

NUCLEAR REGULATORY COMMISSION

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Progress of Regulatory Reform

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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MEETING WITH NRC STAKEHOLDERS
PROGRESS OF REGULATORY REFORM

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THURSDAY

OCTOBER 18, 2001

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ROCKVILLE, MARYLAND

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The meeting commenced at 9:00 a.m. at Two
White Flint North, 11455 Rockville Pike, Rockville,
Maryland.

PRESENT:

Chairman Richard A. Meserve
Commissioner Greta J. Dicus
Commissioner Edward McGaffigan, Jr.
Commissioner Jeffrey S. Merrifield

ALSO PRESENT:

UNION OF CONCERNED SCIENTISTS....David Lochbaum,
Nuclear Safety Engineer

NUCLEAR CONTROL INSTITUTE.....Dr. Edwin Lyman,
Scientific Director

CONSTELLATION NUCLEAR.....Robert Denton,
President

SOUTHERN NUCLEAR.....George Hairston,
President and CEO

DETROIT EDISON.....Douglas Gipson,
Executive Vice-President, Power
Generation and
Chief Nuclear Officer

NUCLEAR ENERGY INSTITUTE.....Joseph Colvin,
President and Chief Executive Officer

INSTITUTE OF NUCLEAR POWER Fred Tollison,
OPERATIONS.....Executive V.P.

ELECTRIC POWER RESEARCH Dr. Theodore Marston,
INSTITUTE.....Vice President and
Chief Nuclear Officer

STATE OF CONNECTICUT.....Dr. Edward Wilds,
Director, Division of Radiation, Department of
Environmental Protection

NRC DEPUTY EXECUTIVE DIRECTOR William Kane
FOR OPERATIONS

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1 ALSO PRESENT: (CONT.)

2 NRC OFFICE OF NUCLEAR REACTOR Samuel Collins

3 REGULATION

4 NRC OFFICE OF NUCLEAR Ashok Thadani

5 REGULATORY RESEARCH

6 NRC GENERAL COUNSEL Karen D. Cyr, Atty.

7 NRC SECRETARY Annette Vietti-Cook

8 NRC DEPUTY EXECUTIVE DIRECTOR Patricia Norry

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

(9:00 a.m.)

CHAIRMAN MESERVE: Why don't we get underway. Good morning. I am Richard Meserve. I am the Chairman of the Regulatory Commission. And on behalf of the Commission, I would like to welcome everyone to this meeting with the nuclear regulatory stakeholders on the topic of progress of regulatory reform.

We are pleased to have a panel representing a broad range of our various constituencies, including public interest groups, nuclear utilities, financial communities, nuclear industry associations and the states.

Before I introduce our panelists, I would like to make a few opening remarks.

The events of September 11 and their aftermath have deeply affected all of us in many ways both personally and professionally. While security at nuclear power plants and other nuclear facilities has always been a key concern for the commission, the last five weeks have seen these issues pushed to the forefront. I and my fellow commissioners continue to be fully engaged on these issues and we are determined to see that the American people can have confidence

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1 that our licensees' operations are carried out in such
2 a way as to protect the health and safety of the
3 public.

4 At this time, we are not aware of a
5 credible threat directed at our licensees' facilities.
6 As all of you may know, there was an event last night
7 at Three Mile Island where there was a threat that we
8 had to take seriously at that time that did require a
9 response in various actions by ourselves, our
10 licensees and various other federal agencies. That
11 threat was determined this morning not to be a
12 credible one. In any event, we have maintained a
13 heightened security status since September 11 at all
14 of our nuclear power plants. Licensees have taken a
15 number of steps to strengthen security at nuclear
16 facilities. And the NRC has worked with many other
17 agencies of Government to assure a coordinated
18 response. Staff has also been directed to undertake
19 a top-to-bottom review of the NRC's security
20 requirements so as to assure that there is an
21 appropriate programmatic response to the events of
22 September 11. I expect there will be many changes at
23 the NRC and elsewhere in Government as a result of the
24 heightened nature of the terrorist threat that our
25 Nation confronts.

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1 Other issues that were before us before
2 September 11 are still before us. We must continue to
3 work on these other matters as well. One of the most
4 significant initiatives in which we have been engaged
5 is our effort to risk inform our regulations. We
6 continue to believe that risk insights can be employed
7 to better ensure the safety of our licensees'
8 facilities and operations and we support changes in
9 the regulatory process accordingly.

10 The purpose of this meeting is to solicit
11 the views and concerns of our stakeholders on the
12 broad subject of regulatory reform. This is intended
13 to be an open forum in which we receive input from
14 representatives of the various sectors, take what we
15 hear from you today into account as we move forward.

16 Let me now introduce our panelists and
17 proceed with the meeting. From left to right from the
18 point of view of the audience, our panel includes Mr.
19 Ashok Thadani, Director of the NRC's Office of Nuclear
20 Regulatory Research; Dr. Theodore Marston,
21 Vice-president and Chief Nuclear Officer of the
22 Electric Power Research Institute; Mr. Joseph Colvin,
23 President and CEO of the Nuclear Energy Institute; Mr.
24 David Lochbaum, Nuclear Safety Engineer of the Union
25 of Concerned Scientists; Mr. George Hairston,

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1 President and Chief Executive Officer of Southern
2 Nuclear; Hub Miller was intending to be here, but in
3 light of the events last night is unable to join us
4 this morning; Mr. Robert Denton, President of
5 Constellation Nuclear; Mr. William Kane, NRC's Deputy
6 Executive Director for Reactor Programs; George, did
7 I skip over you? I'm sorry. I'll come back and do
8 the commissioners at the end.

9 MS. NORRY: I'm sitting.

10 CHAIRMAN MESERVE: Pat Norry is here; Mr.
11 Douglas Gipson, Executive Vice-president, Power
12 Generation and Chief Nuclear Officer of Detroit
13 Edison; Dr. Edwin Lyman, Scientific Director of the
14 Nuclear Control Institute; Dr. Edward Wilds, Jr.,
15 Director, Division of Radiation of the Department of
16 Environmental Protection of the State of Connecticut;
17 Mr. James Asselstine, Managing Director, Fixed Income
18 Research for Lehman Brothers; Mr. Fred Tollison,
19 Executive Vice-president of the Institute of Nuclear
20 Power Operations; and Mr. Sam Collins, Director of the
21 NRC's office of Nuclear Reactor Regulation. Sprinkled
22 throughout the panel, of course, are my fellow
23 commissioners, Edward McGaffigan on my right; Greta
24 Dicus on my right; Jeffrey Merrifield on my left; Nils
25 Diaz, as all of you know, has recently rejoined us,

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1 but prior commitments require that he not be here and
2 he asked me to send his regrets that he could not join
3 us this morning. We have senior managers available in
4 the room if necessary to address specific questions in
5 their area of responsibility.

6 With that, let me turn to my colleagues to
7 see if they would like to make some opening remarks.
8 Okay. Let us proceed. I suggest that we proceed or
9 start with our outsiders, not the NRC staff. The NRC
10 staff, of course, will have their opportunities to
11 engage in the discussion. What I suggest we do is
12 sort of walk around the table and ask for people to
13 gave their comments, concerns, issues and so forth.
14 After everyone has had the opportunity to make some
15 opening comments, we can then have a discussion of the
16 principal points. With that, why don't we proceed.
17 And our first speaker is Dr. Theodore Marston.

18 DR. MARSTON: Thank you, Mr. Chairman.
19 This is a real pleasure to be here as a member of the
20 stakeholder committee. My comments today will be
21 focused on the improvements we have seen in the last
22 20 years involved in our risk assessment and risk
23 management program. And I would like to preface my
24 remarks by saying I worked in a number of industries,
25 including petro-chemical, the chemical refining

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1 railroad, etcetera, and who use quantitative risk
2 assessments. But I think the nuclear industry has
3 benefitted the most from that, although I must say
4 that we committed more time than resources into the
5 development of the risk assessment management
6 approach. My comments have been provided to you in a
7 paper that we submitted earlier this year at the
8 request of NEI and it's called, "Safety Benefits of
9 Risk Assessment at U.S. Nuclear Power Plants." The
10 details, really, of the paper outline the
11 transformation from a deterministic compliance culture
12 to a risk-informed safety culture. And I think some
13 of the benefits of this transformation are worth
14 noting. All of the plants have models of expertise
15 and experience with applications. We have seen in the
16 last 10 years that the average core damage frequency
17 has been reduced by a factor of 3. And this is not as
18 a result of modeling improvements, but a result of
19 equipment reliability improvements, performance
20 improvements. With the decrease in core damage
21 frequency, we have also seen an improvement in
22 capacity factor of our plants by over 20 percent. We
23 are running almost 90 percent right now. We have seen
24 the scram rate reduced by a factor of 4. And
25 according to your own calculations, you have seen

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1 significant events reduced by a factor of 10. This
2 has been a very major contribution to this. There
3 have been a number of things outlined in the paper and
4 I will mention in a moment.

5 I think the important thing for the
6 country's perspective that this has now increased our
7 nonemitting contribution to our society. Very
8 important. We are contributing about 70 percent -- 76
9 percent of the nonemitting generation. And that is
10 important when we look at a global climate change
11 perspective. I think four insights from this
12 assessment are important. One we found out that
13 design basis accidents really are not the major
14 contributors to risk. We found the more commonly
15 occurring transients such as trips, loss of outside
16 power and small rate locusts (phonetic) are, in fact,
17 the major contributors. And many steps have been taken
18 to improve that. We also found the dominant
19 contributors are very plant specific. That is an
20 important one. And finally, we found that only a
21 fraction of the traditional safety equipment really
22 contribute to the prevention and mitigation of risk or
23 core damage events. And there are a number of
24 specific examples, which I won't go into. The
25 industry has had a number of voluntary initiatives.

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1 The NRC has also mandated initiatives such as station
2 blackout, the atlas rule and the maintenance rule. So
3 I think we made a lot of progress. However, I think
4 more progress is certainly appropriate in this means.

5 We still have a number of deterministic
6 regulations that we really don't believe contribute a
7 lot to safety but do draw significant resources from
8 both the industry as well as the regulatory situation.
9 And we think that it is important. And some of those
10 events are large rate locust, improvements in service
11 inspection and service testing and single point
12 failure criteria. And I think as we go forward, as
13 the industry becomes more competitive, it is more
14 imperative that we pursue the elimination of not
15 safety significant regulations and resource diversions
16 for a number of reasons. We need our existing fleet.
17 We need to have that license renewed. But also, if we
18 want to have a deployment of new nuclear power plants
19 in this country, which is essential to reduce the
20 carbon dioxide burden that we are contributing to the
21 world, we really have to go a more risk-informed
22 regulatory process. So that is the end of my
23 comments.

24 CHAIRMAN MESERVE: Thank you, Dr. Marston.

25 Mr. Colvin.

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1 MR. COLVIN: Good morning and thank you
2 very much, Chairman and ladies and gentlemen for the
3 opportunity to be with you today. I would like to
4 focus my comments really in two areas. The first is
5 on the regulatory oversight program and risk informing
6 of regulations; and secondly, a few comments about
7 moving forward with new nuclear power plants in the
8 United States.

9 With respect to the regulatory oversight
10 process, it is clear that the Nuclear Regulatory
11 Commission working with the stakeholders has made
12 almost incredible progress from the standpoint of
13 revising the regulatory oversight program and putting
14 in place a system that is transparent with a clear
15 focus on safety and providing the types of indicators
16 and measures and to provide a reasonable approach for
17 both the public, for our companies and for the NRC to
18 look at in how we provide the necessary oversight that
19 the NRC provides to ensure the safety of the public
20 health.

21 The biggest challenge that we have moving
22 forward, while we made tremendous progress on that, is
23 now go back and take a look at the regulations we have
24 and revise the regulations that we have to incorporate
25 these risk insights and the performance-based

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1 approaches consistent with those used in the
2 regulatory oversight program. We put a lot of effort
3 in this and made some progress, but quite honestly,
4 that progress is slow. And most likely, at least in
5 my opinion, the reason that we haven't made some of
6 that progress really relates to what I would
7 characterize as cultural issues that exist both within
8 the industry and within the regulatory body. We need
9 to streamline some of the processes and make some
10 appropriate changes.

11 We submitted a letter to the commission on
12 September 10 that provides a lot of the details and I
13 won't take time this morning to go into those, but we
14 think there are some opportunities to significantly
15 improve the processes and achieve some of these gains
16 in these programs while still maintaining the
17 necessary focus on safety. Just one example perhaps,
18 we got a lot of the programs where we have bundled
19 some fundamental -- or I guess proposals and also
20 perhaps some future types of work that needs to be
21 done that have been bundled together with some issues
22 which, in fact, can be dealt with on an accelerated
23 basis. While some of that information needs to be
24 dealt with, it doesn't necessarily need to be dealt
25 with with the issue that is most at hand and most

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1 important. And again, our letter focuses on that.
2 And we are continuing to work with the agency and with
3 the other stakeholders in moving these processes
4 forward.

5 But the second point I wanted to make
6 really relates to new plants. And Ted Marston kind of
7 alluded to this, but I just wanted to make the point
8 that even after the events of September 11, our
9 interests from the industry standpoint, in new nuclear
10 power plants has not diminished in the least and in
11 many ways has been accelerated in our thinking because
12 our nuclear power plants provide a very, very
13 important part of our Nation's critical infrastructure
14 our electricity supply. And as we look to issues
15 related to energy security of our nation, nuclear
16 power plants and using uranium fuel, provide a very
17 important part of our future thinking. We are still
18 moving forward working with the commission, with
19 individual utilities and through NEI on early site
20 permitting programs and planning. We are still
21 intending to move forward in those areas. We are also
22 continuing our activities to work with the agencies on
23 issues relating to the combined operating license.

24 One of the areas that we have a great
25 benefit and new opportunity in new plants is to

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1 develop a new risk informed framework for the
2 licensing of these new nuclear power plants. We have
3 a lot of experience in the many, many years of reactor
4 operational experience. And if we take that and, in
5 fact, look at what we have done in the regulatory
6 oversight program and the risk informing of the
7 regulations that we have underway, I think we have
8 some great opportunities to start out in a new and
9 better way than we did the first time around.

