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UNITED STATES
NUCLEAR REGULATORY COMMISSION

'87 JUL -2 A9:40

IN THE MATTER OF: **DOCKET NO:**

SECOND ANNUAL MEETING

WITH STATE AND TRIBAL REPRESENTATIVE IN
THE HIGH-LEVEL WASTE PROGRAM

WM Record File 408
WM Project
Docket No.
PDR 1
LPDR

Distribution:
(Return to WM, 623-SS)

LOCATION: WASHINGTON, D. C. **PAGES:** 1 - 158

DATE: TUESDAY, JUNE 30, 1987

ACE-FEDERAL REPORTERS, INC.

Official Reporters
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excl. to Second Annual Mtg.
Pages 1-158 recd 7/2/87

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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SECOND ANNUAL MEETING

WITH STATE AND TRIBAL REPRESENTATIVE IN

HIGH-LEVEL WASTE PROGRAM

Embassy Square Suites
2000 N Street, N.W.
Court B Conference Room
Washington, D. C.

Tuesday, June 30, 1987

The second annual meeting convened at 9:10 a.m. before Robert Browning, presiding.

P R O C E E D I N G S

MR. BROWNING: Ladies and gentlemen, I would like to welcome you to the second annual NRC meeting on the NRC piece of the high level waste respository program.

I might announce that there's plenty of seats up here in the front row for those people who are coming in later, if you are having difficulty finding a seat in the back of the room.

The purpose of this meeting is twofold. First to inform the interested state and tribal officials about significant planned and ongoing NRC Staff activities in the high level waste repository program and, second, to provide an opportunity for the NRC Staff to become more informed about state and tribal concerns as they affect our regulatory activities.

Many of you have also probably heard about the recent reorganization at NRC but may not be certain as to exactly what that means to the affected state and Indian tribes interested in the high level waste repository program.

We scheduled this issue for our first discussion on the NRC part early today, so that speakers from both our new Office of Governmental and Public Affairs, Mr. Harold Denton, and our Office of Nuclear Material Safety and Safeguards, Mr. Robert Bernero, would be available to talk

to you and answer any questions you might have with regard to the impact of that reorganization on the progrm.

At this point, I would like to turn the program over to Rob MacDougall, who will be chairing the meeting today.

I personally plan to stay throughout the full session, because the piece that I am most interested in is the piece that we have scheduled towards the end of the session, which is to listen to your concerns, questions, et cetera. So I will be available throughout the day, if any of you have any questions either on the formal agenda or if they want to talk to me on the side.

With that, I will turn it over to Rob MacDougall.

MR. MAC DOUGALL: Thanks, Bob.

I am pleased to be emceeing this gala event.

I am sorry to say that we found out too late that this room turns out to be one of the hottest in the building, after they had already set us up and everything, so we will have to ask your indulgence.

Also, we had a lot more folks show up than had told us were going to be here. So I hope we will have enough chairs for all of you by the time we get rolling.

I just wanted to start with the first housekeeping amendments, so that you know how we are going ot be conducting business here. As you probably noticed, we

have a court reporter, and in order for him to get everything down on the rcord, we would appreciate it, if you would try to use the microphone at the back of the room when you ask questions and make comments, identify yourself by name and your affiliation. That would help a lot.

Phone messages will be delivered by the hotel staff to the back of the room here. There's a message board over there that will have your messages on it. If you don't already know, for your information, if you need to have calls returned or whatever, the phone number for the hotel is Area Code 202 659-9000.

Finally, the last housekeeping amendment.

There are copies of NRC documents that are related to the discussions we are having here today in the back of the room. We have made 30 to 50 copies of various documents. Since there's obviously more of you than there are of documents, if some of you wind up running out going to the table, and we have handed out the last ones, see either me or Nancy Still, who is in the back of the room with the pink suit.

Nancy, wave.

Okay. We are very honored today to have Mr. Harold Denton appearing before us.

VOICE: Are transcripts going to be available?

MR. MAC DOUGALL: Yes, the transcript will be

made available on request.

Anyway, I would like to introduce Mr. Harold Denton. Those of you who were "glued to the tube" around March of 1979 probably remember his face well. He was the principal NRC spokesman during the TMI 2 -- I guess it is officially called an "incident." We owe him a great debt for his credible showing at that point. He was then, and until recently, was the Director of our Office of Nuclear Reactor Regulation. He had served in that capacity since 1978. Before that, he was Assistant Director of Site Radiation Safety and later Assistant Director of Site Safety in the Reactor Licensing Organizations of the Atomic Energic Commission, which was the predecessor regulatory agency to the NRC.

He is also the recipient of several distinguished awards -- the NRC's Meritorious Service Award in 1977 and the NRC's Distinguished Service Award in 1980. And he was also among the first senior federal executives to be honored with the Presidential Distinguished Executive Award.

Without further ado, Harold.

MR. DENTON: I am pleased to be here today on behalf of the Chairman. I did work for almost a decade in reactor licensing, and I decided I wanted to do something tougher in life, and that is, figure out how to get along with the various constituents in this vast country.

One of my jobs is to try to help the Commission get along with Congress, the Governors, help them get along with states, local governments and Indian tribes, and the other is to get along with our international allies. And then finally, public relations, which just follow naturally, if we would do a good job on the first three.

I did want to start the morning by telling you a story that I think might be appropriate concerning two moose hunters up in Alaska. I don't know if we have any Alaska representatives here today or not. But they happened to be Texans. They were Billy Bob and Billy Joe, and they were moose hunters. They flew up to Alaska and each managed to shoot a moose.

When the time came to be flown out of the backwoods, the pilot say, "No way can this plane take out myself and you two and two moose."

The hunters said, "Well, last year the pilot had no trouble taking off. I don't know why you're hesitating to try to fly us out of here."

And as you know, these pilots don't want to be outdone by each other, so he said, "Okay, I'll give it a try."

So they loaded the two moose on the plane, rolled down the little runway and took off and went about 300 yards and crashed. Fortunately, no one was hurt. The pilot was a

little dazed. The pilot got out of the plane and said, "Where are we? Where are we?"

And Billy Bob said, "I know where we are. It's the same place we crashed last year."

(Laughter.)

We have a few crashed in the NRC, as you know, on and off, and one of the things we want to do here today is to try to avoid that kind of scenario in our relationship with those of you represented here today.

The group that I represent does now report directly to the Commission and to the Chairman. So I have an opportunity to take the issues that are of most concern to you, if you are not getting satisfaction through the nornmal process, you can go through Frank Young, whom many of you know, who is in the back of the room there, who is responsible -- Frank, you want to raise a hand there -- that is in charge of our state and local government and Indian tribe relations. Frank used to be a legislator in New Mexico and has a lot of experience in this area.

Dean Kunihiro is here -- where's Dean -- from Region V, the Public Relations Officer out of Walnut Creek. He is another person you ought to get to know and deal with.

The Agreement State Program is still operated by Don Nussbaumer. I don't know if Don is here this morning.

And I see Virgilio in the back.

Perhaps you know these members of the Staff. These are the people we will be looking to to find out how good a job we are doing in hearing your complaints and getting them back to the Chairman.

I would like to think that we can work with you in what I call a proactive manner rather than a reactive manner. I think many of the problems we have experienced in the past are assuming that everybody understand the rules of the game and that the process is straight and the umpires are chosen and then the process proceeds from there. Certianly, in this arena, it is not like reactor licensing, where the rules are already frozen.

There are several unique aspects to high level waste. First of all, the licensee is not a private utility. It is the U.S. Government, it is the Department of Energy.

We have dealt with the Department of Energy on previous matters such as the Clinch River Reactor and the FFTF reactor in the State of Washington. One unique thing is the rules of the game, and I know that a lot of you have ideas on how this process should proceed, and that is certainly something we would cooperate with you in.

I brought along some copies of the recently proposed Strategic Plan. We are trying to get out of the mode of being what I call a firefighting type agency and put down our goals, and what we really want to accomplish.

I guess, Frank, you have copies available --

MR. YOUNG: Yes, we do.

MR. DENTON: -- back there.

This plan has not yet been approved by the Commission. It is a Staff plan. But I thought you might like to see how it dealt with the issue that you will be facing. We assume in that plan -- and this plan was written last year -- that state and local governments and Indian tribes will be increasingly interested in the regulation and oversight of high level waste activities. I take it from the turnout today that was a fair assumption.

We listed as specific strategic goals for the Commission the following. I just want to touch some of them for you.

As a strategy, we want to promote a coordinated and effective intergovernmental approach to nuclear safety. That is, we want to initiate programs to increase cooperation and communications between the NRC and state and local governments and Indian tribes to promote increased awareness and activities relative to nuclear safety.

Second, take timely action to implement these regulatory authorities.

We think it is important to strengthen our relationship, so that everybody understands what the NRC's role is.

You probably know that we don't design reactors. We don't operate reactors. Our sole job in life is public health and safety. And it is the same job in regulating high level waste. We are not charged with finding the site or doing the economics, but making sure that whatever DOE is with high level waste does adequately protect public health and safety.

The second major goal we have is to provide timely, accurate and complete information to the public with respect to our activities. We take that to be a serious goal, and I think that they have a good start toward trying to do that.

Specifically, with regard to many of you, we do want to find ways to keep you fully apprised of everything we are doing and convey to you what our policies, plans and acivities are, so that you won't have to second-guess or you won't have to sit and wonder what the NRC is doing, and we are willing to go the extra mile to try to explain and encourage back and forth communication and participatio, recognizing that ultimately somewhere in this process, our roles mauy be different. You may be ultimately opposed to some action that we are being asked to license, or you may be in favor of it, but ultimately, our job in life is to be an arm's length regulator and to come to a decision, based on technical merit and independent of all other

considerations that might be involved.

Mr. Burke, of your Study Program, impressed the Chairman when he spoke before the Commission the other day, when he talked about honesty, openness and willingness.

I think I can speak for the Chairman, when he says that they are the keys to a successful program, and we hope to try to exhibit those characteristics. We cou;dn't agree more.

I hope you have a successful meeting today.

Perhaps we have time for a question or two, if anyone has it at this time. Otherwise, we will proceed and rcognize Bob Bernero, who will get into a bit more of the technical issues involved.

If you have a question about the policy parts of the program, perhaps I could answer them.

(No response.)

MR. MAC DOUGALL: I was just asking Bob if he wanted an introduction. He is shaking his head.

MR. DENTON: Let me introduce him, even though he doesn't want an introduction.

Bob has long been one of the intellectucal gurus in our outfit. He has played a major role in developing the probabilistic risk approach to reactor safety. He is known worldwide in that field of how do you calculate the likelihood of accidents and the consequences for accidents.

We shifted him from reactors into the waste management area, because we thought we needed to bring that sort of approach to this specialty. I think he's got a very challenging assignment.

Bob?

MR. BERNERO: Thank you, Harold.

Good morning to all of you.

Harold gave you an idea of the trend in NRC that is a policy of greater focus on our interaction with other parties, with other governmental bodies, with state and local government, with the Indian tribes and, for that matter, a very important thing, our relationship with the Congress, our relationship with other governments, as well.

