that's a balance we're always wrestling
2 with.

3 MR. BROCKMAN: The data is available
4 through the normal letter that comes in annually on
5 your off-site doses and all that stuff. That is an
6 extremely cumbersome, not particularly effective
7 communications vehicle for the public.

8 CHAIRMAN PLISCO: It's painful to go
9 through it is what you mean.

10 MR. BROCKMAN: Well, I'm trying to be --
11 I'm trying to be gracious, and this is a much more
12 user friendly vehicle in spite of some of the
13 challenges that it had. You've got something there
14 that can put context.

15 But historically that hasn't been
16 something that exceeding the thresholds, as currently
17 established, has been a problem.

18 So, I mean it has the potential of staying
19 green for a long time.

20 DR. JOHNSRUD: Well you may or may not
21 know, in the aftermath of TMI for quite a while the
22 local newspapers did have a daily report. And I would
23 commend that approach to you with respect to keeping
24 a kind of presence before the public that will help
25 people to understand the operations and the problems

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1 that may be encountered, rather than suddenly an event
2 that creates a panic sort of situation.

3 But let me just add with regard to
4 Pennsylvania, in the aftermath of TMI, in fact, still
5 going back to the energy issue, I find people who, oh,
6 yes remember that they were to be subject to ten
7 reactors and ten coal-fired plants.

8 MR. GARCHOW: What was the Energy Park?
9 I'm not familiar with the Energy Park.

10 DR. JOHNSRUD: Oh, in the mid-1970s, four
11 of the Pennsylvania utilities formed a consortium
12 to -- they were having trouble with siting by then.
13 And they wanted to find a large empty area in the
14 hinterlands for a large energy development, and it was
15 to have been ten 10,000 megawatt reactors and ten
16 equally large coal-fired plants and presumably at some
17 point some attendant fuel cycle facilities as well.

18 And there were ten candidate sites around
19 Pennsylvania. It raised perception of issues relating
20 to nuclear energy remarkably.

21 But there is in this aftermath of TMI and
22 of the waste issue, both of which were well enough
23 known that there's a kind of residual knowledge,
24 interest, concern which will re-emerge with any
25 untoward event.

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1 MR. SHADIS: I've got a general question.

2 DR. JOHNSRUD: Yeah.

3 MR. SHADIS: I see that you're talk
4 prompted written -- struck a memory thing here. You
5 talk about regulating to excellence. When was the
6 last time that the cost avoidant numbers were updated
7 for ALARA?

8 Right now it's like what? Two thousand
9 dollars per man?

10 DR. JOHNSRUD: Yeah.

11 MR. SHADIS: But when --

12 DR. JOHNSRUD: Discounted.

13 MR. SHADIS: How old is that number?

14 DR. JOHNSRUD: Oh, that's only about --

15 MR. FLOYD: It used to be \$1,000 a person,
16 and it was changed what, around 1990?

17 DR. JOHNSRUD: Oh, no, much more recently,
18 yeah, sometime after -- I think around 1995 or so
19 maybe it was raised, yes.

20 MR. GARCHOW: I wouldn't want to guess.
21 I think it's higher than that now.

22 DR. JOHNSRUD: I don't think so. It's
23 \$2,000 by regulation.

24 MR. SCHERER: It's \$2,000 by regulation.
25 In most utilities they use higher numbers. Utilities

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1 are using higher numbers, but by regulation.

2 MR. SETSER: Yeah, I've seen 2,800.

3 DR. JOHNSRUD: Yeah. May I add, I concur
4 totally with David Lockbaum concerning ADAMS.

5 (Laughter.)

6 DR. JOHNSRUD: Whatever you can find to
7 replace it can't be any worse. But keep the
8 information flowing, even excessive information. That
9 I think is your -- your obligation to the public
10 you're supposed to serve.

11 MR. BROCKMAN: With your locality right
12 there you can maybe of great -- I'm going to put on a
13 little different hat at the moment and that's being a
14 regional manager.

15 One of the things I tried to do last year
16 when we were going out and having these annual
17 meetings in the localities, I don't know whether it's
18 just my residence personalities or what have you, but
19 in Region 4 trying to get more than three jack rabbits
20 and two rattlesnakes to the meeting was a large
21 challenge.

22 DR. JOHNSRUD: Yes.

23 MR. BROCKMAN: And you expressed this
24 concern that a lot of people have. I read into your
25 comments also from what you said that only contact

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1 over a period of time is going to change that, so that
2 they can see, get to meet the people understand them,
3 see the motivation, see the dedication.

4 Do you have any suggestions that you could
5 bring forward as to how to try to find better vehicles
6 to make that happen? Because obviously the path we
7 chose last year wasn't as successful as we would have
8 liked it to have been.

9 DR. JOHNSRUD: Well, you know, things --
10 things have changed in the world of 24-hour news cycle
11 television. The employed population, many, many of
12 whom have two jobs, if not three, along with the
13 children to be dealt with; people simply do have less
14 time to attend actual meetings.

15 That doesn't at all mean that they're not
16 interested. And I really think that there are
17 mechanisms through the press, local press, and in
18 areas with nuclear facilities; that if they are not
19 used in a propagandistic manner to convince anybody of
20 the safety of a nuclear plant or that low dose
21 radiation doesn't hurt them and so forth; if you don't
22 do that, but give some straightforward information
23 about the operation of a facility, that that is of
24 utility in a community.

25 And I don't know. Maybe above all, send

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1 out folks who are not arrogant, who are polite, who
2 are able to listen and accept even those comments that
3 we heard about this morning, that one doesn't want to
4 have to listen to for seven hours straight.

5 Thanks.

6 CHAIRMAN PLISCO: Any questions? Thank
7 you.

8 DR. JOHNSRUD: You're welcome.

9 CHAIRMAN PLISCO: Well, I think that wraps
10 up our agenda for today. I would ask -- we always
11 have the standard Tuesday problem. I know a lot of
12 people have flights in the afternoon so I'd like to
13 get started close to on time tomorrow.

14 (Whereupon, at 5:25 p.m., the meeting in
15 the above-entitled matter was adjourned.)

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