10 There are a number of things we need to do
11 in working with the commission on and staff on -- part
12 52.

13 Still some issues that need to be dealt
14 with, programmatic high-tech, generic treatment of
15 environmental issues relating to new plants.
16 Obviously, you are doing a lot of work in the hearing
17 process and issues relating to Price Anderson coverage
18 and how all those pieces fit together and integrate.
19 As we really intend to move forward, we look forward
20 to the commission's and staff support to work on these
21 important issues as we deal with the other issues that
22 are currently before us. Thank you very much.

23 CHAIRMAN MESERVE: Mr. Lochbaum.

24 MR. LOCHBAUM: Good morning. I think one
25 area we would like to point out as the greatest gains

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1 in recent time has been the area of public
2 participation. In the five years since I joined UCS,
3 there has been tremendous improvements in the area of
4 public participation. The public meeting process over
5 the last year is a lot better than it was two, three
6 years ago. And I think that those initiatives that
7 are underway and already realizing improvements are
8 going to help public acceptance of what our regulatory
9 reform agency undertakes. And although there has been
10 some bumps in the road and some problems with public
11 meetings in other areas, I think the gains justify
12 continuing the process and working around those bumps
13 or tolerating the bumps and proceeding forward with
14 the initiatives that are already underway.

15 As far as the regulatory reforms
16 themselves, we continue to believe that the biggest
17 flaw in the process is the quality and scope or the
18 risk assessments that are being used to drive the
19 regulatory reforms. The risk assessments pretty much
20 are limited to in analyzing risk of power reactors
21 operating at power. Low power shutdown risk is pretty
22 much excluded from the risk analysis. Spent fuel
23 safety is excluded from the process. And sabotage is
24 excluded from all, including the full power risk.
25 Therefore, there is not a complete picture of the risk

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1 and you can't make risk informed decisions if you
2 don't have a more complete understanding of what the
3 risk is.

4 Related to that or just as important as
5 that is the process itself. The back fit rule
6 protects licensees from undue addition of improvements
7 that do increase safety levels at the plants but which
8 don't have a corresponding cost benefit. So
9 therefore, the agency cannot impose a new requirement
10 that clearly improves safety unless it is shown to be
11 cost effective. But the reverse of that, which the
12 agency has as its top priority, going from a higher
13 level of safety to something less than that -- equal
14 or less than that, isn't protected under the same
15 formal analysis. Basically a requirement can be
16 eliminated or lessened simply by agreement between the
17 agency and the industry. It seems unfair or it is
18 unfair. And unless there is equal protection for the
19 public against reduction or elimination of
20 requirements as there is for the industry when new
21 ones are imposed, the process itself is flawed and
22 there can be mistakes made that reduce safety. Since
23 one of the NRC's performance goals is to maintain
24 safety, it would seem necessary that that kind of

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1 process equivalence be provided before any more risk
2 reductions are made. Thank you.

3 CHAIRMAN MESERVE: Mr. Hairston.

4 MR. HAIRSTON: Thank you, Mr. Chairman,
5 Commissioners and others in attendance. I have been
6 asked to talk on public confidence. I think we drew
7 straws and somehow I got the short end. And as I
8 thought about, you know, in times like this, what do
9 you say about public confidence? And surely as the
10 winds of war blow across America for the first time in
11 150 years, this is an important topic. Public
12 confidence, what does it mean? The commission has
13 appropriately identified this as one of your strategic
14 goals. I assure you that establishing and maintaining
15 a high level of public confidence in us and in our
16 regulator is essential to our current and expanded use
17 of nuclear power and technology.

18 As with the book, there are many story
19 lines that play out. Today, I would like to talk
20 about two, two factors that affect public confidence.
21 The first is how well we operate our plants today. It
22 is essential that we continue to improve our
23 operations, our safety. Our reliability is at an all
24 time high. This past Wednesday -- yesterday, I was at
25 INPO talking to 10 or 12 plant managers. And

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1 certainly what I had to say to them changed a little
2 bit after September. And all of us were 50, 55, 60
3 years old and we can't go join up. Most of us have
4 served, but there is something we can do for our
5 Nation and that is to renew with vigor the excellence
6 in which we operate our power plants. Our power
7 plants are an essential infrastructure of the U.S. and
8 we can do no less than to operate them with vigilance
9 and vigor.

10 The second factor, I think, affects public
11 confidence is the regulatory process. I want to make
12 a few comments about that. First, deliberate and
13 timely decision-making improves public confidence.
14 Certainly the work that has gone on over the last 10
15 years on the regulatory reform, the many inputs from
16 the stakeholders, the feedback from the stakeholders,
17 has increased public confidence in nuclear power. The
18 transparency of the process alone is not sufficient.
19 Transparency only provides a window on the regulatory
20 process. Confidence is built when the public views a
21 process that includes a deliberate evaluation of the
22 issues, due consideration of all the stakeholders,
23 practical application of problem solving and timely
24 decision-making. Rule-making must be conducted in a
25 timely and orderly fashion. Public confidence will be

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1 improved by reducing the duration of this process.
2 Confidence is also improved when the public sees the
3 commission appropriately balance the risk and the
4 benefit of any action. Small uncertainties should not
5 be allowed to obstruct opportunities to quickly
6 capitalize on regulatory improvements that are readily
7 evident.

8 Last, balance. Balance. We have many
9 publics. All have a right to be included. The NRC has
10 a leadership role to ensure that changes are based on
11 need and do not have unintended consequences. We have
12 a system today that works and it works well. Changes
13 -- and surely they will come -- should only be made
14 where they improve our current system. The public
15 expects this. The public demands this. Thank you.

16 CHAIRMAN MESERVE: Mr. Denton.

17 MR. DENTON: I appreciate the opportunity
18 to participate today and this is an excellent forum
19 where diverse stakeholders can participate in public
20 to discuss all facets of nuclear regulation. Today I
21 will concentrate my remarks on the issues associated
22 with attracting, maintaining and managing a skilled
23 nuclear workforce. This workforce is a critical
24 resource companion, the well-designed hardware which
25 constitutes the plant.

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1 In my recent experience, the single event
2 which has enabled the industry to attract and maintain
3 a workforce that has improved the ability of the
4 industry to attract and maintain a workforce is
5 license renewal. This is a regulatory and industry
6 success as far as providing avenues of career path
7 opportunity for many talented engineers and skilled
8 craft which prior to this event were leaving some of
9 our older plants. Certainly, the extension of plant
10 lifetime for up to 20 years has changed the picture
11 dramatically for those plants who have taken advantage
12 of the process. I personally have seen and expect to
13 continue to see renewed interest by young engineers
14 and skilled craft in a career in the nuclear power
15 field. The leadership provided by the NRC in
16 establishing a thorough, predictable process for
17 license renewal has not only renewed the life of the
18 hardware industry, but also the life of the credible
19 resource of the workforce in the industry.

20 There are some challenges also to managing
21 that workforce. Managing the workforce requires
22 recognition of the roles of the regulator and the
23 roles of licensing management. Licensing management
24 is accountable to the NRC for regulatory compliance.
25 And in turn, the NRC has enforcement options available

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1 to ensure this accountability. Likewise, plant
2 employees are accountable to licensees for compliance.
3 Management must be able to enforce accountability when
4 needed. Occasionally such enforcements will lead to
5 allegations by employees. In these situations, I
6 encourage the NRC to be mindful of the need for
7 consistent accountability to licensing management and
8 not accord protection too readily such that employees
9 may be tempted to inappropriately use the provisions
10 for protection merely to shield accountability.

11 Other aspects of performance that are
12 currently being discussed, I believe such as measuring
13 employee performance, I believe employee performance
14 can best be measured by the safety performance on the
15 whole of the plant. Overly prescriptive rules get in
16 the way. Cause discourse that is unnecessary, such as
17 current discussions on permissible work errors. Rules
18 or guidelines we had in place for 20 years that served
19 the industry well. Further discussions I don't
20 believe will lead to any incremental improvement in
21 the safety of the plant. Again, I thank you for
22 inviting me here today. Thank you very much.

23 CHAIRMAN MESERVE: Mr. Gipson.

24 MR. GIPSON: Thank you, Mr. Chairman. I
25 would like to, if I could, just say a few words about

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1 nuclear security and the industry's efforts in our
2 security force and our security plants. Since
3 September 11, the security plants in this country have
4 been on a heightened level of alert. The industry and
5 the regulator made that decision on September 11 and
6 we have remained there. Communications between the
7 regulator at the regional level has been excellent
8 between the region administrators. And communications
9 between the staff and the nuclear industry has been
10 excellent as well.

11 Some of the lessons learned or questions
12 to be answered from September 11 is the role of plant
13 security in support of our national defense; how that
14 will be delineated and how that will be defined.
15 Clearly, we have to decide at what point our civilian
16 security forces meet their objectives in the national
17 government and the defense of the country takes over.
18 That dialog is ongoing at the congressional level as
19 well as the industry level and, of course, with the
20 regulators. We feel that our plants are probably the
21 most hardened facilities in the country. They are
22 industrial security forces and they are not military
23 forces. They have functioned well in the past and we
24 continue to work on improving our security process.
25 We need clear and comprehensive rule-making from our

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1 regulator to ensure that our security programs remain
2 not only robust as they are at this present time, but
3 that we continue to improve them.

4 The industry has been working with the
5 regulators and we have a security working group. Many
6 of the stakeholders in this room have attended
7 meetings where we have openly discussed these plans
8 and our idea about rule-making and how to go forward
9 with rule-making. One of the industry's endeavors is
10 to ensure that that rule-making is clear, measurable
11 and realistic security requirements. Inspection and
12 evaluations must be consistent with the rule and
13 performance should be measured against the
14 requirements. And there should be continuous learning.
15 There should be a disciplined management process to
16 resolve issues and ensure that the learning is
17 incorporated not only in the facilities that are
18 practicing and participating in our safeguards
19 programs, but that information is also shared with the
20 other licensees and owners of nuclear facilities
21 across the country.

22 The industry will remain focused on
23 security requirements. We live around these plants.
24 We work in these plants. And it is our obligation to

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1 ensure that these plants are not only operated safely,
2 but that they are protected as well.

3 So we look forward working with the
4 industry going forward on rule-making. And we will
5 continue to do our part to communicate with the
6 regulators.

7 Just one area that I would like to just
8 mention is the sharing of information. Since
9 September 11 and this heightened level of security
10 that we are at, sharing of information is not
11 necessarily in the best interest of the public with
12 respect to what the response actions of the plants are
13 and the response action of the regulator. So to that
14 end, we, as an industry, are asking that everybody act
15 responsibly with respect to sharing of information and
16 how information is delineated. And I think the
17 commission did a good job and their staff did a good
18 job of immediately recognizing this and moving to a
19 safeguards mode with security information. That
20 concludes my remarks.

21 CHAIRMAN MESERVE: Thank you. Dr. Lyman.

22 DR. LYMAN: I would like to thank the
23 Commissioner for the invitation to participate here.
24 Security, obviously, is at the forefront of our
25 concerns at the Nuclear Control Institute. And it has

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1 had a pretty direct impact on my ability to
2 participate in today's meeting. And I refer to, of
3 course, the absence of most of the material on the web
4 site. Ordinarily, I may have -- in preparing for a
5 meeting like this, there are certain issues that I
6 track. I would have tried to get the most recent
7 information. It wasn't possible. So if it sounds
8 outdated, there is a reason. I mean, I think I would
9 like to stress the availability of information at this
10 point is a very important issue. But this information
11 largely is already out there. And I think the
12 response of trying to compartmentalize and protect as
13 much information which has -- which can arguably have
14 safety or security significance, but also arguably
15 doesn't, will really impair the ability of the public
16 to participate and maintain a level of confidence.

17 So I would urge the process of bringing up
18 the web site to be done as soon as possible and a
19 defensible boundary be drawn between what is being
20 made available to the public.

21 Other aspects of security, I think, is
22 crosscutting every realm of safety. And one is the
23 issue of the current vulnerabilities of nuclear power
24 plants. And I do appreciate the Chairman's comments
25 on focusing the commission on this issue, but we are

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1 not convinced. And I think there is still a great
2 deal of concern among the media and the public that
3 response has not been adequate, at least what is
4 visible, leading to inconsistencies that vary from
5 state to state. Some states have now called out the
6 National Guard. Others nearby have not. And that
7 leads to, I think, an overall confusion of what the
8 actual threat is and the actual response.

9 Security also impacts a whole variety of
10 other issues, including construction of new
11 facilities, some of which are now in progress. And I
12 refer particular to the mixed oxide fuel fabrication
13 plants. It seems to me that any new licensing
14 procedure really has to be postponed until review of
15 the regulatory commission takes place. And that is
16 why we have signed on to a petition with a Georgian
17 public interest group to that effect.

18 Other issues, mixed oxide fuel programs,
19 I think, really have to be looked at in a secured
20 environment. Various initiatives -- for instance, the
21 downgrading of security requirements for storage of
22 fresh plutonium fuel reactors seem to be on the way
23 things were going before September 11. I hope issues
24 like that also be given a hard look.

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1 Now the relationship between security and
2 risk information which Dave Lochbaum previously
3 discussed is a very good one. There is no way to
4 assign a defensible risk number to a sabotage attack.
5 Any kind of informed risk initiative now has a
6 variable in it. And one has to think hard about
7 issues about whether we can reduce conservatism in
8 regulations without having a disproportionate risk of
9 a terrorist threat. I really hope that is going to be
10 looked at.

11 Moving on, I would like to site a number
12 of risk information issues that in the overall context
13 that I am concerned about. One is risk informing
14 combustible gas regulation particularly with
15 relationship to -- (inaudible)

16 VOICE: Could you please use the
17 microphone.

18 DR. LYMAN: I am concerned that parts of
19 the Rule 5044 which are cited to be too onerous be
20 thrown out. That is going on a fast track, while
21 addressing the issues about potential vulnerabilities
22 like ice condenser plants and additional requirements.

23 Another issue, extended power upgrades.
24 These are in the works. Some of them were very large.
25 Fractional percentage power increases, I haven't seen

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1 any risk analysis of those particular applications,
2 and which I think are highly significant. So this is
3 just a scattering, but my own opinion. Thank you.