I would like to pick up on that and talk to you about some of the more specific mechanics of the NRC's organizational structure, because some of the names are different. I am one of the different names, and some of you have not seen me before.

Hugh Thompson, our Dirctor, is also a new name to you.

I would also like to explain the structure of our office, Nuclear Materials Safety and Safeguards, and what portions of it you may encounter in this consideration of and evaluation of the high level waste repository program.

First of all, let me talk about the

responsibilities within NRC which are vested in the Office of Nuclear Material Safety and Safeguards. This office, our office, NMSS, has the responsibility to implement the Nuclear Waste Policy Act now.

You all recognize that DOE has the fundamental responsibility to manage the program, to go out to find repository candidate site or sites, to evaluate them. Many, many actions. And the great majority of the federal resources disposed to this are through the Department of Energy.

Nevertheless, the NRC has a very important role of providing oversight, interaction with other interested and responsible parties such as yourselves and ultimately, we have the responsibility to license the facility.

Now, it is more than one facility, and I am sure you are aware that a geologic repository is a facility that we would have to license under our 10 CFR Part 60.

In addition, if there is a monitored retrievable storage spent fuel facility, an MRS, we also have the statutory responsibility to license such a place.

We, right now, have the storage of spent fuel at every reactor site in the United States and the NRC, through our process of licensing reactors, already licenses the storage of spent fuel in great quantity.

We have begun, again, through our statutory

authority, to license dry storage of spent fuel at reactor sites. Some of you may be aware, there are two eastern sites, where we have, through our existing statutory authority, licensed the storage of spent fuel for a long term, decades of storage in dry casks that are set on the ground right near the reactor, essentially on the reactor site .

We also have a statutory responsibility to certify the containers or casks which are used to transport spent fuel or high level waste.

In the Nuclear Waste Policy Act, it was envisioned that we would have at least an oversight, an advisory role to DOE, because DOE has statutory capability or responsibility to certify casks; however, there are changes afoot in this. Don't be surprised if you see developments which would bring NRC more into the certification of casks used for high level waste. Just recently, we had a major meeting with the Department of Energy on transuranic waste. They expressed their desire to have a cask designed, in fact, possibly more than one cask designed for the movement of transuranic wastes between various sites in the United States and, among other things, ultimately to the WIC facility in New Mexico, and their desire to have that cask certified by the NRC, not reviewed by the DOE.

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So we have many statutory responsibilities that we would handle through the Office of Nuclear Material Safety and Safeguards.

Turning back to the respository programs for a minute, one of the important things we have to focus on is the ability for the NRC to provide meaningful oversight of this program, to stay close enough to it to see that the technical work is done thoroughly and completely and to provide what Harold Denton properly referred to as the arm's length regulation of that work, so that we can truly make a responsible, competent, independent licensing decision.

Now in order to do that, we must take pains that we don't paralyze the program, that we don't put the program into an endless round, a never-ending round of questions and answers. It is a very delicate balance for us to make sure that the information is properly obtained and properly shared with all the interested parties. That is why we are so very interested in having an open communication with you people who are responsible yourselves for the siting and location of respositories.

Now if you look at our new division structure in the Office of Nuclear Material Safety and Safeguards, there are four divisions, three of them. In fact, for that matter, all four, in one way or another, will have something to do with the high level waste repository.

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The first division has the longest name. It is Fuel Cycle Medical, Academic and Commercial Use Safety. One of these days, we are going to change that name to something shorter, but basically, these are people who license fuel cycle facilities, fuel fabrication. They also license the storage of spent fuel. So that this group is the one associated with MRS type reviews. They would work and do work closely with our Division of High Level Waste on that matter.

We have another division called Safeguards and Transportation. In that division, we have the vested responsibility for the review and certification of casks used to move high level wastes and nuclear spent fuel. They, too, work closely with the Fuel Cycle Division and with the High Level Waste Division because of the interaction in their jurisdiction.

Then, of course, we have the Division of High Level Waste, which is, in essence, the group that you see here today and will be doing much of the talking to you.

Last and certainly not least, we have a Division of Low Level Waste Management and Decommissioning. This group -- its title is quite descriptive of what it does. This group has an interaction with the high level waste program in a very important area. That is the line of demarcation between high level waste and low level waste.

As you know, it is not a simple definition that divides high level waste from low level waste, and we have, for instance, a group of wastes that we refer to as greater than Class C wastes. The Low Level Waste Division is responsible for that but works very closely with our High Level Waste Division on that. And it is possible, if you follow some of our correspondence with DOE on this matter, it is possible that the high level waste repositiory might also include the disposal of some greater than Class C wastes, which is lower in activity level and certainly lower in heat level than the high level wastes, but a little more difficult for the surface disposal of a low level waste program.

Now our Division of Waste Management, in particular, the high level waste management, has the lead responsibility for interacting with DOE. These are the people who have the site residents. Right now, we have a site residents at the Hanford site and at the Nevada site. As the program develops in the Texas site, the Deaf Smith County site, we expect to have a resident there as well.

This group is one of the primary contacts that you will have. They are the ones that organized this meeting. And, in collaboration with our new and strongly organized Office of Government and Public Affairs, they are the ones that you should speak to. They are the ones that

you should call on when you see problems, when you have difficulties yourself.

Now, your participation is a fundamental part of our review, and we have tried to build our review schedule and will continue to do so to allow the proper time and the proper interaction with you.

Now the site characterization plans for the three sites are now promised by DOE to later this year and one early next year. We are trying to manage our schedule of interaction with DOE and our review of those programs to have your active participation in a properly tuned and a constructive way.

Now there's going to be a negotiated rulemaking that we think will be a very effective tool by which you can participate in the review of the high level waste repository program. And I think negotiations will start on this about September this year. I understand Rod McDougall and Chip Cameron are going to be talking about this further as the day goes on.

I invited your attention to that, and I think it is going to be a unique thing. It has been done before by other agencies, and where you have clearly responsible parties, such as yourselves, I think it is an excellent way for us to try to get an effective program done in a reasonable period of time.

Now last, I would just like to emphasize that our agency is trying to look openly and publicly to the outside parties, such as states and tribes and other governments, to do our work, to do it objectively, to do it openly. We take our responsibilities very seriously. We respect your responsibilities and take them very serious, and that is the reason we are meeting here today, the reason we want to hear from you, to participate with you in this process.

Recently, we had the benefit of a meeting with our Commission -- on the 16th of June, if I remember the date correctly. It was very constructive. The Chairman was very pleased. We were very pleased. We hope you were. And we look forward to communications such as that, as time goes on.

Thank you. Yes.

MR. DAVENPORT: Jim Davenport, from the State of Nevada.

You mentioned a number of responsibilities that the agency has and spoke about the statutory basis for each of those. I have never seen a matrix put out by the agency of the specific statutory references on which those functions are based. It would be interesting if you could put something like that together. I know many of the Atomic Energy Act sections, which are sometimes difficult to discover, or at least for me to find, which you are relying

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on.

MR. BERNERO: We have such a listing. I know we have it broken down by each of our divisions. What are their statutory responsibilities and the tracing back to the appropriate statute.

I am quite sure we can make that available.

MR. MAC DOUGALL: The Federal Register notice that contains our Part 60 Rule, the licensing of a respository, for example.

MR. DAVENPORT: That one I know.

MR. BERNERO: But all the spent fuel and the cask and everything else.

Let me make the commitment that we will make that available in some compendium form, so that you may know the Part 60 or the Part 62, which is the low level waste. You may know that fairly well, but how much do you know about Part 71?

MR. DAVENPORT: That's my point. So we can get a full list of all those parts of the Reg.

MR. BERNERO: That would be very useful, and I will make that commitment. We will provide that to you. It is a matter of just collating it. Yes.

MS. KANY: Senator Judy Kany, from Maine.

I was interested in your introductory remarks, in which you mentioned that two nuclear power plants had

licensed for long-term dry storage of spent fuel.

I wonder if you could identify those. I am not familiar with that.

MR. BERNERO: Yes. One is the Surry plant, which is in Virginia, just across the river from Williamsburg. The other is the H. B. Robinson plant, which I think is in South Carolina; isn't it, Harold? H. B. Robinson. It belongs to Carolina Power & Light.

In both cases, they are what we call dry storage, large casks in the yard, components.

MR. SMITH: Ben Smith from the State of Tennessee. Two weeks, Hugh Thompson testified before a Senate subcommittee on nuclear regulation about the MRS project. His comments were based -- or seemed to be a ringing endorsement of the need for the project.

I am just curious. You mentioned several times about the arm's length regulator rule of NRC and the objectivity that you want to maintain.

How do you reconcile that with testimony about the need for a project that you are going to license later on? It seems that GAO feels that not enough has been done to establish the need for this project, and there is a large question about the need for an MRS.

How do you reconcile this testimony with your role as an arm's length regulator?

MR. BERNERO: I am quite familiar with Hugh Thompson's testimony on that, because I participated in the preparation. He and I have discussed this at some length.

One should draw a careful line about the need for an MRS. The NRC's position is that it is not needed for health and safety, as I said, as we just mentioned a minute ago. We have licensed the storage of spent fuel for longterm at reactors for many years. We have now licensed two sites for long-term, decades-long storage at two reactors in dry casks. And we could foresee the public health and safety being served with that sort of approach.

What we have recognized, publicly, is the programmatic potential, if DOE justifies the need for an MRS as part of the repository program.

There are certain attendant programmatic advantages of simplifying the attention on the storage and the collection of and storage and possibly the consolidation of spent fuel high level waste at one or more MRS type facilities.

This subject came up in a Senate hearing just yesterday, where I was testifying. It is a programmatic advantage, in that the NRC would have large volumes of material at one or two or three sites rather than have it at all of the reactor sites, which now number about 50.

So it is not -- we have not and do not take the

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position that it is needed, in the sense, needed for public health and safety.

We recognize, though, that there are certain programmatic efficiencies associated with it.

MR. SMITH: We think there's deficiencies that are being overlooked encouraging consolidation at the reactors and resulting in less casks moving through the States. We'd like to see more of the waste moved by rail and large shipments. And we think there are some improvements to public health and safety that can be made independent and, instead of building an MRS, we think NRC should look at those as well as the programmatic factors.

MR. BERNERO: Again, the points you're making were made very effectively at the Commission meeting on the 16th. We're trying to walk the line of distinction between the programmatic needs and balances, which is DOE's responsibility, and the health and safety needs and balances, which is the responsibility we have.

So we're not so actively pursuing the programmatic balance that you cite. We see that as the DOE responsibility.

Anyone else?

(No response.)

MR. BERNERO: Thank you very much. I'll turn it over to Rob.

MR. MACDOUGALL: Thank you, Bob. Next on our agenda is a discussion of two rulemakings we figured would be of interest to you in our consultations with you. And I think may have been mentioned by a number of you.

One of them is on the conforming rule with Part 51, which is the heart of our Code of Federal Regulations, Chapter 10, that deals with our responsibilities under the National Environmental Policy Act.

As you know, the Nuclear Waste Policy Act of 1982 changed our NEPA responsibilities with respect to licensing a repository and called upon the Commission to adopt, quote, "to the extent practicable", DOE's Environmental Impact Statement, selecting the site for development in connection with our own decision on issuing a construction authorization for a repository at the site proposed by DOE.