4 CHAIRMAN MESERVE: Dr. Wilds.

5 DR. WILDS: Good morning, Mr. Chairman,
6 and thank you for inviting Connecticut to be here. I
7 am just going to focus on one topic. I think that in
8 going forward with risk informed regulations and
9 security both, NRC is going to have to develop a more
10 effective relationship with the states. The states are
11 clearly involved at the nuclear power plants, not
12 directly in nuclear safety issues, but on other
13 issues. And if that partnership isn't formed, there
14 may be, you know, conflicts or disconnects in what the
15 licensee needs to do to meet both the state
16 requirement or an NRC requirement.

17 I think since September 11, everybody is
18 noticing that the states do have a role down at the
19 power plants. We have probably been at more meetings
20 with various state agencies and the licensees in our
21 states in the last month than we have had in the last
22 year. So that is where I think, you know, I am going
23 to keep my comments on is that we do need that
24 effective partnership with the states and the
25 recognition that what is done by the NRC or the states

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1 both impact the licensee and that we have to make sure
2 that there is no conflicts. Thank you.

3 CHAIRMAN MESERVE: Mr. Tollison.

4 MR. TOLLISON: Thank you, Mr. Chairman,
5 commissioners, ladies and gentlemen. At INPO, our
6 charter is to promote safety and reliability in the
7 commercial industry and to promote excellence. And I
8 have a few comments today on two topics. First is the
9 current performance of the industry as we see it from
10 INPO's point of view. And second, a few words about
11 our activities to help improve the self-assessment and
12 corrective action activities of our membership.

13 First the industry performance:
14 Performance indicators, which are one indicator of our
15 performance in the industry, at the end of the year
16 2000, reflect the industry's continued improvement and
17 safety and reliability. The first time in history at
18 the end of the year 2000, all 1010 performance
19 indicators were met or exceeded by the industry. I
20 will mention just a couple. First unit capability
21 factor, the industry median value reached an all time
22 high of 91 percent. For unplanned capability loss
23 factor, the industry median value was a new low of 1.7
24 percent. And for unplanned reactor scrams, the median

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1 value continued to be zero for the fourth consecutive
2 year.

3 Every five years since 1985, the industry
4 has set more aggressive goals for itself. And today,
5 median performance has reached the point to where, in
6 our view, there is reduced value in setting more
7 aggressive performance goals for most indicators.
8 Instead, we believe it is now more appropriate to
9 shift focus toward helping more plants achieve these
10 goals to achieve the current high level of industry
11 performance. So this shift in approach brings
12 attention to the outlier plants, as we call them, to
13 help us channel our resources to better help the
14 plants have the greatest room for improvement. For
15 example, the new 2005 goal just set for unit
16 capability factor is 91 percent. And that figure is
17 a very high one. And it is precisely the median level
18 that the industry achieved at the end of 2000. But
19 only half the plants, those at the median or above,
20 are achieving that level of performance.

21 So our job at INPO in part is to help the
22 outlier plants improve their performance and safety
23 and reliability standards while ensuring that the
24 better performers continue to maintain their current
25 high level.

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1 To accomplish these goals, the industry
2 needs a strong capability and self-assessment and
3 corrective action. And this is equivalent, Mr.
4 Chairman, to the problem identification and resolution
5 element of the revised oversight process. We believe
6 INPO has an important role to play in helping the
7 industry improve in this area. The concept of
8 self-assessment and corrective action underscores
9 INPO's mission of promoting excellence. In fact, any
10 organization that seeks to achieve excellence must
11 first instill a culture that values self-improvement.
12 This area has become more important over the last few
13 years. We have continued to build it into our
14 evaluation and assistance activities with our
15 membership. During the past 15 months, we have been
16 evaluating the industry's self-assessment and
17 corrective action programs against a set of principles
18 we first published in 1999. We are seeing many
19 programs that are working well and frankly, some that
20 need improvement to fully support long-term, high
21 performance of the station. These programs can be
22 improved in part through more aggressive benchmarking
23 against best practices in the industry. Facilitating
24 this benchmarking process is one of INPO's core
25 competencies.

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1 We encourage the NRC to recognize the
2 value and effectiveness of the input in this area.
3 And we hope that NRC will accept as it did with the
4 training issue many years ago that these efforts
5 reduce the need for NRC oversight and self-corrective
6 action. INPO and the NRC have worked to minimize
7 unnecessary overlap between our activities and to
8 focus our respective resources in ways that best
9 support our missions. The issue of self-assessment
10 and corrective action is another example where this
11 approach can benefit the NRC, INPO, the utilities and
12 the general public. We are confident of the
13 industry's ability to make progress in this area --
14 further progress. And we will work hard -- we will
15 work hard to make sure this happens.

16 Thank you for this opportunity to
17 participate today.

18 CHAIRMAN MESERVE: I would like to thank
19 all of you for your comments. You have raised a
20 number of issues that are really central to the things
21 that the NRC has been engaged over the past year and
22 which I am sure are going to be matters that will
23 consume us over the next several.

24 Let me turn now to my colleagues and give
25 them an opportunity to comment or ask questions or

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1 probe further on the issues that have been raised this
2 morning.

3 First Commissioner Dicus.

4 COMMISSIONER DICUS: Thank you, Mr.
5 Chairman. I will make a couple of rather brief
6 comments based upon some of the things that we have
7 heard this morning. I know the Union of Concerned
8 Scientists, in your submitted -- in the letter
9 submitted, expressed among other things some very
10 positive statements. And thank you. We do appreciate
11 those.

12 Also, you expressed some concern that you
13 think that in our regulatory reform, we concentrate a
14 lot on the economic viability and maybe less so on
15 some of the safety issues, license renewal, grant in
16 work in progress and resolution of safety issues,
17 etcetera. And we need to be very mindful that we do
18 have this balance. And the term balance has certainly
19 been used more than once this morning. But I think in
20 all fairness, it clearly -- in our monthly reports to
21 Congress, which we are still providing, we do, I
22 think, balance. The most recent month's letter did
23 inform Congress of the CRDM cracks and what we are
24 doing about that. And certainly right now, we have the
25 security-related issues. So I think there is a

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1 balance. You feel concerned about it. So obviously
2 that is something that we will watch very closely.

3 I want to address the issue also that was
4 brought up by Mr. Denton on the need for a good
5 workforce, a qualified workforce and the availability
6 of a workforce. And I think us and the industry are
7 sharing some concerns. And clearly, we have addressed
8 this with Congress. We are very much aware of it.
9 And we are working within our agency to try to address
10 some of the issues that we see that could impact us.
11 I would like to point out this is also an
12 international issue. So it's not particularly the
13 product of the United States.

14 I had conversations last week with
15 counterparts in Mexico and also with the industry in
16 Mexico. And they expressed the same sort of concern
17 to me. I also visited a medical facility there and
18 was struck by the limited number of people that they
19 had available for a very, very busy oncology practice
20 that they had there. So we have this issue to deal
21 with. And I think we are quite aware of it and we are
22 trying to deal with it to the best extent we can.

23 And then finally have to address the issue
24 of working with the states. As you well know, I hold
25 that concept quite dear to me. And I think you

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1 brought out a very important point, that in the crisis
2 that we have been dealing with since September 11,
3 certainly become even acutely aware -- and I think we
4 have always been aware what the state capabilities
5 were, but even became more acutely aware, even with
6 the communication in working together. And I would
7 suggest also that the industry be very aware of the
8 capabilities you have in your own back yard and be
9 able to utilize those to the extent possible. Thank
10 you, Mr. Chairman.

11 CHAIRMAN MESERVE: Commissioner
12 McGaffigan.

13 COMMISSIONER MCGAFFIGAN: Well, I would
14 agree with the chairman. There is a large number of
15 issues that have been brought up. A lot of them are
16 issues that -- all of them are issues that we have
17 been working on.

18 I guess I will just briefly talk about
19 risk informed regulation because my colleague to my
20 left, Mr. Lochbaum, raised it. And I think that what
21 we have been doing has been appropriate. I don't
22 think that the -- you know, that there has been a
23 tremendous success in recent years in risk informed
24 regulation. That does not mean that we have perfect
25 PRAs for all of the plants for all phases of

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1 operation. But it means we have had PRA results good
2 enough to make the decisions that we needed to make.
3 And I think we have been documenting those decisions
4 as we have made them.

5 I remember when we did the revised source
6 term. We had a very comprehensive rule-making. And
7 we went through why we thought that rule would not
8 only improve safety, reduce the unnecessary burden.
9 We thought that was a win all the way around.

10 Dr. Lyman mentioned the combustible gas
11 regulation that we are likely to change very shortly.
12 It is a comprehensive paper that we put out last
13 September by the staff as to why they thought that
14 regulation was appropriate. And they raised some
15 issues with regard to ice condenser and the BWR Mark
16 III containments, but they were different issues.
17 They were issues that we needed to -- that we needed
18 to address as we went forward. And the staff is
19 currently suggesting we deal with those issues as a
20 generic safety issue rather than rule-making itself.
21 We have been very transparent as we went through that
22 process.

23 I think Mr. Lochbaum's comments that we
24 don't necessarily go through the same rigorous
25 analysis as we do for a new regulatory requirement.

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1 But I think it is incumbent on people we do these
2 things in the open. We have very voluminous
3 rule-making packages. If people want to comment that
4 they don't think we are justified in reducing the
5 burden and quantifying the costs, I think those are
6 fair comments. But our rule-making process requires
7 regulatory analysis whether it is a new requirement or
8 a reduction in a requirement. The major difference
9 for the new requirements, as I understand it, is not
10 just that there has to be a cost benefit analysis --
11 that it shows the benefits exceeds the costs -- but
12 that there has to be a substantial increase. So -- and
13 people probably have read my votes. I am not wild
14 about the substantial increase test. But I am very
15 supportive of the cost benefit criterion and that that
16 needs to be part of our process. As I say, I think it
17 is. It has been in the rule-makings that I can recall
18 recently that we have done that have been so-called
19 risk informed rule-makings. It is intended to be in
20 the ones we intend to do in the future. And I think
21 we need to have comments on specific rules if people
22 believe that we are reducing burden without justifying
23 why we think that reduced burden will maintain safety.

24 CHAIRMAN MESERVE: Thank you, Commissioner
25 McGaffigan. Commissioner Merrifield.

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1 COMMISSIONER MERRIFIELD: Thank you, Mr.
2 Chairman. I agree there is a lot of things on the
3 table. There's a couple of issues that I would like
4 to have people focus on and respond to some of the
5 things that were said this morning.

6 The first one I would direct to Drew
7 Colvin. I would be interested as a followup in your
8 thoughts of going forward on risk informing our
9 regulations; where we ought to be putting our
10 priorities. One of the things we recognize now is
11 that risk informing our regulations is not easy and
12 requires a fair amount of staff and other resources,
13 resources which your members are picking up 96 percent
14 of the bill at this point. And given all of the other
15 things that we have going forward, the possibility for
16 new reactor orders, license renewals, license
17 transfers, grappling with the safety issues subsequent
18 to September 11, from a resource standpoint, is there
19 sufficient interest within NEI to pursue these
20 activities? So that would be something I'm interested
21 in from your perspective in going forward.

22 To Mr. Lochbaum, I appreciate the kind
23 comments about the NRC and our staff. And I agree
24 with you. I think it is a lot better than it was
25 before I became a commissioner three years ago. I was

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1 -- I had my interest peaked by some of the comments
2 you made about our looking at some of our regulations
3 in our efforts to reduce unnecessary burden; have we
4 cut the margins on safety. You said perhaps we hadn't
5 met our goal of maintaining safety but, in fact, we
6 reduced safety.

7 I am reminded of an analogy -- and I know
8 you make them very often. Our Nation has many, many
9 fewer nuclear missiles than we did 10 years ago. Is
10 that because we got rid of a whole bunch? Does that
11 make us any less safe? And I think the clear answer
12 in that case is no. I think an analogy could be made
13 to the plants. Just because we have gotten rid of
14 some unnecessary regulation, doesn't mean we are any
15 less safe. But I would be interested in specific
16 examples you have where you believe rather than
17 maintaining safety, we have, in fact, eroded it.

18 To Dr. Lyman, I appreciate the comments on
19 security. I think we are all grappling with that
20 around here. One of the issues for me as a
21 commissioner in dealing with our licensees is how do
22 we go about drawing the line. We are a nation of laws.
23 And we have as an expectation, that as citizens,
24 either as industry people or as private citizens, that
25 we are going to be protected by our local and state

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1 police and by our Federal Government and our military.
2 We have as our regulations, required our licensees to
3 reply to a design basis event. And I think in
4 comparison, having seen 87 units in the last three
5 years, I think our licensees have very robust
6 structures in order to do that. We need to reassess
7 in going forward what else we think we need to impose.
8 But there is a quandary of how much do you impose on
9 a private citizen to defend themselves. Certainly, as
10 residents in our own homes, it is reasonable to expect
11 we lock the doors and keep the keys out of our cars
12 and button up to the extent that we can. But in an
13 increase to rising crime in our neighborhoods, the
14 Government doesn't expect us to arm ourselves and buy
15 shotguns and handguns. We expect the police to
16 respond when we call. So I am interested in hearing
17 a little bit more from you how we, as a commission,
18 may go about defining that line. What is appropriate
19 for us to impose on our licensees given our Nation's
20 desire not to have a lot of armed militias around and
21 what is appropriate for the federal and state
22 government to assume that we have the robust security
23 at these plants. Thank you, Mr. Chairman.

24 CHAIRMAN MESERVE: Thank you, Mr.
25 Merrifield. Commissioner Merrifield has raised a few

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1 issues in which he would like to get a response.
2 Before we return to those, let me just add d two more
3 and we will get the people he has directed the
4 questions to a minute to think about the responses.
5 And I will lay out a few more for evaluation.