The other rule that we figured would be of interest to you, the definition of high level waste, which Bob alluded to in his remarks earlier, I guess you're reasonably familiar with that issue, just the nature of it anyway, from Bob's remarks.

But we're lucky to have with us Dan Fehringer, who is really the person where the rubber meets the road on rulemaking in both of these areas. Dan has a degree in engineering, a Ph.D. in Health Physics. He formerly worked at the Atomic Power Laboratory in Pittsburgh before coming to the NRC in 1977.

He's done a lot of work in performance assessment, which led him to become involved in establishsing the performance objectives for our Part 60

repository licensing rule. And in the last two years, he's ben sweating over the definition of high level waste and the adoption of EPA standards in addition to his NEPA rulemaking responsibilities.

So, Dan, if you'd like to give us your thoughts.

MR. FEHRINGER: Thank you. I have props so I'll speak from the viewgraph projector. If my voice starts to fade, just wave your hand, I'll turn the volume back up.

Slide.)

You have copies of these viewgraphs in your handout package which may not be very legible at this distance. Everything I'm showing you is in paper form in your folders. I want to give you a status report on two rulemakings that are currently underway, and a third that will be initiated very soon.

These are the conformance of Part 60 with the EPA high level waste standards -- the definition of high level waste and the ground rules by which we at the NRC will adopt DOE's environmental impact statement.

Slide.)

First, we have the amendments to conform Part 60 to the EPA standards. As you may recall, we proposed the amendments in June of last year. Let me summarize very briefly what the amendments were that we proposed.

We proposed to take everything of substance in

the EPA standards and insert them directly into Part 60. There were a few changes necessary in terminology so the wording would match up with the existing text of Part 60.

But we had no intent to make any change of any substance in the requirements that EPA had included in their standards.

We published proposed amendments, received public comments. We've been preparing a final rule package. We expect the final amendments to go to the Commission early next month, next month being July.

In my view, there are no changes of substance from what we proposed last year in June. Substance may be in the eye of the beholder, so let me summarize what the changes were from the proposed ruling. You can draw your own conclusions.

First, many of the comments we received attacked the EPA standards themselves rather than our adoption of those standards. And there was no way we could respond to that. We could not go change the existing EPA standards that were in final form.

So those comments may have had merit to the people making the comment, but we were not able to accommodate comments of that type.

Second, we have some additional changes in terminology that we found to be necessary. One example is

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the term "undisturbed performance from the EPA standard," which we had said in the proposed amendments was the same as our term "anticipated process event".

Some comments said that there was a subtle difference. We don't see the difference, but if it will make you happy, we'll just adopt EPA's term and drop the term that was formerly in Part 60.

So now the EPA standard in Part 60 will have exactly the same wording.

We are including an additional explanation of what the term "reasonable assurance" means. We had some explanation of that in the proposed amendments. A number of comments requested a better explanation and we've attempted to provide that better explanation.

There were also a number of comments involving the monitoring requirement that we had proposed. We think a lot of people either did not understand the requirement we were proposing or were encouraging us to adopt a more stringent standard than was present in the EPA high level waste standards.

So we have provided a very extensive discussion of exactly what we mean by monitoring after repository closure. We'll summarize that for you.

Many comments said they were glad to see that we were requiring monitoring of groundwaters for radionuclides

indefinitely after repository closure.

That was not in fact what we meant to require. We think that monitoring, first of all, is not a proper way to ensure the safety of the repository. We do not think monitoring can be relied on to last for any significant period of time after repository closure.

And, second, we recognize that even if radionuclides are released in groundwater, that will not occur any time soon after repository closure.

At least a couple of centuries will have elapsed before any activity would show up at a monitoring location. And by then, there's very little assurance that monitoring would still be in place. The institutions that provide monitoring would not likely have that longevity.

The type of monitoring we do want to require is any monitoring that can be a supplement to the performance confirmation program. For example, it might be possible to monitor regional groundwater flow as the repository system returns to a state of equilibrium after repository construction.

That monitoring would provide confirmatory information that would allow one to have more confidence in the groundwater flow models than were used in the initial licensing of a repository.

Or, alternatively, if they showed a significant

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deviation, there would be a need for more study.

In either case, the information could be useful in confirming the analyses that were used to license the repository. We anticipate that such monitoring would last only a decade or two, the type of length of time during which you can rely on institutions to be present and to provide the monitoring.

And I want to emphasize that we did not intend, nor did EPA intend, to require indefinite monitoring of groundwater for radionuclide contaminants. We do not prohibit. The Department of Energy and the States together want to provide for that type of monitoring.

Our rules permit it but we do not think it's a proper way to achieve safety of waste disposal.

The next to the last item on this viewgraph, we try to provide some additional clarification of the limits we were placing on reliance on institutional controls.

There is no change of substance in my mind but we did not have the best wording in the proposed amendments. We tried to improve upon that in the final amendments.

Finally, we have revised some of the wording that is in the procedural part of Part 60 describing the analyses DOE is to submit to the NRC to demonstrate how the repository wlil perform after closure.

Again, in my mind, no change of substance, but an

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area the public commented on that, Hey, we need some clarification.

And to reiterate, the staff work is essentially complete on the final amendments. We expect they will be submitted to the Commission early next month.

Slide.)

The second rulemaking that had been initiated involved definition of the term "high level waste". Currently, wastes are classified by the source where they're generated. A waste that originates in the first cycle reprocessing stream of a facility for separating uranium and plutonium and spent fuel is classified as high level waste.

Waste from any other source is currently classified as low level waste.

There has been a need recognized for many years to develop a definition that is more key to the hazard of the waste material, and we have initiated a rulemaking to do exactly that.

We published an advance notice of proposed rulemaking in February of this year. The original public comment period was to close in April. We received a number of requests for an extension of the comment period, and an extension was granted. And the extended public comment period closed yesterday.

I have not received very many comment letters so

far, they're still working their way through the system.

We did receive a number of letters that were meant to be received by the NRC before the close of the original public comment period.

Those comments are generally supportive of the approach that is being taken to the extent that the approach tries to correlate waste classifications with the hazard of the waste material.

When it gets down to specifics then, there is not total agreement with the approach that we had suggested, although there is more agreement than might have been expected.

One area that I guess shouldn't have been surprising, but it was to me, was two or three letters suggested that we use a dual classification system.

If waste would be high level based on source, then it remains high level. If it would be high level based on risk, then it goes into the high level category.

The notion being: Push as much waste as possible into the high level waste classification.

We'll consider the merits of that, but it gets you away from the idea of having a risk-based classification system.

We have no intention to reclassify the current A, B and C categories of low level waste. That is an area that

some comment letters have already keyed on. Some comment letters have asked us to redefine Class C waste as high level.

In the letters that I've seen so far, no good rationale has been presented for doing so. And in the absence of such a rationale, we plan to leave the existing waste classes as they are.

Finally, some comments argued for a nuclide by nuclide classification rather than the fuel systems as proposed in the advanced notice.

Let me illustrate what that was:

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First, the definition of the term in the Waste Policy Act provides two criteria for identifying high level waste, wastes that are highly radioactive and that require permanent isolation.

Keying on those two criteria, we have proposed a classification system that can be illustrated in this manner.

Slide.)

On the vertical axis of the concentrations of short-lived nuclides. Those are the nuclides that make a waste highly radioactive.

On the horizontal axis are the concentrations of the long-lived nuclides. Those are the ones that make a

waste hazardous for long periods of time and require permanent isolation.

With this classification system, we would essentially draw the universe of wastes into four quadrants. Those in the upper righthand quadrant would be both highly radioactive and in need of permanent isolation, and they would then be classified as high level.

Waste in the other three quadrants would remain in the low level category.

Some of the public comment has suggested that we ought not take such a literal interpretation of the term "highly radioactive".

Slide.)

Moving back to Congress' wording, the term "highly radioactive" is a key part of this, but some comments suggest that we ought to interpret that in more of a layman's way; leave "highly radiotoxic" or "highly hazardous" for the word "highly radioactive".

And then classify wastes nuclide by nuclide. For example, the cesium and strontium capsules at the Hanford site would not be classified as high level waste as proposed in the advanced notice, but perhaps they should be.

They are relatively-short-lived. There are major quantities of radioactivity in those cannisters. Because there's such a large initial inventory, they will remain

highly radioactive for fairly long periods of time. Perhaps they should be classified as high level wastes without requiring the conformance with the system that had been proposed in the advanced notice.

This is one area that we will be examining and see if we can work out a nuclide by nuclide classification system, rather than requiring the two different characteristics to be present simultaneously.

Beyond that, I cannot very well characterize the comments that have been received. They range over a wide spectrum. Many seem not even to quite be on the subject matter.

There are a lot of hidden agendas obviously present in the comments. And until I've gotten the rest of the comment letters and had an opportunity to draw some reasonable summaries, I'd like to let the analyses of comments wait until another date.

We do plan to have a proposed rule ready to submit to the Commission in the spring of next year. That will have an analysis of the public comment and a proposed definition of the term "high level waste".

MR. BROWNING: Dan, I think you might want to emphasize that once the Commission acts on it, then the proposed rule would go out for public comment.

MR. FEHRINGER: Yes. This first step in the

rulemaking process wasn't advanced notice of proposed rulemaking. We are required by the Administrative Procedures Act to allow at least one opportunity for public comment on the proposed rule.

In this particular rulemaking, we have allowed two. We have issued the advanced notice of proposed rulemaking. Now we will go back to the Federal Register with the proposed rule. There will be another opportunity for you to review and comment on what we are proposing.

Then, after that, we eventually get to a file rule on the subject.

Slide.)

The final rulemaking that we are just now initiating involves adoption of the DOE Environmental Impact Statement.

The Waste Policy Act has changed the way we approach our NEPA responsibilities in reactor licensing. We require the applicant to submit an environmental report. We use that environmental report to prepare our own environmental impact statement to support our decision on issuing a license for that reactor plant.

The Nuclear Waste Policy Act changes the rules that we worked under. The Waste Policy Act directs DOE to prepare an environmental impact statement rather than an environmental report.

That Environmental Impact Statement is to be issued for public comment by the Department of Energy and submitted to the President, along with the recommendation of the preferred site from among those characterized.

Then the Waste Policy Act directs the NRC to adopt DOE's EIS to the extent practical. This rulemaking will try to set out the ground rules under which we will adopt DOE's EIS and define in a more precise way what that term, "to the extent practicable" means.

The Waste Policy Act also provides for judicial and congressional review of DOE's EIS before the NRC makes a licensing decision for a repository.

As soon as DOE finalizes its EIS, a 180-day clock starts in terms of the Waste Policy Act for challenges to that EIS in the court system.

Essentially, the Waste Policy Act allows you to go straight to the top, bypass the NRC, and challenge DOE's EIS directly in the courts. When that has been done, there will be a precedent for a legal constraint on the NRC's review of DOE's EIS; to the extent theh court has ruled that EIS is valid, the NRC will have to abide by that ruling.

In the federal pecking order, the NRC is lower than the courts. We cannot undo what the courts have done. That puts quite a constraint on us as far as a review of DOE's EIS.