6 Several of you have mentioned the
7 importance of openness and about our processes as
8 being an important vehicle for us to have informed
9 decision-making and to establish public confidence.
10 One of the things that we have learned as a result of
11 the September 11 event is that there are concerns by
12 many about some of the information that we have made
13 available as part of that process. And it is a very
14 painful kind of decision we make in that I think in
15 trying to address this issue in that I have thought
16 that it critically important for the NRC's capacity to
17 achieve public confidence is to make sure we reach our
18 decisions in the open, that we explain why we made our
19 decisions, have the information that is the foundation
20 for the decisions be publicly accessible so that all
21 can understand how we have reached our decision. They
22 may not always be happy with them, but at least they
23 can understand the thought process that we have gone
24 through, and the concern being that things that are
25 done in secret would be presumed to have been made for

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1 improper motives. So openness has been a critical
2 thing for this agency to -- as a means by which we can
3 do our work. We get the benefit of input we get from
4 all stakeholders. I think we make better decisions as
5 a result. September 11 has brought home the reality
6 that there may be some types of information that we
7 cannot disclose. So I would be quite interested in
8 peoples' suggestions as to how we can draw this
9 boundary in an appropriate way.

10 Second question I would like to raise is
11 one with Dr. Wilds. You indicated that you think
12 there are improved ways in which the NRC can interact
13 with the states. And I would like to come back to you
14 and get some more concrete suggestions from you as to
15 things that we are not doing that we should be doing.
16 We see the states as important partners with us in the
17 regulation of nuclear matters. And if you have some
18 concrete suggestions as to how we should improve what
19 we are doing, I think it would be valuable for us to
20 hear them.

21 Let me turn now to the first question that
22 Commissioner Merrifield has raised to Mr. Colvin,
23 which was the question of given the range of
24 activities that we have before us, how should we set
25 our priorities.

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1 MR. COLVIN: Mr. Chairman, thank you. Let
2 me try to respond briefly to Commissioner Merrifield's
3 question. I think the real issue is how we look to
4 the priorities in working with the commission and
5 staff and the industry to set those. I think, first
6 of all, the question of priorities is working really
7 well, the setting process, the discussion kind of
8 coming to a common agreement what is more important,
9 which has the highest priority, so on and so forth.
10 And the industry's proposals and petitions to the
11 commission have really fit within that framework,
12 which I think is working pretty well.

13 I think the area that we really need to
14 focus on is really how to, as I mentioned in my brief
15 comments, improve the processes. For example, the
16 commission has SECY 0113 which relates to ECCS and so
17 on. We think there are some real opportunities to
18 extract the key issues where there is a great benefit
19 without a long delay in the process and bring those to
20 bear while in parallel, working on some of the more
21 fundamental or foundation work.

22 If we go to the question of hydrogen
23 recombiners as an example, I think that question was
24 raised here. And the staff and the commission -- as

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1 Commissioner McGaffigan has indicated, has really
2 taken a thorough look at that.

3 There are issues related to ice condensers
4 and Mark III containers that need to be dealt with,
5 which are referable to hydrogen control. So that is
6 an example of what is really working properly.

7 There are some issues I think we can move
8 quickly on. For example, I think you could go to a
9 direct final rule to adopt the American Nuclear
10 Society height standards while we are in parallel
11 doing some of the other foundational work on issues
12 which in many ways is an analogous example to the
13 issue of hydrogen control. So if you go to large
14 break locust issues (phonetic) and the type of studies
15 that probably are appropriate to be done in the
16 meantime, there are a lot of analyses and interim
17 steps that can be taken. We can come up with
18 methodologies that look at appropriate different
19 sizes. And perhaps through that process, eliminate
20 that.

21 I guess the last thing is we really need
22 to focus on what's important to overall safety. You
23 know, we are spending a lot of time, I say, on the
24 issues which we all agree are high safety importance.
25 And where we can really gain the risk in sites, we are

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1 spending -- we are all in agreement for the most part
2 on those. It is the issues of where we are spending
3 the most time and dragging out the discussions or on
4 the issues which have almost no or low safety
5 significance. We have a workshop -- the NRC is
6 sponsoring coming up in November, an all-day workshop
7 on low safety significance; how we treat these low
8 safety significant systems. Now it is an important
9 issue, but that is a question of where we are
10 providing the appropriate balance. And I think we can
11 move in a more effective process to move more quickly
12 to deal with what's appropriate and not go through the
13 back and forths on these issues. And that is where we
14 have the biggest gain. The process issues and how we
15 deal with them provides us the benefits. It is not
16 that we want to circumvent that, but to figure out a
17 way to move it forward quickly and use the agencies
18 and comments and fiscal responsibility and user fees.
19 But I think it's really how we provide collective
20 resources. And I will be happy to talk about that
21 perhaps in more detail. And certainly we can
22 entertain any other discussions with the commission,
23 with staff, on those issues.

24 MR. COLLINS: Joe, just to be sure we are
25 aligned on one of your comments, the purpose of the

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1 meeting in November is for option 2. Option 2 is not
2 just low safety or risk significant issues. It covers
3 all four areas of the spectrum, which includes high
4 safety, high risk and treatment applies to all four of
5 those areas. We are moving forward, I think, rapidly
6 with that. The reason we are having the meeting in
7 November is because NEI was not prepared to have the
8 meeting in October. So I want to be sure we are
9 aligned. with you on that.

10 COMMISSIONER MCGAFFIGAN: I might pile on
11 here, too. I know the staff gave -- the commission
12 gave the staff the authority to go out before the
13 rule-making started with every member of the public to
14 have a chance to see the options they were considering
15 with this so-called open 2 rule-making. There are
16 three options out there. And the paper discussed --
17 and I think -- I don't think we have a fixed position
18 going into that discussion with our stakeholders as to
19 which of those three options we are going to put
20 forward. I think there is honest disagreement within
21 the staff. But that process of putting the rule out
22 even before we have proposed it, we have used in other
23 cases, primarily in the materials area. It has served
24 us well. As somebody suggested, we needed to do, but
25 that doesn't mean we are necessarily going to agree in

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1 the end. We are going through on a formal process and
2 will make a final decision. But I think option 2 is --
3 shouldn't be an area where there's a problem at the
4 moment. I think the idea -- we finished the south
5 Texas exemption -- was it early August, Sam? And we
6 had three options for rule-making options in
7 September. I suggest you guys go deal with EPA. If
8 they get a rule-making in '91 and finish by 2001, that
9 is pretty good. Sure in much better shape with us.

10 MR. COLVIN: Mr. Chairman, let me comment
11 on this. This is not meant as a criticism. I think
12 there is lots of improvement in the process and I
13 won't get into who is ready and who's not. We really
14 want to move forward. I think the question
15 Commissioner Merrifield asked how do we, in fact,
16 bring together the right priorities and, in fact, make
17 the appropriate judgments on what we want to work on
18 and what we ought to allow those resources to be used
19 in different areas. And that is really the purpose of
20 where I think all of our collective discussions should
21 go.

22 COMMISSIONER MERRIFIELD: I think this was
23 brought to a head by some of the efforts related by
24 National Fire Protection Association 805. We are
25 trying to risk inform the fire requirements of part

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1 50. And we came up with a proposal for which there
2 was zero industry interest in moving forward on that.
3 I know our staff and NEI credits -- and we are
4 engaging with other stakeholders to come up with
5 something that makes sense and something positive out
6 of that effort. It is clear to me to the extent that
7 we are communicating what we think it is going to cost
8 us to do these various efforts. And if at the end of
9 the day only a small number of utilities ultimately
10 want to take advantage of some of the things we are
11 coming up with despite what may be some significant
12 regulatory costs from those, from a budgetary
13 standpoint, the five of us have to make the decisions
14 everywhere. Is this the right place to spend the
15 money? And that was the genesis I was trying to come
16 from with the questions.

17 MR. COLVIN: I appreciate that. On each
18 of these issues that are either paid for through
19 specific licensing fees paid by an individual licensee
20 or paid through by the generic funds which comes out
21 of the whole industry's pockets, I have the same
22 obligation with NEI and the board of directors to make
23 sure we are focusing the resources appropriately also.
24 So I appreciate that comment.

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1 CHAIRMAN MESERVE: Before we move on to
2 Commissioner Merrifield's second issue, let me ask if
3 there is anyone else who has comments on this priority
4 setting issue. Ashok.

5 MR. THADANI: Thank you, Chairman. I
6 think in principle I believe we are in complete
7 agreement. And I think we have had some successes,
8 5044 in terms of looking at recombiners up front and
9 then taking time to study better the issues with the
10 ice containments and Mark III containments. That is
11 the path, as you know, we are on.

12 Similarly, you refer to rule 5044, the
13 ECCS requirements. Again, in the proposal paper that
14 we sent to the commission, the thought process is
15 really similar to what you are talking about, meaning
16 there are things we can do in the nearer term and then
17 there are others that would take some more time. In
18 fact, that is what we are doing now. In fact, we have
19 two options which we expect to complete on a technical
20 evaluation in the next few months, as a matter of
21 fact.

22 We do have to, also, it seems to me, not
23 ignore the issue of making sure we have a sound
24 technical basis for making changes. There are a
25 number of issues about risk analysis that need to be

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1 looked at fairly carefully. So I think there are some
2 fundamental areas if we do make changes to those, such
3 as a definition of size or break and so on. We do need
4 to make sure that we fully understand the implications
5 of those changes in terms of safety. And I think
6 broadly our goal is the same as yours.

7 You raise the issue of the ANS decay heat
8 standards. I can tell you, yes, indeed, on surface,
9 it looks like it should be a fairly easy thing to do.
10 But there are some issues with the models. And so one
11 has to consider all factors that are going to impact
12 safety in an important way. And I am not talking about
13 an issue of small uncertainties. We should not let
14 small uncertainties hold us back. Some of these
15 issues go well beyond that.

16 CHAIRMAN MESERVE: Let's turn to the
17 second subject that Commissioner Merrifield raised,
18 which is directed at Mr. Lochbaum, about whether there
19 are some specifics where there's concern whether there
20 is an appropriate slashing of the safety margin.

21 MR. LOCHBAUM: In the letter we provided
22 for today's meeting dated October 18, we listed three
23 examples of requirements that had recently been what
24 we felt were lessened without proper justification.
25 The first being the notice of enforcement discretion

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1 that was granted by region 3 to the Firmey (phonetic)
2 reactor when they broke their diesel generator and
3 allowing them to continue running an extra week. That
4 was a close call for us because Jim Dyer (phonetic)
5 and all the people making that decision I have the
6 utmost respect for. But I just think that that
7 decision wasn't fully supported and wasn't consistent
8 with the guidance. And it wasn't -- the conclusion
9 may have been right, but it wasn't justified on the
10 right grounds. So you could come to any conclusion
11 that you wanted basically on that one. So I don't
12 think that was the right way to proceed, to assume
13 that an unknown risk is greater than a known risk.

14 The other example we cited in the report
15 -- and I am not trying to defend EPA even though it
16 was raised to the agency in '91 and hasn't been
17 resolved yet, is the issue of steam generator that Dr.
18 Hopenfeld (phonetic) raised a year ago. The staff has
19 made a number of recommendations to steam generator --
20 the number of related changes -- without proper
21 justification, without the right knowledge that that
22 is the safe thing to do based on the ECCS that was
23 released in February of 2001. We felt that those
24 safety issues that were raised and confirmed by ECCS

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1 has to be bona fide and understood before allowing
2 longer periods of time between inspections.

3 Third example I would like to cite -- it
4 wasn't in the paper -- I believe the number is 01-100
5 that went to the commission in June, 2001, which
6 included the security levels at permanently shutdown
7 plants. The paper that was released in October of
8 2000 by the technical working group identified some
9 safety threats associated with spent fuel storage and
10 discussed that there were exemptions at plants that
11 have been permanently shut down that may not be
12 consistent with that safety hazard. So we felt there
13 is an indication that safety margins have been
14 compromised without an appropriate knowledge and
15 understanding in advance. And also, there haven't
16 been any shortfalls that hadn't been corrected yet.

17 If I could also address the Chairman's
18 question, if this is the right moment, about
19 availability of information.

20 CHAIRMAN MESERVE: Why don't we defer that
21 one as a separate issue and people can focus on this
22 set of issues that you have raised now. Any comment
23 on -- you would like to make on the issues raised by
24 Mr. Lochbaum?

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1 COMMISSIONER McGAFFIGAN: I am going to
2 take a try. I think Dr. Hopenfeld's concerns were
3 dealt with. It was a little bit of a self -- we
4 should have terminated the DPO on numerous occasions.
5 I think the staff recognizes that, but he kept
6 changing it. But the DPO was put out for public
7 comment as we were trying to deal with steam generator
8 issues as we were heading towards a generic letter of
9 some sort. And in the end, I read the February
10 document from the ACRS totally different from you.
11 And I think Dana Powers (phonetic) has confirmed to
12 the chairman in writing and orally at a commission
13 briefing that our reading is correct, that there was
14 nothing alarmist by the ACRS report. They said there
15 are some things that the staff could do to improve.
16 And they felt that all the staff actions taken thus
17 far and prioritization of those actions in Dr.
18 Travers' (phonetic) updated action plan were exactly
19 on the mark. So, I mean, it may be, you know, that we
20 can all treat any ACRS as a Rorhshach block to project
21 any views we carry deep in our innards, but at least
22 the author of the report believes that we and the
23 staff and Dr. Travers in particular is correctly
24 reading it.

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1 With regard to the spent fuel pool study
2 and SECY 01-100, I think what we did based on -- and
3 previously in dealing with shutdown plants, the staff
4 felt that there was close to or absolute zero
5 probability that after a certain period of time there
6 would be much of a danger at those plants from
7 external events. Now as a result of that study last
8 year, there is some minute -- still very, very, very
9 low probability that things could go wrong; that the
10 spent fuel pool could be drained and you would have a
11 zirconium fire. And the staff correctly said to us in
12 that paper, "We have looked at the exemptions based on
13 this study and we do not at this point see any reason
14 to terminate the exemptions although we are going to
15 look at it." And I think they still owe us -- having
16 looked at those exemptions -- whether they recommend
17 we try to roll any of them back. So I don't know. Is
18 the glass half full or half empty? I think it is half
19 full, although my colleague to my left obviously
20 disagrees.

21 CHAIRMAN MESERVE: Let me just note
22 Commissioner McGaffigan's comment of the ACRS
23 recommendation is correct. When the report came in, we
24 did ask them specifically about the adequacy of the
25 action plan. And I think we have an ACRS response on

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1 that point to the pace we are proceeding with regard
2 to steam generation issues. There are issues that are
3 outstanding, but the pace we are addressing those
4 questions is reflected in the action plan is an
5 acceptable way to proceed. And we specifically asked
6 them for that guidance with regard to that report,
7 which you are mentioning, the earlier 2001. Sam, do
8 you have a comment?

9 MR. COLLINS: I think Mr. Lochbaum raised
10 some important points. The firm, NOED, and David
11 raising that issue, put some inconsistencies in the
12 process that we are applying. There were words that
13 would indicate that we are actually doing these
14 reviews of no increase in risk. Those words were
15 pretty clear in the instruction. And really what we
16 are looking at is an aggravated risk, a balance of the
17 considerations. And we have been working internally
18 with our staff and the Office of General Counsel and
19 the regional stakeholders who have to implement this
20 process to clarify those words. And I know David has
21 raised this issue in formal correspondence, and we
22 have responded. Reasonable people can disagree on
23 that point. The steam generator issue is an important
24 issue. And it is a challenge for the Office of
25 Nuclear Reactor Regulation in partners with our

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1 research. We are looking at the concerns that were
2 raised internally. And the Office of Research is
3 pursuing those that have been raised by ACRS. ACRS,
4 in indicating the criteria is needed and that criteria
5 can adequately protect the public health and safety.
6 And they went on to say that there is more work needed
7 in the severe accident area. That is not why we are
8 raising it to the threshold of a significant
9 management challenge and reasonable assurance
10 statements that we are providing to the EDO. The
11 Office of Nuclear Reactor information is an area that
12 does need to be tracked. And there is a commission
13 meeting coming up in the short-term to discuss the
14 status of that.

15 Spent fuel pool safety, I think that has
16 been adequately addressed. There was an ongoing study
17 at the time of the 9/11 events, David, to look at and
18 recalibrate ourselves on some of those potential
19 issues. And of course, that has been altered. But
20 clearly, that issue is in front of us also. And spent
21 fuel pools licensees have been engaged at the
22 direction of Mr. Kane. We have sent out advisories to
23 those licensees and interim actions are appropriate.

24 MR. KANE: David, I wanted to add to what
25 Sam said. Certainly read very carefully what you

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1 provided. And I think that is very important in terms
2 of giving us some insight that we took seriously.
3 Certainly the documentation issue you raised I think
4 was a very important one that we have looked at in
5 terms of making improvements there. And I will admit
6 to to some surprise the risk issue. And I think that
7 is (inaudible) -- look at our regulatory that is not
8 quite (inaudible). I think Sam has talked about the
9 additional guidance that we put out to the staff. But
10 I think you have raised some clearly important
11 insights. And we appreciate that contribution. You
12 will see changes as we go forward.

13 CHAIRMAN MESERVE: Let me say I would like
14 to move on, but I think it important that we have an
15 open discussion of these issues. And they are
16 legitimate questions that you have raised, Mr.
17 Lochbaum. And we do want to be able to address them
18 in the open and address them in a way that we can
19 explain how we have reached the decisions we have.

20 Let me turn now to the third question that
21 Commissioner Merrifield raised, which is the question
22 of how you balance the obligation dealing with
23 security between the private sector and the
24 Government. I think that the events of September 11
25 have really brought that issue very much to the

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1 forefront, something that we are going to have to
2 address, not just at the NRC, but across the
3 Government as a result of activities that are underway
4 with regard to the response to that event. We would
5 appreciate your insights.

6 DR. LYMAN: Well, I have a very simple
7 answer to that given our ignorance about particular
8 details about security measures. But I think the
9 bottom line is there has to be an objective defense
10 for nuclear power plants that is determined based upon
11 a credible basis which fully takes into account the
12 events of September 11 with respect to attacks from
13 ground, sea, river or air. And it also has to address
14 all potential operating modes of the plant. It has to
15 address the spent fuel pool vulnerabilities and has to
16 involve a credible means of performance testing to
17 ensure that the level of security is adequate. Given
18 that, I think it is possible for the organization that
19 it may not be reasonable for the industry to assume
20 the full costs of such a program. And therefore we
21 are receptive to the idea that the line defined by the
22 state regulation would allow for the Federal
23 Government to provide resources with financial and
24 potential manpower, equipment to deal with that threat
25 adequately. But what we are not happy about is any

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1 role of industry in using economic arguments to
2 determine what they think is the appropriate level of
3 defense of the plant. And in this view, I am pretty
4 troubled by the comment that Mr. Gipson said on
5 September 11, "Industry and regulators together made
6 the decision to go to the highest state of alert,"
7 emphasizing the fact that it is a voluntary
8 recommendation. I don't think it is appropriate for
9 the industry to have any say. And that makes me
10 wonder if the mindset we are proposing, the commission
11 is ready to hear it.

12 COMMISSIONER MCGAFFIGAN: Mr. Chairman, I
13 am offended by what was said. That decision -- I was
14 not acting chairman that day. The chairman was. That
15 decision was made consistent without consultation with
16 the industry, but consistent with the previous
17 protocol. I think what Mr. Gipson was probably trying
18 to say, in many cases, they beat us to the punch. We
19 acted within an hour. They acted even faster, making
20 independent decisions and decisions that were entirely
21 consistent with the guidance we had in place. We sent
22 out an information notice in 1998 that would describe
23 -- not this circumstance, but in general how we would
24 upgrade security at the sites. We acted consistent
25 with the protocol we had in place, which was the

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1 fastest way we can act. If you want to draw up orders
2 and get all the lawyers involved and that makes you
3 feel better, we would act a lot slower. And so, you
4 know, this sort of probing at peoples' motives in
5 trying to, you know, go at us all the time, I don't
6 appreciate at all.

7 DR. LYMAN: I am sorry if I offended you.
8 That wasn't the intention, but I guess my concern is
9 still there. Why doesn't the commission have the power
10 to issue an immediately enforceable order under the
11 circumstances that doesn't involve long negotiation or
12 involvement? And I don't know why that has to be the
13 case in a national crisis. But you know -- and I have
14 to say that even after September 11 -- and I don't
15 want to go into details, but we received some
16 anecdotal reports about inconsistencies about what the
17 state of alert meant from security regulators. And
18 maybe a lot of those loopholes have been closed by
19 now, especially since the U.S. retaliatory strike
20 started. But at least in the first couple of weeks,
21 we were not getting the message that that order had
22 led to a consistent response. And I think the public
23 needs the benefit of a consistent response to
24 compensate for what we don't know about a situation.

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1 CHAIRMAN MESERVE: Let me put this in a
2 somewhat different context. Of course, this is an
3 awkward area for us to discuss in an open forum
4 because a large measure of the activities that has
5 taken place and why and how it has happened and things
6 that are covered by safeguard issues and ones that are
7 ensured to ensure the adequacy of defenses, the legal
8 framework we work is one in you which our regulations
9 design a -- with the details of that design basis
10 being defined on safeguards basis. Licensees have to
11 have the capacity to be able to react to that. The
12 information notice is not one that augments that legal
13 obligation. It reflects the context in which if we
14 become aware of a circumstance where there is a
15 prospect that the ordinary obligation that they have
16 at all times to assure adequate protection is one that
17 needs to be especially vigilant because of information
18 we know, we tell our licensees. And that they have,
19 with that additional information, have the -- can take
20 the steps to augment their -- the capacities that they
21 normally have. Our whole purpose of having information
22 notice in place was to enable the NRC to act very
23 quickly upon the time we get threat information and
24 that we can immediately notify our licensees. And we
25 have issued a whole series of threat advisories since

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1 September 11 to reflect the somewhat changing
2 circumstances that have arisen, including actions that
3 we believe the licensees should take on all of that
4 subject to examination.

5 Let me say that although this is something
6 that goes out in order to do it quickly in the way of
7 an information type notice, licensees have all
8 recognized the enhanced threat environment. This has
9 been a cooperative activity in which since all the
10 licensees have significantly augmented the capacities
11 they have at the plants. And we have also, of course,
12 been cooperating with a variety of other federal
13 agencies to assure that there are other capabilities
14 that would become available or are available as the
15 circumstances warrant.

16 I would like to come back, though, to I
17 think the main thrust of the issue that was -- that
18 you raised, which I think is a very serious one -- is
19 a question of what is the limits of the obligations
20 that should be imposed on the private sector with
21 regard to defense obligation. Design set a certain
22 boundary that was believed to be one, realistic. It
23 was not set by us alone, but in consultation with
24 intelligence agencies and others. The September 11
25 event raises the prospect that we should reexamine

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1 that which we are going to do, but there is still the
2 fundamental question that underlies all of this and
3 that is how far should we go in imposing obligations
4 on a private -- basically what is a civilian guard
5 force. And that is a question that is independent of
6 the nature of the threat. And the threat could be at
7 such a level that it is just unrealistic or
8 inappropriate to rely on an appropriate guard force to
9 defend.

10 COMMISSIONER MERRIFIELD: I think the
11 chairman does get to the heart of the question. And
12 let me add one background to that. One of the things
13 I think everyone around here tries to do is
14 benchmarking. Benchmarking is a good thing. And I
15 and the other commissioners have gone abroad and
16 benchmarked with many of our counterparts
17 internationally. The requirements we have for
18 fencing, limited access, background checks, passive
19 detection systems, cameras, heavily armed guards,
20 including M16s and shotguns, defensive shooting
21 positions at the plant, these are not things that you
22 are finding at plants around the world. In the 30
23 units in 13 countries that I have seen, there are only
24 two exceptions that I have seen that have requirements
25 greater than what we have. One of those is in South

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1 Korea. They do have antiaircraft facilities at those
2 sites, principally because they are in a cold war.
3 They have a neighbor to the north with lots and lots
4 of jets. And they perceive those nuclear power plants
5 as a direct target. In the United States here,
6 obviously, we need to deal with passenger jets and
7 need to deal with that in the cockpits. And having
8 anti-aircrafts at our sites is not the place to do it.
9 We have to defend the skies and that is partially
10 through a partnership with the FAA.

11 The other place that I saw something
12 different was in Lithuania. They have an armored
13 personnel carrier sitting in the middle of their area.
14 It was cheaper for them to get a personnel carrier
15 than it was to build fortified structures around the
16 plant. And given the fact that the gross national
17 income in Lithuania is about \$2,500 per person, that
18 is tremendous. Those are the two exceptions.

19 Virtually every other case, the defenses
20 at these plants is significantly higher than that of
21 our counterparts. And many other countries, not having
22 an active defense system as we do, it is holding the
23 intruders long enough for the local and state police
24 to get there and deal with it.

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1 Getting to the heart of it as we move
2 forward -- and we are going to have to make decisions
3 on this and work with our federal and state
4 counterparts -- but where do we draw that line? How
5 much more do we impose on our licensees and how much
6 of that is appropriately borne by local, state and
7 Federal Government?

8 MR. COLVIN: Mr. Chairman, let me try to
9 offer a couple comments. I think the comments made
10 are really appropriate and I think they are going to
11 take a lot more consideration and need to be given a
12 lot more consideration than we can do here today. But
13 I think if we look at what has been done in the United
14 States today, we spent a number of years leading up to
15 the Y2K issue, analyzing and evaluating the issues
16 when we talk about our critical infrastructure, not
17 only power plants, dams, chemical plants, so on and so
18 forth, including our information systems. And there
19 are a lot of steps that have been taken. And to do
20 that, I think that with the office -- the new Office
21 of Homeland Security. And there is a lot of
22 discussion ongoing now to try to, in fact, refine this
23 and I guess try to look at what are the assets
24 available between the private sector, between the
25 local, state and Federal Government that can be

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1 brought to bear and what circumstances those would be
2 brought to bear to protect this critical
3 infrastructure. I think the issue that we really need
4 to deal with on the more immediate basis is how to
5 ensure that we have a seamless understanding of
6 responsibilities in the near term on these issues and
7 not have an expectation that is either unrealistic on
8 behalf of what an individual company can or cannot
9 protect against or what the state, local and Federal
10 Government can or cannot protect against. Certainly
11 in this area, the responsibility for the safety of
12 these plants and for the investment in these plants
13 really rests with the licensee. And there needs to be
14 a clear cut -- in my view, a clear cut discussion and
15 relationship that exists between the Nuclear
16 Regulatory Commission that brings in, as Dr. Wilds has
17 said, all the state involvement in particular, because
18 that is where a lot of that response and support would
19 come in the immediate nature. I think this is an
20 issue which our Nation is going to have to grapple
21 with that is much more complex. And we need to
22 incorporate -- I think as you indicated in the
23 commission's letter back to Chairman Tauzin that needs
24 to be done, needs to be done within the context of
25 what is done to protect the Nation's critical

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1 infrastructure. I do think there are a lot of steps
2 that have been taken. Your letters to the governors
3 and state and local agencies has worked very well to
4 build a better understanding and relationship about
5 where the responsibilities lie. We have seen a lot of
6 that activity result in very important steps being
7 taken and we think that is appropriate. We have had
8 discussions with the Department of Defense, with other
9 intelligence agencies. And I have a great deal of
10 confidence that these issues are being dealt with at
11 the highest levels of our Government. I think that
12 the commission's involvement in those issues in
13 fitting the nuclear power plant security issues within
14 the context is very important.

15 MR. GIPSON: Can I just put some focus
16 around a couple of comments that were made? The
17 decision-making that was made after the September --
18 unprecedented September 11 events were quick,
19 conscientious and deliberate. And reflecting back
20 about a quote that I keep in my mind, that managers
21 and supervisors do things right, but leaders do the
22 right thing. On that date, I feel the commission and
23 the regulators did the right thing. And with respect
24 to consistency in my region, Region 3, Jim Dyer
25 (phonetic), the regional administrator conducted two

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1 telephone calls a day with all the licensing
2 leadership to make sure everybody was consistent in
3 their approach and to make sure we had a continuous
4 learning process going. All the other regions were
5 doing the same thing with the regional administrator
6 and they were feeding back to the staff. And we were
7 actually in a learning mode from each other from
8 different regions. And I will tell you that, you
9 know, too often, we inappropriately refer to
10 bureaucracy in our Government organizations. September
11 11, we had leadership. And it was demonstrated not
12 only here at this organization staff level, but it was
13 demonstrated in the field as well. And I think the
14 industry's response was unprecedented and was
15 appropriate as well.