We will of course review the draft EIS, as any federal agency would, and supply our comments on it. The real question is: What review does that EIS receive in our formal license review of DOE's application?

Is there a question here? Yes?

MR. DAVENPORT: Yes. What does the agency intend to do if the litigation challenging the Environmental Impact Statement is prolonged for two to five years?

MR. FEHRINGER: That is one of the questions that we're trying to address in this rulemaking. If the court rules in a timely manner, there will be a legal constraint on us.

If the court postpones its decision, then that leaves us in a form of limbo and that's one of the things we have to consider as we develop this proposed rule.

The specific answer I don't know yet. We don't have a proposal developed yet, but that's one of the things we're trying to resolve.

MR. DAVENPORT: The second question would be:

To what extent would you regard that judicial constraint as you describe it limiting on the substantive issues that were discussed in the environmental impact statement?

Would the NRC regard those issues as being closed to fact-finding or the finding of adequacy or of compliance

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with NRC regulations in the license proceeding itself?

MR. FEHRINGER: You're getting on another one of the touchy subjects in this rulemaking. To the extent that a court has directly ruled on the adequacy of some particular part of the EIS, I think that is the case. It's not an NRC decision; it becomes a matter of law.

If DOE stated in their EIS that there were no rare and endangered species at a particular site and a court agreed with that, I think that matter would be closed.

MR. DAVENPORT: But that's not the issue that would be before the court. The question of the adequacy of an environmental document is not a finding that the facts in there were true, or that the conclusions were sound. It's a determination that the document was adequate under NEPA.

That's a different determination.

MR. FEHRINGER: Right. I understand. And that is one of the reasons we're having difficulty wrestling with this. One of the things that may happen is that new information will be developed between the time DOE prepares its EIS and the time that a licensing board reaches its decision.

The treatment of that new information, of course, is a possibility for NRC review. DOE will in some way need to evaluate the radiological impacts of the proposal, which touches very directly on the NRC's public health and safety

responsibilities and we definitely have a responsibility to review radiological safety of the facility.

How all of that feeds back into the adequacy of the EIS is a question that we are wrestling with, but we don't have the answer for you because we don't have a proposal ready to go to the Commission yet.

The points you're raising are the ones that we are concerned about.

Another question in the back?

MR. GOVER: Kevin Gover from the Nez Perce Tribe.

What would be the timing on these DOE issues, this EIS? What's the timing for when the Commission adopts that EIS as its own or as the operative EIS?

MR. FEHRINGER: The way I envision it, and I think it's an agreed view on the staff, is that our adoption occurs simultaneously with our decision either to issue a license or to reject the license application.

So we adopt them as much as three years after DOE finalizes its EIS.

MR. GOVER: How then are you going to reach any further information?

It seems to me a new issue necessarily requires some sort of an amendment to the EIS.

MR. FEHRINGER: New information can be treated in one of two ways. DOE has some degree of responsibility to

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supplement its own EIS when new information arises. But, depending on the timing and where the new information came from, there's a possibility that the NRC might need to issue a supplement.

We would evaluate the new information and prepare our own supplement to DOE's EIS. Exactly which criteria would cause DOE to supplement versus the NRC to supplement is another question we need to address.

Yes, Mr. Davenport?

MR. DAVENPORT: What is your opinion about, well, with reactor licensing you have the environmental report submitted at the time of the application. If it's not submitted with the application, does the proceeding begin? I believe it's not ripe to begin until the report has been filed.

MR. FEHRINGER: I believe we would consider DOE's license application incomplete unless there was an EIS. But the way the license policy act is set up, I don't believe that could happen. DOE must go to the President.

MR. DAVENPORT: The commencement of the proceeding then before the NRC has got to commence with the finding by the Commission that the DOE's EIS is adoptable rather than at the end of the proceeding?

MR. FEHRINGER: No, I don't think that follows. In particular, I think our decision to adopt would come at

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the end precisely because we would want to see if new information comes out of our license review that would affect our decision to adopt.

MR. DAVENPORT: Is the DOE's application to the NRC complete without an accompanying adequate EIS?

MR. FEHRINGER: You qualified it with adequate. DOE submits a license application and an EIS. That constitutes a complete application without any judgment having yet been passed on the adequacy either of the application or the EIS. That's what our license review is all about, is examining the adequacy of that application.

If all the paperwork is in order when DOE brings it to us, we can say that it's all there, without having yet made the judgment on whether it is adequate or meets all the regulatory criteria.

MR. DAVENPORT: So what you're saying is that the determination of whether the NRC can adopt the EIS will not be made until the completion of licensing or the construction authorization.

MR. FEHRINGER: Right. That's the way we're viewing it. Yes...

MR. PATT: I'm Ralph Patt from the State of Oregon.

Did I understand you to say that the monitoring system would be useful in watching the return to the

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normalization and verification of groundwater models if the leakage was observed during this monitoring period, which you also said is only for approximately a decade after closure and then the monitoring system would be abandoned, sealed off?

My question is, during that 10-year period, if you would see a leakge, then you could retrieve. My concern is why isn't a monitoring system for greater than 10 years being considered?

VOICE: Would you repeat the question, please?

MR. FEHRINGER: Yes. The question goes back to the earlier rulemaking on adopting the DOE standards. It deals with the monitoring provision that we are adding to Part 60.

The question involves the length of time I had said I envisioned monitoring persisting only for a decade or about that period of time. I don't mean to prejudge how long monitoring should be continued.

But that is approximately the length of time during which I envision that useful information could be obtained. Monitoring for a century likely would not produce any more information than one could obtain in a period of a decade or thereabouts.

But the exact length of time remains to be determined based on the specific type of monitoring that is

feasible at a particular site and particular site conditions.

MR. PATT: I'm not sure I understand the rationale for saying that a hundred years monitoring wouldn't produce any more information than 10 years. I don't understand the rationale on that.

MR. FEHRINGER: The question is: Why would monitoring for a hundred years not produce any more information than monitoring for a decade?

It's a judgment on how long it takes things to develop in a repository. The heat transfer reaches not a state of equilibrium, but it reaches close enough to a state of equilibrium to permit some degree of verification of the analyses that were used in the original licensing review. Same thing with the return of groundwater flow systems to some state of equilibrium.

I don't mean to say that there would be no information obtainable in longer periods of time. It's our judgment that, in a decade or so, one can obtain enough information to get all of the good out of monitoring that is likely to be available.

Admittedly, one could monitor for 10,000 years and continually obtain more and more information. It's our judgment on how long we think one could obtain useful information without having this centuries long nuclear

priesthood committed to a repository site.

But, again, I want to emphasize the period of time is not fixed in our amendments. We're suggesting a period of about a decade. We think that will be correct in most cases, and it will be a decision based on the specifics of the site and of the type of monitoring that needs to be done at that site.

Yes...

MS. ZIMMERMAN: Susan Zimmerman, the State of Texas.

Getting back to the EIS, you said that the NRC might submit their own supplement to DOE's EIS. Is there going to be ability for States or Tribes to challenge the supplements with new information?

MR. FEHRINGER: Yes. If were to supplement DOE's EIS, we would use the normal draft comment and final approach so you could challenge by commenting on the draft. And then, under the terms of the Waste Policy Act, you would have a 180-day period to go to court to challenge our supplement, just as you could challenge DOE's supplement or DOE's original EIS.

I've talked some about the constraints that we might face in adopting DOE's EIS. Additional congressional review may have occurred before we receive a license application. But the legislative history of the Waste

Policy Act also makes it clear that the NRC does have a residual NEPA responsibility.

I don't want to give the impression that we're trying to avoid any NEPA decision. What we're trying to do is figure out exactly what our NEPA responsibility is with the different conditions which the Waste Policy Act imposes on us.

There's a range of alternatives that we might pursue in adopting the EIS. There are two extremes. There could be unquestioning NRC adoption, hide behind whatever else has occurred and say DOE's EIS is fine and, therefore, it is fine for us as well; at the other extreme, there's a completely independent NRC review.

Ignore whatever the courts or Congress might have said and do our own evaluation of DOE's EIS. That also is not very satisfying. We'd be tilting at windmills. So we're trying to find a proper approach in between those two extremes. I wish I could tell you what we've decided upon. We haven't reached a staff proposal yet. And I just wanted to make you aware of some of the conditions and constraints we're wrestling with as we try to develop a decision.

There's one more question. Yes?

MR. POWER: Max Power, State of Washington.

Are you going to deal with the question of the adequacy of the number of viable alternatives in the rule?

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MR. FEHRINGER: I think that's specified in the Waste Policy Act. There's no reason for anyone to challenge that. As I recall, the Waste Policy Act set certain constraints on DOE's EIS as well, including the consideration of the need for a repository and things of that sort.

Yes...

MS. KANY: I would assume that the requirement of the EIS would make it absolutely certain that at least two sites would have to be characterized regardless of the changes in the end.

Is that a correct assumption?

MR. FEHRINGER: You're getting at the possibility that characterization might be stopped before it was completed at one of the three sites and, therefore, there might be only two or even only one site that is fully characterized?

MS. KANY: There has been a discussion of that possibility, let's say simply characterizing the Nevada site and seeng how that goes. But it just occurred to me that EIS really would have to have gone at least that far, another site also.

Is that correct?

MR. FEHRINGER: I'd have to defer to someone else on that. My knowledge of the Waste Policy Act is not quite

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that deep.

MR. BROWNING: I think the people are considering honing in on just one site to characterize and seeing where that passes. Have in mind changing the law. So that would be acceptable without alternatives being raised.

And then the NEPA aspect of the process. It depends on what legislative changes are made, if any are made.

MR. GOVER: If no changes were made, would you agree that they have to completely characterize all three sites in order to meet the new requirements, alternative?

MR. FEHRINGER: Let me defer to Mr. James Wolf, our legal counsel back there.

MR. WOLF: That's an easy question to answer because that's precisely what's the subject of litigation currently involving DOE's decision and reading of the act, it would not require a characterization of three sites.

So I would say that's a matter for the courts to rule on and I don't think it's proper for me to answer.

MR. DAVENPORT: That's incorrect. That issue is not the subject of any pending litigation. The litigation that I think you're referring to is the litigation raising the question of whether the preliminary determination of suitability can be made now or later.

MR. WOLF: You're right.

MR. DAVENPORT: Which is not the same question as the one that was asked over here.

MR. WOLF: If the preliminary determination of suitability can, in fact, be made in advance, it is not apparent to me that there is any rigid requirement for full characterization of three sites. Then the question is really the rule of reason.

And the argument would be made, I presume, by DOE that they've done a reasonable effort to identify alternative sites. And having done so, they've concluded the one site that characterized is all that's needed.

I grant you, that would be a somewhat different issue.

If, on the other hand, the courts should rule that you have to go ahead and characterize three sites, then the issue about whether or not one would be sufficient wouldn't arise. It was in that context, assuming that the court might rule that we have to characterize three sites, that I indicated that the answer would be resolved.

MR. FEHRINGER: Any other questions?

If not, we're at our scheduled break time.

I thank you.