16 So I would take issue with the way those
17 events were handled, especially in the light that
18 there was no specific -- that I know of no specific
19 threats against nuclear plants. The response that was
20 made and the decision-making that were made well can
21 be questioned. But for those of us who were on a real
22 time basis, I thought it was exceptionally well done.

23 CHAIRMAN MESERVE: Other comments on this
24 issue? Mr. Lochbaum.

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1 MR. LOCHBAUM: I just got to support Dr.
2 Lyman not only because he's right, but because the
3 fact that the inconsistency -- he didn't want to go
4 into a lot of detail, but what the inconsistencies are
5 for the reasons this is a public debate, but as of
6 last Friday or this weekend, this place had better
7 protection than Maine Yankee. It's absurd. I was
8 interviewed by Fox Channel 61 out of Hartford,
9 Connecticut, who drove their van passed the gate at
10 Connecticut Yankee last Friday looking for somebody to
11 interview and didn't find anybody. We have heard
12 accounts where a former worker on September 11 wanted
13 to see how his plant was protected and went through
14 the gate and wasn't stopped by anybody. Research
15 reactors across the country are protected by the
16 design basis threat rule in theory but not in
17 practice.

18 So, you know, I understand that a lot of
19 things were done and those are all commendable, but
20 the consistency issues that Dr. Lyman raises are
21 exactly right. And it took a long time after
22 September 11. And we still don't think that they are
23 all at the level they should be what the law requires
24 -- not beyond that, just up to where the law is; not

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1 going beyond that, just up to where people should be
2 protected today. And I don't think we are there yet.

3 CHAIRMAN MESERVE: A lot of effort has
4 been made to ensure that all of the facilities
5 mentioned, that we have adequate protection. Dr.
6 Marston.

7 DR. MARSTON: As a member of the public as
8 well and concerned equally about the health and safety
9 of the public in general in my opening remarks, I
10 mentioned that I had done risk assessments for a
11 number of industries. And I think when we talk about
12 protection and health and safety of the public, you
13 have to look at a realistic perspective on how we
14 should deploy assets in protecting the health and
15 safety of the public in general. There are a number
16 of industrial facilities, not nuclear, that contain a
17 number of hazardous and toxic materials that we need
18 to be concerned about those as well. Security
19 requirements of those are much, much lower than what
20 we see at our facilities. The accessibility by the
21 public is almost seamless.

22 So I think we have to be realistic on how
23 -- if we are to look at it from a national
24 perspective, how we need to deploy the assets we have.
25 So I would caution, if we are really talking about

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1 risk assessment, we need to look at it from a societal
2 perspective and not from a nuclear perspective
3 assessment. And that is spoken as a member of the
4 public. Thank you.

5 CHAIRMAN MESERVE: Commissioner
6 McGaffigan.

7 COMMISSIONER MCGAFFIGAN: I don't think
8 Dr. Lyman answered the question Commissioner
9 Merrifield asked about what belongs in the design
10 basis threat. And he rattled off a bunch of things.
11 One of them was air. And I'd be very interested in
12 his view as to whether he believes -- design basis
13 threat is what we expect the licensees to be able to
14 defend against. Does he believe we should be
15 defending these plants from either fighter aircraft or
16 commercial airliners diving into them? And does he
17 believe these guys should have their own private air
18 missiles and air forces to deal with that? If he does,
19 I suggest he go talk to the Congress. But I am just
20 interested, just to follow up on one credible DBT,
21 including air attack. What do you have in mind of an
22 air attack these guys are supposed to defend against
23 in the way of private forces?

24 DR. LYMAN: I didn't say that that is a
25 responsibility that the licensees --

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1 COMMISSIONER MCGAFFIGAN: The DBT is what
2 the licensees with high assurance is supposed to be
3 taking on. Enemy of the state is what the Government
4 is supposed -- beyond design basis threat is what the
5 Government is going to deal with. When we built
6 Turkey Point, there was concern about the Cuban Air
7 Force. The United States Air Force is going to
8 protect Turkey Point as it protects Miami. And
9 presumably we went through that in that licensing
10 case. And we decided Turkey Point did not need its
11 own air force and Turkey Point could be built. What
12 is it you think belongs in a design basis threat?

13 DR. LYMAN: I'm sorry. It was a
14 terminology problem on my part. I was simply thinking
15 of a definition of the threat, whether or not it is a
16 design basis threat or not.

17 COMMISSIONER MCGAFFIGAN: That is a
18 tremendous point. If you think we have to defend
19 these plants from the air, then I think obviously Mr.
20 Ridge, the Pentagon and others are going to think
21 about it and they have been. And we have been working
22 with them since September 11. The whole heart of
23 September 11 and thereafter has been beyond
24 design basis threats. All these people have some
25 capability, because they can defend against the design

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1 basis threat. They have some capability to defend
2 against the -- beyond design basis threat. We
3 obviouslyly have to augment. Mr. Leventhal (phonetic)
4 is in the audience. You were calling for air defense
5 guns to be deployed around the plants. We don't have
6 air defense. We have Hawks, missiles, Stingers and
7 the Pentagon. We get our military advice from the
8 joint Chiefs of Staff. The Pentagon did not make that
9 choice. To this day, I don't think we have air
10 defense guns around any of the plants. And it was
11 nonsensical, the comment, in all honesty. It gets you
12 a press release and gets you in the public domain, but
13 it is not something that was very useful to the policy
14 debate.

15 CHAIRMAN MESERVE: Let me suggest -- I
16 understood the context or the comment.

17 VOICE: I would like the opportunity to
18 respond.

19 CHAIRMAN MESERVE: Let me suggest, we have
20 a number of invited guests that have had an
21 opportunity to interact with us. And this was not
22 intended to be a free-flowing exchange and focus on
23 the security issues which are awkward to discuss in
24 this setting, in a public setting in any event.

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1 We have been going for about an hour and
2 45 minutes. Let me suggest we take a very short break
3 and give everyone a chance to stretch their legs and
4 we'll come back and resume.

5 (R E C E S S)

6 CHAIRMAN MESERVE: Why don't we get
7 underway. In order to take us off the security issue
8 for just a moment, I would like to turn to the
9 question that I raised with Dr. Wilds, which is he had
10 made a point in his opening comments that he has seen
11 a lot of interaction among the Federal Government,
12 states and the licensees in the context of responding
13 to the September 11 event. NRC would like to be
14 helpful in that in a letter we sent out to the
15 governors, to try to make sure that there was a
16 connection made between assets that the governors have
17 the capacity to deploy and the individual licensees.
18 And that has worked very well. The point, however, is
19 that there may be lessons learned there as to how the
20 NRC might interact better with you with regard to
21 other issues. And we would like to get your
22 suggestions.

23 DR. WILDS: With regard to the letter that
24 went out to the governors, they are still -- I mean,
25 I think the mechanism for contacting us is there and

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1 keeping us in the loop is there. But after that
2 letter went out, other advisories were sent to
3 licensees. As a state liaison officer, I was notified
4 that they went to the licensees. But as far as what
5 you were requesting the licensees to look at and
6 consider, that was not transmitted to the state. So
7 it makes it very difficult for us in, you know,
8 providing assistance; evaluating what we can respond
9 with; how we can respond without that knowledge and
10 that information, you know. One of my specific
11 questions when I was notified was, will these
12 recommendations involve any type of state response to
13 augment what is needed? The original response back to
14 me was no. This will not involve anything for the
15 states. And then the next -- oh, probably within an
16 hour, I was getting a phone call and we were having
17 meetings with regard to what the state needed to
18 provide. And it became very difficult for the state
19 to evaluate this situation without the knowledge of
20 what you had transmitted to the licensees, because,
21 you know, I know people have talked about different
22 security issues, you know. We are looking at
23 security, not just at nuclear power plants. We are
24 looking at our whole infrastructure within the state.
25 And we have to prioritize how we deploy our resources.

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1 And we need to look at resources in comparison to
2 other facilities. And we have to take into account
3 the security capabilities of that power plant. In
4 saying that there is not a consistent response across
5 the states, I somewhat probably disagree with that,
6 because, you know, those considerations are taken into
7 our decisions.

8 I think one of the best ways that in the
9 present situation, the NRC could just partner with us
10 is as information is transmitted to the licensees,
11 that it also be transmitted to the states so we get a
12 heads up what you are telling the licensees; how, you
13 know, we can start evaluating, you know, our
14 priorities and making things move a little smoother.
15 I think it would be good to -- I know there are
16 meetings with the regional administrator and the
17 licensees on a regular basis. I think it would be
18 good to include the states in those conversations --
19 in those meetings, you know, because whatever you
20 decide -- a lot of situations, requirements that you
21 give the licensees do impact state resources. And the
22 quicker that we can communicate back how that impact
23 affects both of us, I think the more effective we will
24 be in ensuring public health and safety.

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1 COMMISSIONER McGAFFIGAN: Mr. Chairman,
2 could I ask a question on this point? We have been
3 talking a lot internally about how to improve our
4 ability to talk to the sites about safeguards, law
5 enforcement and if necessary, classified information
6 and rule suggesting -- in doing that in real time as
7 opposed to ways we have been doing it recently. Is
8 that something that if we are thinking about spending
9 money in the future, do you all need to be able to
10 have cleared people who can deal with that
11 information?

12 DR. WILDS: In Connecticut --

13 COMMISSIONER McGAFFIGAN: And do it in
14 real time?

15 DR. WILDS: In Connecticut, we do have
16 some of those discussions with the Department of
17 Defense. We have a lot of Department of Defense
18 facilities, Department of Energy facilities. So from
19 Connecticut --

20 CHAIRMAN MESERVE: Do you have resources?

21 DR. WILDS: We do not have at this point
22 in time.

23 COMMISSIONER McGAFFIGAN: Is that
24 something you are going to get in any case?

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1 DR. WILDS: It's something I think we are
2 looking at with regard to what happened in recent
3 events.

4 COMMISSIONER McGAFFIGAN: It would be nice
5 for our budgetary purposes if Mr. Ridge -- if there is
6 need for real time communication with the governors
7 and their bureaucracies about information that
8 includes sensitive, you know, law enforcement or
9 safeguards or even classified information, that's a
10 capability you all need -- we need to think -- the
11 Government needs to think about.

12 DR. WILDS: Right. And we need to be in
13 that loop, because if you are going to be requesting
14 resources from the state, you know, we need to have
15 some knowledge that those resources are going to be
16 requested and how we can provide those resources as
17 opposed to going into a meeting -- I mean I was just
18 at a meeting. We went in. I did not have any
19 information with regard to what the NRC had
20 transmitted to the licensees and they were asking us
21 for resources based upon that information. And so,
22 you know, we have to prioritize for the whole
23 infrastructure, response and knowing --

24 CHAIRMAN MESERVE: Let me say, Dr. Wilds,
25 it is possible that the ball got dropped.

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1 DR. WILDS: There was an advisory that was
2 sent.

3 CHAIRMAN MESERVE: But you were supposed
4 to get it as well.

5 DR. WILDS: And we didn't.

6 CHAIRMAN MESERVE: That was just the
7 problem with Connecticut, I hope. But I appreciate
8 the comment.

9 MR. COLLINS: We will make sure that we
10 are linked. But clearly, the intent was three-fold.
11 One was to call the states initially and let them know
12 what was being issued and provide the option of
13 receiving it over the weekend or providing for
14 delivery the first day after the holiday. And we
15 actually checked back through the process to be sure
16 that was taking place. So we need to look
17 specifically, Dr. Wilds, to find out what happened in
18 that case. Appreciate the comment.

19 Let me turn to one of the other subjects
20 that was -- several of you mentioned, which is this
21 difficult balance that particularly for an agency like
22 the NRC of achieving this balance between openness and
23 having as open a process as possible while
24 simultaneously ly meeting the security concern. And
25 I think all of you are aware that because of some

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1 security concerns, our web was down for several days
2 and has been down. We have been trying to bring it up
3 in a piecemeal basis and has gone up yesterday with
4 portions of it. So we are trying to bring back
5 information that had previously been available.

6 But there's a generic issue that we are
7 going to have to be dealing with more broadly in that
8 there is a lot of information that we have customarily
9 provided and have to consider whether we can provide
10 it. And this is an issue that is much much broader
11 than the NRC. I would -- several of you raised this
12 as an issue. And I'd be interested in comments as to
13 how we can -- how you think we should approach this
14 issue. Mr. Lochbaum.

15 MR. LOCHBAUM: In our experience in
16 dealing with safeguards information prior to September
17 11, we noted there seemed to be a problem between what
18 the criteria was for classifying safeguards and
19 nonsafeguards information. And it seemed to be more
20 subjective and contextual rather than, you know, a
21 well-defined line, if such a thing exists.

22 In, I think it was May of this year, I
23 downloaded a document from Adams that I felt I
24 shouldn't have been able to get that had to deal with
25 some information at Waterford that I don't think I

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1 should have. Soon after that, I called up the NRC to
2 question whether I should have been able to do that.
3 The NRC looked at it for a week and determined that it
4 didn't contain safeguards information and there was no
5 problem. When I asked if it was okay to put it on my
6 web site, then it became a safeguards information and
7 it is not -- or shortly thereafter, it was
8 reclassified as not publicly available, which is what
9 I thought it should have been in the first place. So
10 I think there is a contextual issue.

11 Since September 11, I heard a lot of
12 discussions that that is part of the problem in
13 determining what is on or what isn't publicly
14 available. So I think it is important you develop an
15 objective standard as much as possible and make sure
16 all the people that are making the determination are
17 trained and familiar and have an understanding of what
18 that criterion is.

19 Related to that, you know, once the
20 determination of what's not and what is complete, we
21 sent a letter into the staff last week asking that
22 once that's done, any time a document or class of
23 documents used to be publicly available and is now
24 not, we would like to know about that, because until
25 we hear that something is no longer available, we are

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1 going to continue to assume that it is. And we may
2 have legitimately downloaded or obtained documents
3 prior to September 11 that the agency doesn't want
4 distributed anymore. And unless we know about that,
5 we are not going to be able to comply.

6 So once this process is done, there needs
7 to be some way to communicate with people who obtained
8 documents so they can act responsibly as well. I know
9 it's a tough issue.