MR. MACDOUGALL: Why don't we come back in 15 or 20 minutes? It's now about 22 after 10. So we'll see you at around quarter of or so.

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(Recess.)

MR. MACDOUGALL: Welcome back to the boiler room. Again, our apologies for the heat. It would be nice to say: If you can't stand the heat, get out of the conference room, but you might lose a little in the translation of the proceedings here.

To help me with my master of ceremonies activity, we tried to recruit Vanna White, but she turned us down, so you're going to have to put up with me for the balance of the day.

Our next item on the agenda, which Bob Bernero referred to earlier this morning, they seem to have, on the spot, recruited me to have something to say about it.

Fortunately, I don't have to worry about it because we've got someone here who has been working on it just about fulltime in addition to his other extracurricular activities. He's still working for the Commission, after hours activities, I should say.

But, Chip Cameron is a senior attorney with our Office of the General Counsel. He was formerly on the technical staff in the Office of Nuclear Regulatory Research. So he has both a technical background and a legal background.

He was also an associate professor at the University of Rhode Island Law School, taught environmental

and natural resources law.

Of getting on with it, let me introduce Chip Cameron to talk about the licensing support system, or the negotiated rulemaking in connection with the licensing support system. Chip...

MR. CAMERON: Thank's a lot, Rob. I know that most of you are aware of the Commission's efforts to use negotiated rulemaking to implement an electronic information management system called the licensing support system, or LSS, for use in the Commission's high level waste licensing proceedings.

What I'd like to do today is just give you a brief description of both the licensing support system objectives and the negotiated rulemaking process, and let you know what the status of those efforts is as of today.

The basic concept of the licensing support system, and I think Avi Bender is going to be talking a little bit more about this, is to develop an electronic information management system that would contain all of the documents relating to the DOE license application.

For an example, it would contain the license application itself and any supporting documentation for the license application.

It would also contain all potentially relevant documents that had been generated by DOE, NRC, or any of the

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other parties to the high level waste licensing proceeding.

The idea would be that all parties to the licensing proceeding would place their documents into the licensing support system, and then all parties would have access to the licensing support system.

We think that the LSS would accomplish the following objectives. It would provide comprehensive and easy access to all potentially relevant licensing information.

We would like to establish the information base for the high level waste licensing proceeding to the extent practicable as far in advance of the submission of the DOE licensing application, as possible.

We think the LSS would facilitate review of the relevant licensing information by all parties, and also by the licensing boards through the provision of full text search capability to these documents that are in the system.

And we would also like to reduce the time associated with the physical submission of motions and other documents associated with the licensing proceeding by providing for electronic transmission of these documents.

Because all of the relevant information for the licensing decision would be readily available through access to the licensing support system, we think that the initial, time-consuming physical production and on site review of

documents could be eliminated.

In summary, we believe that the licensing support system is the best way to provide for effective review of the license application, not only by the NRC but effective review by all the parties to the licensing proceeding.

We also think that the LSS will enable the NRC to meet the statutory timetable required by Section 114.B of the Nuclear Waste Policy Act for the Commission's review of the DOE license application and a decision by the Commission on a construction authorization for the repository.

To implement the use of the LSS in the high level waste licensing proceeding, the Commission would have to initiate a rulemaking setting up the provisions for use of the system. And we intend to pursue this rulemaking through the use of a concept that is known as negotiated rulemaking.

In negotiated rulemaking, the representatives of organizations that are likely to be affected by the rule, including the Commission, convene as a group over a period of time to try to reach a concensus on what the rule should look like.

Now, the agency then uses this concensus as the basis for a proposed rule, which it issues for notice and comment. Notice and comment, the comments are evaluated and a final rule is issued.

Now this is different from the traditional

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rulemaking process where the agency develops a proposed rule basically on its own and issues it for comment. The comments come back in and then the agency issues a final rule. It's a one-way dialogue essentially between the Commission and individual commentors. And the negotiated rulemaking process, the parties that are likely to be affected and who have knowledge of the rulemaking areas sit down with the agency and try to hammer out the rules for the particular subject area.

We think this type of process is particularly appropriate in terms of the development of the LSS because we think that it will help to establish the credibility of the LSS, the fact that all the relevant documents have been entered into the system and that system is free from tampering.

In addition, because it's a new process for the management of the licensing proceeding, we feel that it's important that affected and knowledgeable organizations participate directly in developing the rules for operation of the system.

The Commission, on December 18, 1986, issued a notice in the Federal Register announcing its intent to use a negotiated rulemaking to develop the rules for implementation of the LSS.

This particular notice, which I believe is back

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on the table, invited expressions of interest from organizations that might want to participate on a negotiating committee. It also invited comments on the feasibility of negotiating this particular rule; and it also invited comments on a list of issues that we thought have to be considered in developing the LSS.

We received 24 comments on the rule. Six of these comments were from first round repository States, either where the three sites were or adjacent States or one of the five nominated sites.

We received two comments from second round. We returned to second round repository States. We received three comments from Tribal governments that would be affected by the first repository, and we received a comment from the National Congress of American Indians, representing the interests of second round Tribes that would be affected by the second repository or by the transportation of high level waste.

Three national environmental groups commented on the Commission's intent to conduct a negotiated rulemaking, three industry organizations and two federal agencies -- the Department of Energy, the Department of Interior and the National Association of Regulatory Utility Commissioners commented, as well as three individuals.

Now, in addition to the solicitation of public

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comments on this idea, the Commission had retained the Conservation Foundation, who has an expertise not only in negotiated rulemaking but mediation generally, to assist us in conducting this negotiated rulemaking.

Two of their basic tasks are to help convene the negotiating committee and also to facilitate the negotiating committee.

The convening is essentially to look at feasibility of conducting the negotiation by talking to organizations that might be affected by the rule.

The facilitation is where the Conservation Foundation will chair the sessions of the negotiating committee and try to help the participants on the negotiating committee to arrive at a concensus.

The facilitator in that role does not represent the NRC. The NRC is only one of the parties on the negotiating committee. The facilitators' interest in that role are to assist the committee as a whole.

Now, one of the things that the Conservation Foundation did for us was to do a feasibility study of conducting this negotiation. And we received that report from the Conservation Foundation on May 26th of this year.

The staff, on the basis of public comments, on the basis of the Conservation Foundation feasibility report developed a recommendation to the Commission in the form of

a Commission paper, SECY 87-140, for future reference.

But the recommendation is in front of the Commission at this time and we expect a vote shortly from the Commission on whether to proceed with our recommendation.

I can't really talk about some of the specifics in our recommendation, but I can talk about some of the general points. I would just like to emphasize that any of the things I say about what the staff recommendation is could be changed by the Commission action on this particular recommendation.

The Conservation Foundation in their feasibility report recommended that the Commission proceed with the negotiated rulemaking. It was also the general sense of the commentors on the proposal that the Commission should proceed with negotiated rulemaking. And these comments of support were from both sides of the repository siting issues, both those who were in support of a repository siting and those who were critical of the repository siting process.

So the staff recommendation was to proceed with negotiated rulemaking, and that's the recommendation that is in front of the Commission at this time.

The staff recommendation is in the form of a Federal Register notice that would be issued that would

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identify the groups who would be invited to participate on the negotiating committee.

It also describes the negotiated rulemaking process, and it has a detailed response to the public comments that were submitted in response to the December 18th Federal Register notice.

Again, I can't discuss the specifics or who the participants are going to be. I can say that all those who requested participation in response to the December 18th Federal Register notice will be able to participate on the negotiating committee.

In addition, the committee is going to be chartered under the federal advisory committee act. That means that the negotiating committee sessions are going to be open to the public, written comments can be submitted by the public in response to the discussions that take place, and there will be minutes kept of each negotiating committee meeting that will be public.

I also might add, as with any other rulemaking, if there is a consensus developed as the basis of a proposed rule, the public, generally, will have a right to comment on that proposed rule.

When the Commission does approve or if they do approve, which I anticipate that they might, after Commission review and approval, the Federal Register Notice will announce the establishment of the Negotiating Committee and the Conservation Foundation, at that time, acting in their role as facilitator, will send letters of invitation out to those groups who have been identified to participate on the Negotiating Committee.

Also available as part of the recommendation to proceed is the conservation feasibility report that will be available to the general public as well as to all the participants on the Negotiating Committee and there will also be a background paper that was prepared by the NRC Staff, that has an extensive discussion of what the existing legal framework is for the disclosure of documents in a Commission licensing proceedings.

It will also contain a more detailed analysis of the issues that we think are going to be important for establishing the licensing support system, as well as various options to deal with those particular issues. Now these issues that the Commission has identified in the

background paper are not intended to serve as a rigid agenda for the Negotiating Committee but to serve as a preliminary agenda, which the Negotiating Committee can revise, as they feel appropriate, either by adding, subtracting, prioritizing, whatever.

Howard Bellmon, of the Conservation Foundation is going to serve as the facilitator for the negotiations, assisted by Timothy Mealey, of the Conservation Foundation, and Matthew Lowe of TI Systems.

The negotiations are scheduled for a nine-month period, beginning in September 1987. The first meeting is tentatively scheduled for September 16th and 17th at the Conservation Foundation here in Washington. This first meeting will be followed by a two-day meeting every month thereafter through May of 1988.

Approximately half of these meetings will be in Washington, D.C., the rest will be in regional locations thorughout the country.

The first meeting that I mentioned is scheduled for September. It is going to be organizational in nature. The participants at that meeting will focus on what ground rules they want to follow for conducting the negotiations. Such things as confidentiality of certain materials dealing with the press, how consensus will be arrived at, whether they want to have subcommittees. These types of

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organizational issues.

And the facilitator is preparing some draft guidelines for consideration by the Negotiating Committee, so they won't be walking in there cold to the first meeting.

We also have planned a one-day course, conducted by the Conservation Foundation on the principles of negotiation. In other words, how you negotiate.

The second meeting, which would be in October of '87, would be an attempt to familiarize all of the participants on the committee with the technical and legal background for this particular negotiation. The Commission has engaged a contractor to provide this training session for the participants.

If we do reach a consensus on a proposed rule, the Commission will issue it as a proposed rule, unless it is inconsistent with our statutory authority or is not appropriately justified, in terms of the rationale required for any agency rulemaking under the Administrative Procedure Act.

If there is no consensus, the Commission will proceed to promulgate or develop the rule on its own. And I might mention that even if there is no consensus on all issues or on many issues, we feel that the process of sitting down with all of the affected organizations will help to develop a lot of information, in terms of proceeding

with this rulemaking, identifying alternatives, prioritizing issues, things like that.

So we think it is going to be beneficial, no matter what happens.

A few final points. DOE, in their comments on the Commission's intent to conduct this negotiated rulemaking, emphasized its commitment to coordinate the design of the licensing support system with the negotiated rulemaking and to make any changes required as a result of the negotiated rulemaking.

So there is no danger here of the Department of Energy developing a system that is going to be inconsistent with whatever comes out of the negotiated rulemaking.

Also, in this respect, I might mention that to insure that there is a single focus for decisionmaking on this issue, that is, the negotiated rulemaking committee, the Department of Energy and the NRC have disbanded the Interagency Coordinating Committee, which was known as the ICC, which was originally designed to develop some preliminary discussion on these types of issues.