10 One of our concerns -- at least not in the
11 interim period, but once the interim period is over,
12 is that balance that's been discussed several times
13 today. We don't want to -- UCS has not
14 undercomplained too much about the web site being shut
15 down and the problems going on, because one of the
16 ways to deal with that is no longer allow public
17 participation in the safeguards meetings that we have
18 been participating in the last year or two with Mr.
19 Tracey and his staff. We felt those have been helpful
20 to us to understand the issues and haven't crossed the
21 line and provided too much information. We want that
22 to continue. So although the interim period makes our
23 job a little harder, we understand the reason for it
24 and the need for it. So I guess that's our views on
25 the issue of public availability and particularly what

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1 we need back once that determination is done. Thank
2 you.

3 CHAIRMAN MESERVE: Comments? Mr.
4 Hairston.

5 MR. HAIRSTON: Mr. Chairman, I
6 intentionally did not deal with this issue when I was
7 talking about public confidence. I would like to make
8 a couple of comments really as a utility executive and
9 then I would like to close with a comment as just
10 being a citizen.

11 If we don't learn from the past, we will
12 be doomed to the past. And you know, when we look
13 back at other events that have traumatized and changed
14 our industry, you look back and you look at Three Mile
15 Island square in the face. And certainly, many of the
16 things that we did have taken us to great levels of
17 performance. Some of what we did we have had to undo
18 because the benefit and the risk were not at all
19 commensurate. Matter of fact, today, we still try to
20 undo things. I think the message there is we go
21 through these trying times we're in. We need to be
22 vigilant that what we do adds value to what we are
23 trying to accomplish. Openness -- and from a nuclear
24 executive point of view, I think the success of the
25 recent years has to do with the openness that we have

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1 had in this process. It may not be as open as
2 everybody wants it, but it's certainly more open than
3 it was five years ago. And I think we are all better
4 off. Five years ago, this man sitting here on my right
5 was just somebody that was quoted in the paper. And
6 now I sit in meetings and hear what his issues are and
7 we can deal with them. And he hears what my issues
8 are and we can deal with them.

9 So I would just encourage this process to
10 stay open in two ways. One, the process itself needs
11 to be understood. And two, what information is in the
12 process needs to be understood by the public. So I
13 support that.

14 Now let me take off my utility executive
15 hard hat and talk as a citizen. I don't think anybody
16 in this room believes that we are not at war with an
17 enemy of the state. We have troops in foreign nations
18 this morning at war and we don't know what this enemy
19 looks like. We don't know the uniform they may wear.
20 We don't know what kind of U-boats they may have or
21 tanks or other things, but we know there's an enemy
22 out there that is after us. It is declared. And so
23 I, as a citizen, think we need to go back to World War
24 II when people walked out of factories., do you
25 remember the sign that was over the door? Loose lips

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1 sink ships. Times are not normal. And I as a citizen
2 think when you come to security matters -- not
3 security process, but security matters, we have to put
4 our trust in the Government. I mean, there are things
5 the NRC knows that we don't need to know that I trust
6 them to have as a utility executive. As a citizen,
7 somehow we have to build confidence, public
8 confidence, that our Government is going to do the
9 right thing in this narrow area, but very important
10 area of security. And as I sat around here today, we
11 were talking about process. But occasionally, it
12 would get into threat versus what we're able to
13 protect against. I am very uncomfortable with that as
14 a citizen. So I think as we look at openness on this
15 issue of security, let common sense prevail. And if
16 we are going to err, let's err on being a little bit
17 more closed on that area. Thank you, Mr. Chairman.

18 CHAIRMAN MESERVE: Thank you. Other
19 comments? Commissioner Merrifield.

20 COMMISSIONER MERRIFIELD: Mr. Chairman, if
21 I could jump in. This is a sort of an interesting
22 story. I remember about six weeks ago, I had Mr.
23 Lochbaum in my office and we had Fran Goldberg
24 (phonetic) and Stu Ryder (phonetic) there. And we were
25 going over the demonstration of a new prototype of our

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1 web site. And a common theme in that meeting was a
2 concern by Mr. Lochbaum. We have such a great volume
3 of documents available and we do such a good job to
4 make sure that whatever we do in this web site, we
5 don't limit access to that. And all the comments we
6 heard prior to September 11 were regarding the quality
7 of -- the quantity -- the quantity and quality of
8 information available on our web site. And if you
9 look at how we compare relative to other federal
10 agencies, I think we are, if not more, open than
11 anybody else.

12 So with that, I think there's a
13 recognition that we are a victim of our success in
14 this regard. We have done a very good job in the past
15 in providing this information. There are other members
16 of our federal family who we have to deal with from a
17 defense and security standpoint who are not used to
18 having such a degree of openness. When they went to
19 our web site, saw things they are not typically used
20 to seeing. And that made us the decision to shut down
21 our web site for the time being.

22 I think Mr. Lochbaum makes a good point.
23 We need to have a disciplined process that we use to
24 try to make information available to the extent that
25 we can although it's difficult. Anytime -- and anyone

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1 who has ever gotten a security clearance as I have, a
2 lot of these issues are judgment calls. And it's not
3 always easy to have a checklist of what you are going
4 to keep in and keep out. And no matter what we do, it
5 is very clear to me that there will be some documents
6 that we may end up releasing and down the road, may
7 decide we didn't want to or we may have some things to
8 hold back that perhaps people feel that we shouldn't.

9 I think Mr. Hairston's comments are valid.
10 We do -- in this difficult time, we are going to have
11 to err on the side of caution and hopefully peel that
12 back the best we can to be as open as possible.

13 The one last thing I would like to say --
14 and Pat Norry is probably better to go into detail on
15 this because I know she had some folks looking at this
16 -- given the breadth of our web site and the volume of
17 materials that we had available, determining what
18 should and shouldn't be released has a potential to be
19 a monumental effort on the part of this agency. It's
20 got to be done carefully. And it's going to take
21 staff. It's going to take time. Going to take money.
22 And despite -- and we received a flurry of letters
23 from people this week, you know, about -- making a lot
24 of disparaging comments about our having taken down
25 the web site. It is in the best interest of the

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1 American people to do this carefully but do it in an
2 expectation that we remain open.

3 CHAIRMAN MESERVE: Pat, you may want to
4 say something about the process we have been
5 following.

6 MS. NORRY: The process we are using is --
7 even before having been requested by the Defense
8 Department, which represented a group looking at all
9 agency web sites, we had already decided that some
10 material in the light of the current environment that
11 we had out there was -- should be withdrawn. So we
12 did that. And then the decision was made to shut down
13 the entire site. What we're doing now is trying to
14 focus first on those areas where it is obvious that we
15 need a site back up in order to conduct business and
16 it does not represent any kind of a threat. That
17 takes time. And the process of getting material back
18 on the web, it's not as easy as getting it on in the
19 first place. Once you've shut down the operation,
20 getting stuff back on is just procedurally more
21 difficult.

22 Yesterday we were able to get back the
23 public meeting site, press releases, employment
24 opportunities, those kinds of things, which obviously
25 present no difficulties. We are now working to get

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1 the rule-making site back up as fast as we can,
2 because that is an area that needs priority.
3 Electronic exchange, which we are able to exchange
4 information with the industry, other sites, we have
5 teams working very hard -- the focus is on, let's get
6 as much back out there as quickly as we can, but we
7 have to do it in a way so we end up with a category
8 that we're not going to put back up. We have to have
9 a clearly defensible reason for that and that's the
10 objective.

11 CHAIRMAN MESERVE: Mr. Chairman.

12 COMMISSIONER MERRIFIELD: Mr. Chairman, if
13 I may. There may be some necessity for engaging with
14 our stakeholders in identifying areas of our web site
15 that they have particular interest in using and focus
16 our limited resources that have the greater user need.
17 And there may be some areas which are going to take us
18 a little bit more time and effort. But if they are
19 not as in demand, they may go in the back of the key
20 rather than in the front.

21 MS. NORRY: I think we can do that.

22 CHAIRMAN MESERVE: Any comments?

23 DR. LYMAN: Just a general comment. I
24 would like to point out, of course, you have to assume
25 that a good deal of the information that you have

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1 already provided over the last several years is out
2 there and can't really be brought back. So there's an
3 analogy to nuclear weapons information. It's commonly
4 thought there's enough information that if the weapon
5 is designed now that can't be effectively controlled
6 -- and the focus has to be on physical protection
7 material. I think the analogy holds here. I mean,
8 your primary focus has to be on physical protection at
9 the plants. And doesn't give me much confidence if you
10 end up being afraid of providing information to the
11 public because it makes me wonder how much confidence
12 you have in those measures. So again, I would urge
13 you to draw that line rather carefully, Commissioner.

14 CHAIRMAN MESERVE: Let me just say I think
15 we do appreciate the importance of the physical
16 protection of the plants as the primary goal. The
17 idea of the web site is not to facilitate its capacity
18 of someone being able to make an attack on the basis
19 that they have information -- to make it an easier
20 task than it otherwise would be.

21 MR. LOCHBAUM: I hate to go for twofers
22 (sic). I don't know why access to Adams is being
23 invited back, because there's a lot more information
24 in Adams of a more sensitive nature than there was on
25 the web site. I stopped by the PDR and asked for

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1 guidance to get in. I was told I would be e-mailed.
2 And he sent an e-mail and I still haven't gotten it.
3 So I heard access to Adams has been provided to some
4 people at least.

5 But in context of this slow, deliberative
6 process for the stuff that's on the web site posted
7 versus stuff you can get through Adams, I guess I am
8 confused by that.

9 MS. NORRY: We made a decision to focus on
10 the web first. We have taken some things from Adams
11 when we realized obvious discrepancy. But we had to
12 focus the energies first on the web site and that's
13 what we are doing. If you have any particular
14 suggestions about things we ought to get out of Adams,
15 I'd appreciate it.

16 COMMISSIONER McGAFFIGAN: Mr. Chairman, I
17 may have misperceived something. I think David just
18 endorsed Adams or something.

19 CHAIRMAN MESERVE: I was prepared to make
20 a flip comment. We didn't have to take Adams down.
21 It was so confusing that we didn't have to worry about
22 it. Other comments on this subject?

23 MR. TOLLISON: I have one, just on the
24 general subject of security. INPO is not involved in
25 security, which I view as a very good thing, not

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1 necessarily for the reason you might expect. The
2 reason I think that is a good thing is it allows us to
3 focus on traditional safety and reliability as a
4 result of internal events or the possibility of
5 internal events at a station. So I know the NRC and
6 many of the staff are consumed with this right now,
7 and that's well justified. But at INPO, we are not.
8 And as a matter of fact, we didn't really miss a beat
9 in our evaluation and assistance activities on
10 September 11. When the event happened, we had 117 of
11 our 200 technical employees in the field, 101
12 nationally and 16 internationally. And almost without
13 exception, those employees stayed in the field during
14 that week and subsequent weeks and continued their
15 work in evaluating safety and reliability and
16 providing assistance towards reaching excellence
17 throughout the period. We had some inconveniences as
18 everyone did.

19 For example, one evaluation team drove
20 from Atlanta to Davis Bessie (phonetic) for their
21 evaluation, but it took place. So I just wanted to
22 say from INPO's point of view, we are continuing to
23 really look hard, as we always do, at safety and
24 reliability from the internal issues at the plant. And

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1 we have the luxury of not being, let's say, distracted
2 from that by the events of the last month. Thanks.

3 CHAIRMAN MESERVE: Thank you. Before
4 September 11, one of the issues that I and my
5 colleagues have spent a great deal of time worrying
6 about that we've touched on only in passing was the
7 human capital issue that I think all of you know we
8 have a situation at the NRC where we have many more
9 people over 60 than under 30. We have a large
10 percentage of people who are eligible to retire now.
11 And there's a danger of a lot of skilled people
12 walking out the door at a time when there's a whole
13 flurry of very important activities that are in front
14 of us that we need to bring all the skills to bear to
15 address those issues. And -- this was really before
16 September 11. And it was a paramount concern to us
17 and remains a paramount concern. And I'd be
18 interested in comments from those in the room on this
19 issue. This is a common problem for all of us. We
20 all draw from a pipeline of people from our
21 educational system, that is, diminished resources as
22 time has gone on. And I'd be interested in your sense
23 of whether we are seeing a turnaround in that issue
24 and how all of you are addressing that issue as ones

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1 that you confront in your own businesses or your own
2 organizations. Mr. Colvin.

3 MR. COLVIN: Mr. Chairman, let me start on
4 this. I think you have correctly identified an issue
5 which we have all given a lot of thinking to. And it
6 is something as a Nation and I think as Commissioner
7 Dicus indicated that is not only facing our country,
8 but facing other countries as well. From our
9 standpoint, we are trying to focus the initiatives
10 within the industry really in several areas. First is
11 looking at the -- ensuring that we have the adequate
12 numbers of appropriately trained and qualified
13 educated people to fill the needs within the various
14 companies. And when you look at that, that becomes a
15 huge issue just from the standpoint of both looking at
16 the technicians and worker level as well as the people
17 that we need that have engineering and math and
18 science and other types of degrees. There's a lot of
19 work that's ongoing between the universities and the
20 individual companies. And many of the companies and
21 I would say most of the utility companies have
22 dedicated programs and resources and cooperative
23 programs with the various universities and with
24 colleges in their area. And they work very closely
25 with those. We held for the first time this year in

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1 March a utility recruiter college advisory workshop.
2 We held it down in Florida in March. So it was fairly
3 well attended, but it was very well attended even
4 without -- taking away the location. But for the
5 first time, we really got at a number of the key
6 issues between what the advisers at the colleges and
7 universities were telling the students what the
8 opportunities were in our industry and what the
9 recruiters from the companies were telling the
10 students. In particular, we did a lot of work with the
11 recruiters to look at what the opportunities -- what
12 the companies are looking at it in a much broader
13 sense.

14 Since that time, we have underway and
15 nearly completed a manpower survey of needs within the
16 industry that is broader than just the utility
17 industry, but looks to craft and technician positions
18 and engineering positions, operators and so on and so
19 forth throughout the country. And we are about
20 completed with that and we will -- we are going to
21 analyze that and look at that hopefully by the end of
22 this month and that will lay a foundation of what our
23 needs are now and what they are in the next five years
24 and base a lot of initiatives on.