We are going to try to provide as much background material to the participants on the Negotiating Committee as possible, because we would like everybody to be as well-prepared and as educated on this subject as possible when they sit down at the negotiating table.

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In that regard, I mentioned, we are providing the background paper. We are providing the training session as the second negotiating session, and we will ensure that there is some provision of technical assistance throughout the negotiations to answer any questions that the committee would like to see addressed.

One final point that I think is important that was emphasized in the Conservation Foundation feasibility report. They concluded that not only would it be possible to achieve a superior result through the use of negotiated rulemaking in this case, but that the negotiated rulemaking process could contribute positively to other working relationships between participants in the high level waste licensing process. So we hope that it has some spillover effects besides just trying to reach a substantive results on the licensing supports system.

I would be glad to answer any questions.

MR. STEVENS: A couple of questions come to mind.

David Stevens, from the State of Texas.

A couple questions come to mind.

One, I think, is relating to the comment that you will be willing to accept a consensus, unless.

Why don't you just quit there, instead of giving the qualifications that you did? In other words, with the expectation that you are going to get good out of this

exercise, why not accept the consequences of the effort you are going into?

The second question is, that DOE will commit itself to making whatever changes come out, even though they are proceeding on the line of development at the present time. Is there some way in which you are getting -- I guess the expression is reasonable assurance that that is going to happen? Because I think some of us are concerned that as you go down the line, it is a little difficult to pull people back from that without them either justifying or trying to defend the activity that they have taken as a preferred alternative.

MR. CAMERON: In response to your first question, I definitely agree with you, and I think that the Commission, in their action so far, agrees with you, that we expect that any consensus that emerges from the Negotiating Committee is going to be a good product, but naturalluy, we don't want to just make a blanket statement that we are going to promulgate anything that comes out of the Negotiating Committee, because it has to be consistent with our statutory authority, including the requirement that rules that are issues as proposed rules have an adequate rationale behind them, but I would agree with your general conclusion that we expect a good product from the Negotiating Committee.

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In regard to the second question, in addition to the Department of Energy going on record, public record that they will coordinate the design of the LSS with the negotiated rulemaking and will make any changes. As far as I understand the Department's contractor, in terms if the design of the LSS, it is going to be keeping an eye on what the Negotiating Committee is doing, as well as perhaps providing some information to the Negotiating Committee.

I mean, we are aware of, I think, there has been a lot of concern that we would have the Department of Energy out there with their system, and we would have the negotiated rulemaking over here, and that it would be too late to try to change something in the Department of Energy's design.

I think the Department of Energy is aware of those concerns and has recognized the needs for the two to be consistent.

MR. HESTER: Dan Hester, with the Union of Concerned Scientists. Have you given any thought to what happens, if a moratorium, as proposed by Congress, if you proceed with a negotiated rulemaking? As you know, there are a number of bills that are, as yet, not introduced, but could be.

My concern is that you might not have the right parties at the table, in the event that a bill gets

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introduced, and the Commission suggests that the site selection process was not proper, they would have to go back to square one.

Have you given any thought as to whether or not you would proceed with those negotiations, if something like that were to occur?

MR. CAMERON: Yes. We have tried to factor that in. We invited a broad expression of interests to participate on the committee, and I think that the participants that we identified are going to be inclusive of whatever would come out of the siting process. We also feel that even if there is a moratorium, that ultimately, there is going to be a recommended site somewhere down the site for the repository. We feel that that would just give us more time, in terms of a moratorium, to really establish this licensing support system, so that we can start getting documents into the system as soon as possible and make it operational as soon as possible. Because we always think about, well, there's plenty of time to do things, because the license application is now set for, I guess, 1995, but I think that with this particular issue, we need all the time that we can get.

Also, it is going to be more beneficial to any potential parties to the proceeding, as well as NRC, to ha e a system operational as soon as possible, but I think your

point about the affected parties is a good one. That is why I think that our identification of a broad group of potentially affected parties is going to take care of that issue.

MR. HESTER: Regardless of a moratorium, you will proceed on schedule?

MR. CAMERON: I think that is our plans at this point. Regardless of a moratorium, we would like to proceed, but if that does come about, if it does become a reality, whatever particular form the moratorium takes, is going to have to be looked at to see if maybe we should put this on.

MR. PROVOST: Don Provost, State of Washington.

I am just curious about when a system might be operational and what the current costs might be, what the current costs of the system might be.

MR. CAMERON: In terms of the operational date, Don, it depends on when we get out of the rulemaking. But I can give you some idea on that. We anticipate having a final rule out, if everything proceeds, and if the Commission approves it, and if we reach consensus, we would like to have a final out in October 1988. We are talking about, you know, a year and a half, something like that, a little over a year. That will be quite an accomplishment, but I think then the hard work begins of trying to implement

those rules, in terms of the design and operation of the system. That ties in with whatever DOE's procurement process is, in terms of design of the system.

I imagine that one of the things that is going to have to be addressed by the Negotiating Committee is how are we going to implement this and what sort of administrative mechanism are we going to have for implementing the design and operation of the system, and what timetable are we going to operate under, in terms of having potential parties to the licensing proceeding place their documents into the licensing support system.

That, to us, is an issue for the Negotiating Committee to try to arrive at at this point. So timing, in terms of what is possible, from the standpoint of building the system, and costs are going to have to be considered by the Negotiating Committee, in terms of general cost-benefit.

I think that the Commission believes that LSS, at least the general concept, is the most cost-effective approach to doing this licensing proceeding rather than just using hard copies of documents.

There will be choices presented to the Negotiating Committee about what way to go on particular issues, and we are going to try to provide specific costs of alternatives, so that the committee can factor those in

I am sorry I don't have a ballpark cost on implementing the system. I don't know if anybody else would brave enough to volunteer a suggestion on that, but we are definitely going to take costs into account in the Negotiating Committee proceedings.

MR. DAVENPORT: Did you see the article yesterday in the "New York Times" that the presence of computers in the service industry have brought about a lessening of output overall? They have brought about a reductionin output.

MR. CAMERON: I didn't see the article, and I don't know what particular aspects they were talking about I guess that there is not -- there hasn't been a lot of empirical studies on the use of systems such as we are planning to set up. The Securities and Exchange Commission has a system that they are trying to establish called EDGAR, that would have all filings to the Securities and Exchange Commission submitted electronically, and there would be full text search capability of those. The General Accounting Office examined that, and while the thought -- I think that they thought it was a sound proposal. They thought more attention had to be paid to the cost-benefits, which is the same thrust of your question.

All I can say in response to that is that that is something that the Committee is going to have to be aware of

in negotiating a resolution of particular issues to make sure that what we have is technically possible and economically possible to meet the objectives, and that we don't set up some pie in the sky scheme that actually is going to detract from our objectives of easy and comprehensive access to licensing information.

MR. DAVENPORT: I guess what I think is reality, though, though we need a system which is as complex as you are anticipating for this project, it may not be a timesaver. It definitely will be a facilitator, in terms of making sure that you have exhausted your analysis of research and discovery, but it may not be a timesaver. It may be the long gainer of the process.

MR. BROWNING: What do they mean by "output" in the article? Number of documents produced? Legal cases?

MR. DAVENPORT: They are looking at it in straight economic terms, the amount of work and the profit that has been able to be generated by large service industries that depend on the computer for their basic support. The accounting industries, the insurance industries, the service sector. It is a very preliminary study. I don't mean to suggest that.

MR. CAMERON: Just to wrap up, in response to your question. I think that is a good point. And I know that what we are going to do, besides trying to develop some

more information for the committee before it sits down, is to take a closer look at some of the cost-benefits, including issues like that.

MR. WHITE: I believe that article was referring almost exclusively to office automation.

MR. DAVENPORT: But that is what this is.

MR. WHITE: I don't think so.

MR. CAMERON: In a sense, there is some connection. But I guess I don't think -- there is not going to be a complete overlay between the conclusions there and the conclusions for this, if that was your particular point.

Anybody else?

(No response.)

Thank you.

MR. MAC DOUGALL: Thank you, Chip, for a comprehensive rundown of your activities.

Now we get to the more or less "show and tell" part of our presentation, with Avi Bender, who has been with us for several years, who has been working with DOE in the development of this, NRC's transitional licensing support system, that DOE will eventually be taking over.

Avi, if you want to begin your presentation.

MR. BENDER: Nancy, could you just dim the lights a little bit. We have a slide show.

Chip has done a real good job giving you an

overview of the rulemaking process. And a very important part of this system, whenever you hear the word "system," the first thing that comes to mind is something that is computerized, but a system really has several components. One are the procedures, two are the users, which will be you in the future, and then the technology.

My discussion is going to focus on the technological aspect and what we at NRC have done through the past several years.

I do invite you during the breaks to go over t to the back of the room wher we have a demonstration of our system.

(Slide.)

This is really the tip of the iceberg or maybe just an ice cube, if you take a look at it.

These documents are piling up at a rate of hundreds, if not thousands, on a weekly basis, not only at the NRC but, obviously, also at DOE, DOE contractors and other government agencies, which have some responsibility for the high level waste program. But the question that comes to mind is, these are documents that included correspondence, memoranda, summary notes, which trace the history of events, things that have taken place over the past several years, which document the potential resolution of issues.

Then in the 1990s, the question is going to come up about the status of certain findings dealing with specific technical issues.

One needs to be able to somehow trace back and be able to get access to those documents, so that you have a clear understanding of the sequence of events, things that have taken place that have brought you to this point in time.

Traditional methods of getting access to information have really proved to be ineffective and one of the major reasons for NRC delays of the previous licensing reactors procedures has been, as Chip mentioned, the ability to get access to information quickly.

I am not just talking about access to the actual physical copy of a document, but imagine the need to quickly find access to, let's say, as an example, all volcanic related issues dealing with the Yucca Mountain site in Las Vegas.

Unless you have a very good indexing scheme, you are really unlikely to be able to get that kind of information. So what we are trying to do here is develop a system that will literally allow you to enter into the depths of those documents, if that is what you wish to do, and pull out relevant information which can help you in your evaluation.

This is really not only getting ready for the licensing procedure in the 1990s, but also to help our Technical Staff today, as they have to do their day-to-day activities.

(Slide.)

If we were to somehow boil down all of the requirements of this system to just a few succinct statements, I can best describe that as a system that will have to give you the capability to retrieve the documents you are looking for. It has to be complete, if there is to be credibility, and it has to be unitary design. Unitary design doesn't necessarily mean that you are talking about as single computer system.

As you know, DOE has offices scattered throughout the country and so does the NRC. What that means is, that the system has to have a common thread which ties it together, and that will be procedures. And the negotiated rulemaking will go a long way in trying to provide the nature and scope of this system.

It is very important for the credibility of that system. Whether it is perfect or not, will be difficult to determine, but I think it will be up to the negotiated rulemaking to set the standards and define what is an acceptable level of recall of these documents.

(Slide.)

Several years ago, we started on the pilot project to demonstrate to DOE the concept of what we were talking about, and we recognized that very quickly, we needed to develop some kind of an interim approach to deal with the documwents that are just piling up, as I showed you in the other slide.