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1 I will tell you there is a lot of work
2 going on in the educational system and even down at
3 primary school level. We run 15 web sites. I know
4 Patricia has a lot larger job, but the -- we track
5 where the web site has come from and we have on an
6 annual -- on a monthly basis, some 20 plus thousand
7 entries into the public web site at NEI. And most of
8 that comes from secondary school and university level
9 people. So we see that growing.

10 And to answer your question where the
11 trends -- we actually have seen that grow as people
12 look at the importance of energy.

13 And I guess I would digress for a second.
14 The generation coming up has done a lot of work on the
15 generational -- what they call the new millenia
16 generation that is more interested in technology,
17 comfortable with it, and looks at these issues. So
18 they are more open, in fact, to considering these.
19 Bob Denton's comments on license renewal and the
20 opportunity to provide a future for many, many years
21 have given us a new opening into people in the job
22 market that have a degree of comfort. There is a lot
23 of effort going on and I am just scratching the
24 surface on it.

25 CHAIRMAN MESERVE: Mr. Denton.

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1 MR. DENTON: Yes. In addition to the
2 professionals that Joe has personally discussed, we
3 have greater difficulty attracting young people to
4 skilled craft apprentice programs, specifically
5 instrument controlled technicians, welders and
6 machinists. So the industry -- opening of this window
7 for license renewal, we also have to renew our
8 acquaintance with the secondary schools and with the
9 programs they provide to get that kind of skilled
10 craft started.

11 Recently, I guess the competition from the
12 computer industry has been very apparent, especially
13 in the instrument controls area where young people
14 would rather work in an air conditioned office than in
15 a 100 degree boiler room. It is a difficult
16 competition right now.

17 CHAIRMAN MESERVE: Mr. Thadani.

18 MR. THADANI: Thank you, Mr. Chairman. I
19 was very pleased to hear what Mr. Colvin had to say
20 about some of the initiatives. Sort of looking ahead
21 as you indicated, Joe, the industry is still
22 interested in your designs and moving forward. And
23 utilizing risk informed thinking upfront was an
24 important element in that. And I think there are
25 three -- couple issues, one having to do with

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1 competent people. How do you get highly skilled
2 scientists and engineers? A number of studies have
3 been done. IOCD or NEOT, Nuclear Regulatory Research
4 to do a study and so on, which pointed to a couple of
5 areas that one needs to pay attention to and that is
6 access to facilities -- experimental facilities and
7 research reactors at universities. The trend has been
8 obviously in linking in terms of availability of
9 experimental facilities and research reactors. And
10 that is the nuclear engineering programs have been
11 declining in a very significant way.

12 It seems to me that to really move forward
13 and have highly accomplished staff, one has to look at
14 all three aspects together. Looking at one without
15 the other two, I think, is going to lead to some
16 incomplete answers, I suspect. One needs key people.
17 Highly talented people would like to have the best
18 analytical tools they can get their hands on. How do
19 you get those analytical tools without appropriate
20 facilities and research reactors? So I would hope
21 focus would be on all three aspects which make up the
22 infrastructure issue.

23 CHAIRMAN MESERVE: Dr. Marston.

24 DR. MARSTON: From our perspective, at
25 EPR, we did a current assessment of our current and

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1 future needs. The perspective today is different than
2 it was a year-and-a-half ago. Job security has now
3 become a very important thing for young people. I
4 think also the recognition that we do have an
5 impending if not now an electricity crisis in the
6 west, has stimulated interest, certainly, by new
7 college graduates. We are also seeing more women and
8 minorities coming out, which is a very encouraging
9 sign.

10 So I don't want to paint too bright a
11 picture, but I think it is an effort that we as an
12 industry exploit the positive side of our business.
13 And I think we found if we introduce this to people
14 who are not familiar with our business, they are quite
15 impressed with the ideals, the standards and ethics
16 and everything else that is involved with that. We
17 just have to continue with that.

18 And I would like to close by saying I
19 think the interest in new plants has stimulated
20 certainly interest in the universities as well. I am
21 encouraged by that.

22 CHAIRMAN MESERVE: Mr. Hairston.

23 MR. HAIRSTON: Mr. Chairman, you might be
24 surprised and I think you may know this, but I spent
25 about half my time recruiting people or taken back by

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1 that -- and I am taken back by the fact that they are
2 taken by that because I am working on the most
3 important thing in my company, the people.

4 A couple of points. We are not having any
5 trouble getting the best people in the technical
6 ranks. This problem with the crafts is a real problem
7 and it's not getting any better. As an aside to what
8 Ted said, we actually go out and recruit the best
9 people. And it's really gratifying to me that well
10 over half of them just happen to be females. We don't
11 recruit females, we recruit the best people. And a
12 large percentage are females and minorities. So we
13 don't have trouble getting them.

14 But I want to raise another issue that's
15 right alongside that. Just because I get 3.8 chemmie,
16 it doesn't mean I am ready to replace a 50-year-old
17 manager that is going to walk out the door. I built
18 Farley (phonetic). I started Farley. Many of my
19 managers were there. We know where the leak off from
20 valve 122 goes into the floor. The same is going to
21 be true in the NRC here. When you take 30-year,
22 40-year career employees and they walk out the door
23 and you bring in the brightest young person, it's not
24 going to do it. And one of the issues we're looking
25 at is how do you fasttrack people but don't

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1 shortchange them. And I think that's an issue you all
2 are going to have to deal with, because over the
3 years, there's a lot of institutional knowledge both
4 up here and at the plant -- the staff -- and I'm not
5 sure we all have got our arms around it. My view is
6 that may be the biggest issue we've got. We are a
7 very well educated experienced industry today. That's
8 where we need to end up 10 years from now.

9 CHAIRMAN MESERVE: Pat, do you want to say
10 something about the things we are trying to do to deal
11 with that problem?

12 MS. NORRY: I would endorse everything
13 that has been said.

14 Mr. Colvin, we have been working with your
15 group and find out we share exactly the same problems
16 and challenges. We, too, are working closely with
17 universities. Our recruitment efforts have been quite
18 successful lately. We have a very active intern
19 program.

20 And I agree with your comments, Mr.
21 Hairston, that we are looking at ways we can transfer
22 knowledge. We are bringing in some people at a stage
23 about a year before hopefully some of these people
24 walk out the door so we can have a better knowledge
25 transfer. We are engaged in a fairly major study of

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1 our workforce and how we can make sure that all of our
2 core competencies are there when we need them. And
3 that's quite a challenge. It's very complicated, but
4 we are sharing with the industry those strategies that
5 are common to both of us. So it's a problem for all
6 of us.

7 CHAIRMAN MESERVE: Mr. Merrifield.

8 COMMISSIONER MERRIFIELD: Despite some
9 fiscal conservatism I exhibited earlier, I want to
10 take something the other way. One of the problems
11 that we have with our staff is wage compression. We
12 have a band of people at the very top who are leveled
13 out in terms of what they can make and this is in part
14 because of requirements imposed by us on Congress.
15 What that results in two things. One, we have people
16 who are 14s and 15s who are at the verge of going go
17 up and could become members of the senior executive
18 service. The amount of money they are going to make by
19 making that change is virtually nothing. Many of them
20 make no increase in salary despite a larger
21 commensurate amount of work put in their plate. We
22 are finding people who are very highly qualified, who
23 seeing those factors say, "Why should I take that
24 added responsibility if I am not going to get
25 compensated any further?"

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1 The second issue is changes made in the
2 federal pay requirements we used to have. Under the
3 old retirement system, we were able to lock our people
4 up with golden handcuffs. Once you stay here with a
5 certain amount of time, there is a disincentive to
6 leave and we take a huge cut. With the newer system
7 that was implemented in part 15 years ago, the first
8 system, these retirement benefits are portable. And
9 so down the line, we are going to have people who are
10 in their mid-40s or early 50s who will have worked
11 here a good amount of time and walk away. And we are
12 going to lose that level of knowledge.

13 And so one of the things we need some help
14 on, I think -- and we have been trying to explain this
15 to folks in Congress -- and Senator Croinivich
16 (phonetic) and Senator Lieberman have been very
17 responsive -- but we've got some pay issues to deal
18 with. We have to be able to provide more compensation
19 and incentives to our employees across the board to
20 make sure that that level of quality that George
21 Hairston talks about stays here. And those are
22 serious issues that we need to grapple with.

23 MR. HAIRSTON: You know, just to tag on,
24 I am not exactly sure this is analogous, but the VA
25 had a very similar issue. And they have done some

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1 things relative to their people that have not made the
2 problem go away, but made it a little easier. So you
3 may just want to talk with them and get some ideas,
4 because they are within the framework -- a little
5 different, but still within the framework. And I
6 would think that may resonate on the Hill a little
7 bit.

8 CHAIRMAN MESERVE: Mr. Colvin.

9 MR. COLVIN: Chairman, just to add another
10 dimension to this perhaps. Cal picks up on a number
11 of the comments. There is a lot ongoing, as you all
12 know, in the legislative arena to do that. You know,
13 Mr. Bingaman -- Senator Bingaman (phonetic) introduced
14 a bill that deals with the pipeline issue; provides
15 moneys for R and D; training for refueling of reactors
16 for scholarship fellowship programs. And that is a
17 bipartisan -- bipartisan support. It's in the House
18 energy bill. I mean, there's a lot of work that's
19 been done in those areanas.

20 I think that in the short-term -- and I
21 know you all are working on some of those issues --
22 and we will be happy to support picking up on
23 Commissioner Merrifield's comments in these issues in
24 the congressional arena -- there are things which the
25 NRC can do to bring back that expertise on a temporary

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1 basis. Other agencies have had exemptions and been
2 allowed to do that, to bring back some person who has
3 retired from Government service without penalty. And
4 you know, so I think those things are really important
5 interim steps. And they don't solve the larger longer
6 term issue we have to deal with, but I think some
7 discussion of those types of issues in making sure
8 that we have that consistent support within Congress
9 is very important.

10 COMMISSIONER MERRIFIELD: I think the
11 commission has sent up a package to the Congress. And
12 one of them is you mentioned where we would have an
13 allowance to bring some people back and not have their
14 retirements impacted, but allow us to give them some
15 additional moneys as contractors and consultants. And
16 hopefully, Congress will react favorably.

17 MR. COLVIN: That helps with the issue
18 that Pat talked about, about this transfer of
19 knowledge.

20 CHAIRMAN MESERVE: We have limited
21 authority to do that now on an emergency basis, but
22 it's restricted in numbers and the nature in which we
23 can do that. And we would like to have a broader
24 authority than we have to be able to bring back former
25 employees who have retired with special skills when

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1 something arises that we need to be able to call on
2 them. And under the current scheme, they have to work
3 for us for free to do that. In an emergency capacity
4 to be able to respond to that, we do have it as part
5 of our legislative package. Other comments on this?
6 Sam.

7 MR. COLLINS: Chairman, I would like to
8 acknowledge the commission's support and Pat's staff
9 support for the efforts we have had in hiring,
10 specifically in the intern and entry level area. We
11 have been able to attract very high quality and very
12 enthusiastic, very diverse workforce into the intern
13 program. And not only is that good for our future
14 acknowledging that there is effort involved in the
15 recruiting and the retention and the training, but to
16 be around these high quality, very energetic
17 individuals stimulates the staff. It forces new
18 thinking into the organization and it challenges the
19 status quo in many ways, as I think we all realize who
20 have children perhaps of a close age. So we are
21 making progress in that area. Clearly, there are
22 challenges -- I think some of those have been well
23 articulated today.

24 But I would like to step off from this
25 discussion on a positive note, that we are achieving

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1 some of those goals and we are seeing the impacts.
2 And I would want the interns who are currently with us
3 have the advantage of this type of forum to know that
4 we have that type of confidence in them and we are
5 seeing their performance at a very high level.

6 MR. KANE: Can I make another comment?
7 That I know if Hub was here today from Region 1, I
8 know he'd speak to this. But in the agency, one of
9 the significant challenges with bringing new people on
10 board is with the regions. And with that comes the
11 training component and it is very important.
12 Obviously, as you all know, to bring skilled people
13 in, but without being trained in how to do the job
14 from the standpoint of a regulator is very important
15 that you do that before they go out. So there's a
16 tremendous impact on being able to get skilled people
17 in and get them trained and moved out into to
18 positions.

19 Also, obviously, once you have done that
20 with the resident inspectors, for example, they become
21 very attractive within the rest of the agency. So
22 there's a through-put from the regions which makes
23 this an even more challenging job there.

24 CHAIRMAN MESERVE: Thank you. I promised
25 our guests that we would adjourn by noon because they

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1 have many other obligations in town here. Before I
2 bring this to a close, let me give opportunity for
3 anyone around the table if they want to say some --
4 make some closing remarks or raise some parting
5 issues, we will welcome that. Sam.

6 MR. COLLINS: Very quickly. I would have
7 as a take away from this meeting the need to engage in
8 some of these issues outside of this forum.

9 CHAIRMAN MESERVE: Definitely.

10 MR. COLLINS: Dr. Lyman has expressed an
11 interest in risk informed applications. I think we
12 can provide information on that. We do consider risk
13 and power operates as part of our standard review plan
14 and we will be doing that. I know the commission is
15 sensitive to that because they have taken the staff
16 issue of asking for more information in the risk sense
17 of power operates and that was an appropriate point.

18 Additionally, I know David and I have had
19 conversation that I would like to engage in these
20 issues to the extent we can informally before they are
21 written down and cast in concrete and they are issues
22 that are responded to at a much higher level, perhaps
23 at a higher tone in volume. We can agree to disagree.
24 And that is going to exist as part of the
25 stakeholders' initiatives and roles. But we need to

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1 ensure that the information is accurate and that the
2 understanding of the programs and the rules is as
3 aligned to the extent it can be before we can launch,
4 sort to speak. So I am receptive to those forums and
5 they can be done constructively. And I would like
6 participation in that by all stakeholders. I
7 appreciate that, Sam. Obviously, we get great value
8 from our interactions from our stakeholders. And that
9 is reflected by the substance that we have been able
10 to cover in the session that we have had this morning.
11 I would like to thank you all for participating. This
12 has been very helpful. And with that, we are
13 adjourned.

14 (Adjourned at 12:00 p.m.)
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