We signed an agreement recently, a new principle, which is in all of your handouts, which describes the basic concepts and approach that the NRC and DOE are going to be taking in developing the LSS. Part of that requires both agencies to begin to generate something immediately, not so much developing a final system but to begin the process of developing the documents that are going to be created. So as part of that, we have started a project to digitalize our information, put it into a full text search retrieval system, and as I mentioned before, I can talk all I want about that, but once you see what it actually does, that will speak for itself.

(Slide.)

The system is basically integrated hardware compoments, which are found off the shelf. It is state of the art, but it is relatively common nowadays. These have been put together and tied, using software programs. And the thousands of documents that are being scanned intot his system will be available for either surrogate search, which

means the traditional search of bibliographic information and also will give you a contents search, which means full text search, like some of the LEXIS systems and NEXUS that are out there on the market, and also give you the original image of the document, which would be important in legal proceedings.

(Slide.)

This is a pciture of the monitor. You can see that for yourself later on.

On the lower portion is basically a regular part of a PC, but this is a high resolution monitor. What a full text search does, in this example, we did a search just on the words "Death Valley" to see what we could get. And in the lower portion, what you see there is the full text, for what is known as the ASCII, the computer text of the document, with the highlighted words.

The individual doing the search then can go through this document and make a determination for himself or herself whether, in fact, this is a relevant piece of information. If, in fact, it is, that individual can just stop there and get information and print it out, or you can go a step further and actually print the original image of the document, where that information came from.

Many of the memos and the letters that we get have attachments, such as photographs and maps, and it is

impossible to do a full text search of that. So the image system allows you to get the total document scanned and stored on an optical disk.

So the full text search provides access to the document, and then you can get the original image. Once you've used that --

(Slide.)

-- you can then clear the screen and view the original memo and print it out on a laser printer.

(Slide.)

Here is just another example of some of the maps and other documents that we have associated with that.

It is very difficult to get the clarity of the output in a traditional microfiche system, although microfiche has many advantages as well. But the system that we have tried to demonstrate is one that provides the best of both worlds. Immediate access to information, good quality output and reliability.

(Slide.)

Our particular system, which is not the DOE LSS, it is what we call the transitional licensing support system, that has begun to grow, as the hardware has been integrated, and it is now working. We have about 2000 high level waste documents in the system, and important documents are being added on a daily basis, as they are being

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processed through our document control center.

We also use the system for other purposes. We have to respond to many congressional questions during the years. We have found the full text to be very helpful in answering questions, such as -- the question comes up and always somebody looks at it and says, what did we say about this last year and a few years ago? Rather than going through a manual file and patiently scanning the document, we can now get the answers in a few seconds through a full text search of the system.

We have also put 10 CFR 60 through some searches, as well. Access to the system is provided in two ways. Access to the ASCII text, not the images, but the full text search with the highlighting, which you saw on the previous slide, is available basically from any PC or compatible computer throughout the country. All you need for that is a modem attached to the PC, a user access code, and then you just dial it. And it gives you the total document base within the NRCs.

We haven't made this available to the public as yet, although all of the documents, obviously, are available for you in public document reading rooms.

The image capture and retrieval started in March of '87. We are still at the early stage of that, but things are beginning to look very promising in that area, and we

hope that the DOE would look at what we have done, learn from our experiences and use that to guide in their development of the LSS.

There is no need to reinvent the wheel, and if there is something here to be learned, it is all available, and it has been done. And the prototype of this system, as I mentioned, will be available for demonstration.

(Slide.)

The major system components for the other part of the system, which is a single work station, which has the optical disk, it is a single work station, that simply includes a micro computer, which happens to be an IBM AP, or it could be a clone, a monitor, scanner, optical character reader, a printer, a laser printer, which gives you tyhe grid output, and a hard disk, which is a temporary storage device.

This may be getting a little bit more complicated than you anticipated, but it is just to give you a feeling for what is involved here.

So user access can be accomplished either through a 30 to 70 environment, which is the trying into a mainframe through the IBM PCs, the terminals, or from single work stations. We hope in the future to be able to develop single work stations and put them in the local public document rooms.

These work stations will have in them the total data base. It is possible, for example -- I don't know if you are familiar with CD rom, but it is possible to put about 200,000 pages of information on this one optical disk. So you can have, basically, NRC files, 1981 through 1984, on one of these disks. Then all you need is a player to run that and do your search.

So there are some really amazing technological innovations that have taken place during the last couple of years.

We would lke to integrate that into this effort.

(Slide.)

This is -- if I were a computer salesman, I wouldn't show you this picture, but we have very modest facilities in our office. That is, basically, the layout of the system. It is very similar to what you will see in the back. In the middle, there is the monitor, the high resolution monitor that allows you to do the full text search and displays the total image. On the left-hand side is just a typical IBM PC type system that allows you t do access to the ASCII portion of the text, but not the images.

All the way on the right-hand side is a scanner which we use to scan the documents.

And on the extreme left, the box that is partially hidden, is an optical character reader. Many of

the documents that we get from the outside, we really have no control over, so we have to feed those through an OCR to get the ASCII test, so you can go through the next phase then doing a full text search.

Documents we create ourselves, we create on our word processing equipment. So that is already available in electronic format.

A by-product of the negotiated rulemaking process may be that people will be required to submit information electronically.

That would eliminate the need to have to rely on an optical count reader. The OCR is an impressive tool, but it does make mistakes. And there are some editing requirements which are necessary.

(Slide.)

The process for getting information into the system is relatively straightforward. Documents are scanned. That includes all the memos, including handwritten notes, reports, and so forth, generated by the NRC, without duplicating what DOE is doing by inputting into our system their documents.

So, if we get a letter from the DOE which is a memo with an attachment, and the attachment is on environmental assessment or a very detailed report, not everything gets into the system.

So, the cover memo, the table of contents and the first portion of the document get into the system. We would hope that DOE would have a system that would provide access to that information. We don't want to duplicate what DOE is doing.

Information is stored on optical disk. Once it's stored on the disk, it cannot be changed in any way; it's permanent. That's one of the nice features of optical disk technology.

So, in this case, as an example, I can scratch

the disk. I can throw it around the room. Nothing happens to it. Information is in there permanently. And the way that happens is by imprinting it with a laser and tiny holes and the spaces between the holes give you the information as to what the asking text is.

Then this information is indexed. We do have to get some indexing to get the document, then put it into the full text system. It's available for retrieval through random access in any one of a number of ways, which will be illustrated to you later.

Yo can browse through the documents, go through the information, print what you like. And then, basically, print on demand.

Slide.)

Again, I don't want to get into too much of a technical discussion. I just want to give you a feeling of what it takes to go from the hard copy document into the computer system.

On the lefthand side is the division created by word processing, as I mentioned. It's already available in electronic format. So, in our division, we have procedures for sending the ASCII text electronically with the hard copy of the document.

The hard copy is then scanned. The image is verified. Information that comes in from the outside and we

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don't have electronic versions, we have to run it through an optical character reader on the inside. And all of that leads us to ASCII.

ASCII is the computer code of the text, which allows us then to go one step further and code it in such a way so we can put it into a computer program, which would then allow you, the user, to sit and do your search.

Many of these things are transparent to the user, of course. Your concern will just basically be how do I sit at this terminal, how do I sign on, how do I conduct my search, and so forth; and how do I print the information out.

Once the most labor-intensive part of the process is creating this ASCII text, scanning and capturing image takes just a few seconds. But it's this ASCII conversion and full text search which is labor-intensive. But, once you go through that process, you have numerous options available to you for distribution of information.

That's really what we're talking about here. One of the best methods of collecting information, whether they be through mainframe computers which can produce these types of disks, a player to play one of these is about $400. So it's not within the realm of possibilities.

Many companies are now getting into the business of taking government information, putting it on these disks

and then selling it back to the public.

So it used to be high-tech state of the art years ago, but it's really here today and it's a possibility that we need to explore.

That pretty much concludes my presentation. I really do wish that when you have the time during the break, you step to the back and we have some consultants working with us on this, and they'll be more than happy to show you a demonstration. And that will really speak for itself.

Are there any questions?

MR. HOUSELEY: Gene Houseley.

I spoke to Phil Altomare a couple of weeks ago. He mentioned that this reorganization might involve transfer of the transitional system to another division in the Commission.

Has that happened?

MR. BENDER: It's a possibility that that, in fact, may take place. But, for the mission that we have, it's very clear. The mission doesn't change. So, whether the individuals involved would be physically moved to another location or would be under the auspices of another group, the mission is very clear. All efforts will continue as before.

MR. BROWNING: I might add I think part of the purpose behind the reorganization, and also in connection

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with the move that the agency is going to make to a central location, is an attempt to try to draw together in one place things that are going on in various places throughout the agency; primarily because of the physical separation of the groups.

As a matter of fact, I might introduce Joyce Amenta. You might want to raise your hand so people can see who you are.

She's got the very difficult job of trying to pull together this kind of thing for the whole agency.

There clearly is an intent to move this particular piece to that group so it can be handled in a centrally-coordinated way, because there's not just a need for this in the Division of High Level Waste Management, there's a need throughout the whole agency.

So an attempt is going to be done to make that transition so that there's no diminution of the effort on this. But it's sort of magnified by the resources of the whole agency to bring to bear on the problem, not just the Division of High Level Waste.

MR. BENDER: In the past, as you know if you've followed this for several years, it's basically just been a few individuals trying to put this together. And as Bob mentioned, it's really nice now to have the full support of the rest of the agency and their resources to focus on this.

Other questions?

(No response.)

MR. BENDER: Thank's very much.

MR. MACDOUGALL: Thank you, Avi. I should mention Phil Altomare is not here today, unfortunately, due to circumstances beyond his control, but he is Avi's superior and he recruited him to do this work under Joe Bunting, who is also here. I guess it was more of Joe's brainchild than anyone else's.

But, regardless of where Avi ends up, Phil Altomare will, hopefully, continue to be in our employ and you can get the information you might need about the system from either Avi or Phil Altomare.

We're at the point now where we can break for lunch. I understand there are a number of choices in the immediate vicinity for restaurants. There is a restaurant in the building. Nancy has material from the hotel on your other options. She's in the back of the room.

Before we break, can I just ask are the folks at the back of the room able to hear the discussion all right? Okay, good. Thank you. We'll see you at 1 o'clock.

(Whereupon, at 11:40 a.m., the meeting recessed, to reconvene at 1:00 p.m., this same day.)

AFTERNOON SESSION

(1:20 p.m.)

MR. MACDOUGALL: To begin our afternoon's discussion, I'd like to get right into the QA portion of the presentation. Linda Riddle is not here yet, so Jim Kennedy, who is our section leader in charge of QA, Quality Assurance for DOE, will begin with his presentation on the mini-audits at DOE facilities.

MR. KENNEDY: Good afternoon. I'm Jim Kennedy, from the QA Section of the Division of High Level Waste Management.

May I have the first overhead?

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Today, I'd like to talk about the QA audit we conducted three weeks ago at the Los Alamos National Lab. This was our first audit of many that we expect to conduct over the coming years. Therefore, it has significance to the program.

Today, I'd like to go over what the objectives of the audit were.

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The details on how we conducted the audit, the major conclusions, go over a summary of the findings and deficiencies that we found and then talk about what kind of follow-up we're going to have from this point on.

First, by way of background, as you all know, DOE is in the process of developing QA programs for site characterization which meet the requirements of subpart G of Part 60. This is essential because DOE's about to collect a lot of data which is going to be used in licensing hearings, and the in the licensing process through the early 1990s. And without a good QA program applied to that, it would be found unacceptable in licensing.

Now, on December 16th, DOE identified a number of areas that they felt were ready for NRC audit, that is, that they felt met the NRC's requirements for QA in Part 60.

We selected Los Alamos National Laboratories geochemistry program, more specifically, mineralology, petrology at the Nevada site for the first audit; namely, because they're working on some important site issues in that program; and also because it's a Nevada project. And that's scheduled for the SCP sooner than the others identified.

Now, we had a number of objectives for the audit and it wasn't just a conventional audit where we went out and evaluated their program.

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The first objective, of course, was to independently evaluate an area that they felt was qualified. But, more important than that -- or I feel, more important

than that -- one of our objectives was to calibrate DOE; that is, to give them a benchmark as to what our expectations were for the licensing process and for getting through the licensing process.

We feel that this first audit and the others that we do will provide them for the first time with much better understanding of what the expectations are and what the needs are for licensing.

Another objective was to not only assess the implementation of the QA program, the programmatic part of it, the documentation part -- the records, et cetera -- but also assess their ability to perform quality technical work.

And, finally, the audit was a learning experience for the staff. It was a chance for us to build a foundation for future audits by getting plans and procedures and methods in place, many of which we borrowed from the reactor program and also building a core of 14 qualified and experienced auditors.

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Now just real quick, some details on the audit. It was conducted the week of June 8th out at Los Alamos. We had an eight-person team. We had three staff from my section, or two staff from myself plus one consultant. We had two staff and one contractor from the technical branch, the technical review branch. All were geochemists. And we

had the on site rep, who was a geophysicist by education and experience.

We did three and a half days of actual auditing with the balance of time for team meetings, entrance and exit interviews and one important thing that you're probably interested in, the State of Nevada and OGR observed the entire auditing process at private meetings that we had in the evening.

Los Alamos and the Project DOE staff were not invited to attend the meetings, but the State of Nevada was.

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Now, for really quickly the bottom line. These are our major conclusions.

Slide.)

First, that based on the interviews we had with the principal investigators, the audit team was confident that the combination of existing technical procedures and technical staff can produce quality technical analyses, but we did not agree that the QA program is fully in place, as DOE had felt originally.

Basically, we found that there was just an insufficient appreciation of the QA documentation needs for licensing within Los Alamos, which is not really surprising because DOE has never had a major facility licensed by the NRC before. And this was even one step removed from DOE,

it's one of the national laboratories.

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Well, here is a summary of the findings, deficiencies and observations that we had. We had four findings, 14 deficiencies and four observations. They were generally as follows:

First, the procedures for activities affecting quality weren't developed for some activities, like stop work, evaluation of suppliers, et cetera.

They weren't being followed in all cases. For example, there was a lack of inspections of core storage area; laboratory notebooks were not being used properly in all cases and they weren't fully understood by the Los Alamos staff.

They may need clarification of the procedures. And there also appear to be some weaknesses in training with respect to how to use the procedures.

Another major item we had was that the Los Alamos internal audit program was not very strong. Now, Los Alamos had conducted an audit, an internal audit back in February. In April, the Waste Management Project Office of DOE, Nevada came in, conducted their own audit and found many more findings and deficiencies than Los Alamos had turned up internally.

Then, about six weeks and two months later, we in

the NRC came in and found additional problems. It all points back to Los Alamos really, their internal audit program. Internal surveillance program ought to have picked up the items that Nevada found and that the NRC found, or at least most of them.

Another area was certifications of personnel and training. There was insufficient information to demonstrate that personnel were qualified or trained. The documentation laid down on the qualification of the technical individuals, for instance, was basically an assertion that these persons were qualified -- based only on their degrees or their years of experience.

There were no other details as to why they were qualified for their particular positions.

Also, there were no records of training outside of quality assurance, only QA training documentation was in evidence.

Slide.)

That last one in particular, we feel, and some of the others were serious enough to potentially jeopardize the use of data in licensing.

Slide.)

Now, where to from here?

We got an audit report that we're in the process of writing right now. That's due out in July. We expect to

have interactions with DOE to resolve the issues identified over the coming months.

In particular, we identified findings and deficiencies. There are some areas of their program that they do need to improve to get a qualified. We expect to be working with them to make that happen.

And from here, we also are planning on other audits for other projects. DOE has identified, I guess, about 10 other areas that they feel are ready. And we're in the process of selecting one of those right now. Those areas fall, by the way, only into SALT and Nevada at this point.

Right now, we're working with management and talking to DOE about which one would be the best to audit in the future. There's a good chance we'll be doing the SALT project; perhaps with the Texas Bureau of Economics, before the end of the year.

BWIP, DOE does not feel any areas are ready out at BWIP. They do tell us that they expect sometime in October or November to have one area ready, and they will invite us out to audit that area.

Any questions?

MR. DAVENPORT: Jim Davenport, State of Nevada.

Can you list the other entities which DOE-Nevada has identified as ready to be audited?

MR. KENNEDY: I can't remember all of them. I can get that for you. It's in the December 16th letter. It's in my briefcase. In fact, maybe I can see you during the break and show it to you. I remember environmental monitoring. Assignment of QA levels was another.

MR. DAVENPORT: But they didn't identify them by contractor?

MR. KENNEDY: They did identify them by contractor, yes, certain areas that contractors were working on. Not the whole contractors program, but certain areas.

MR. STEVENS: Maybe we could all share that when you get it, at some point.

MR. KENNEDY: Okay. Yes, sir...

MR. EISENBERG: Based on your audit, what are the ramifications on any of the data that might have been generated previously by Los Alamos?

MR. KENNEDY: The thing is DOE has known over the years that their QA programs have not fully met all the requirements of the Commission.

That's been an issue. What to do with this existing database, data that was collected before the full implementation of the program. That's an issue that we've started to address by publishing staff guidance on how to qualify that data; that is, how to determine whether it's good enough for licensing.

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In fact, I think you commented on the generic technical position that we put out last July. Basically, DOE has to go back and look at all that data. If they want to use the licensing, they have to go through a rigorous review process to see if it's good enough, and to see if the QA measures applied to it are suitable and good enough for licensing.

So that's a little bit separate from what we did out there. We were looking at a program which they felt was fully in place and had all the measures.

By the way, as long as you brought that up, or as long as I brought that up, GTPs are going to be issued in the Federal Register, or noticed to the Federal Register rather in about a week. I've got them here in my briefcase and they've been signed off today. These will be the final versions.

Any other questions?

(No response.)

MR. KENNEDY: Thank you.

MR. MACDOUGALL: Thank's, Jim.

Linda Riddle will give us her presentation on the changes in our QA review plans. Linda...

MS. RIDDLE: Thank's, Rob. My name is Linda Riddle. I'm in the QA Section in the High Level Waste Division. I'm currently working on the revision to the QA

Review Plan.

I understand that you all have these handouts in the materials that were distributed to you. All right.

The first thing I'd like to tell you about is the purpose of the review plan. One of the activities which the QA Section is engaged in is providing guidance for DOE, and the QA program is the main document which provides that guidance in QA.

It contains information in there which tells how we are going to go about evaluating our program and what elements we are going to measure their program by. And it's based on the 18 criteria of Appendix B, which is the reactor QA requirements.

The QA review plan also indicates how the 18 criteria will be applied to the repository program during the site characterization phase. The review plan was issued in 1984 and consisted of two parts. The first part, which I call the game plan, spells out our general plans, the information that we need from DOE and what activities we're going to engage in, such as review of the DOE documents, QA documents, programs.

We're going to conduct on site reviews, audits, data reviews. It also indicates that we're going to have meetings with DOE to identify and resolve QA issues early on and to help establish the technical needs of the licensee.

Attached to that front part, that game plan, was Appendix A, which are the 18 criteria for quality assurance. This was based on the reactor standard review plan for the QA section.

These 18 criteria also were modified from the review plan, the reactor review plan, to address the reactor versus repository terminology and included information there about how to apply QA to scientific investigations.

As I mentioned, I'm involved in the 1987 revision to this review plan and there are two real basic reasons that we did this, deciding to embark on this revision.

It's a major undertaking and the original review plan was issued in June 1984, about the same time that the Ford Study was issued, which was in May 1984. And the findings of the Ford Study were not incorporated in the original 1984 edition.

And we've used this document for three years and we know it could use some revision, and we hope to improve it.

The objectives of the revision are, first, to identify improvements or clarifications based on the Ford Study. For example, we're going to add technical team audits. The Ford Study suggested that we try to integrate QA and technical activities through this technical team audit idea. And to conduct readiness reviews of the DOE

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program prior to when they start up activities.

In addition, we have gotten some comments from DOE and from our own staff internally. Some of these comments range from incorporating line manager responsibility for QA; certain quality assurance criteria in the '84 edition, they indicate, are not applicable to scientific investigations. For example, inspections and test control.

The section on QA records in the review plan excludes samples. And they suggest under Software QA that we make a distinction between scientific and engineering versus end user computer software.

Also we're looking at in QA-1, that's guidance for the repository program, I am looking at incorporating those parts of that which are applicable.

So after we identify these improvements and clarifications we'll be looking at incorporating these into the revision.

First, we'll look at the value of these improvements, how much it's actually going to help the program. But then we'll also be looking at the impact of these changes and balance the impact versus this value.

The changes that are under consideration for the game plan section will be much more detailed. It will include regulatory requirements, the information that we

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need to receive from DOE to carry out our activities, and the plans of our activities, including our review of QA documents, the readiness reviews, the data reviews and the technical team audits.

The section on the A-team criteria where the bulk of the improvements will show up, we will be elaborating on QA for scientific investigations, which includes QA for the development of study plans, performance of scientific investigations.

I'm looking at incorporating good laboratory practice into the requirements. The documentation of scientific investigation, for example, using laboratory notebooks as a quality assurance record; checking scientific investigations, technical audits and inspections and also endorsing NQA-1.

The schedule for the revision is the draft should be noticed in the Federal Register in the fall of this year. And then it will be noticed for your comment and then will go through the process of incorporating those much in the same manner as for the GTPs that will be issued in a week.

Do you have any questions?

MR. BROWNING: For those of you who might not know what the Ford Study is, the Ford Study, I believe it was Representative Ford or Senator Ford, asked that the NRC do a study to find out why the reactor plant area got the

problems where latent construction and licensing of a reactor plant raised the question about the quality assurance that has gone into a plant.

I think that's a fair way to characterize it. It's basically a lessons learned report from the reactor construction and licensing arena.

One of the fundamental goals of our program is to make sure that all the lessons learned from the reactor get factored into their waste repository program, so that we don't end up like Mr. Denton's opening remarks, landing in the same place 200 yards from the takeoff point with the repository program.

Another one of the fundamental approaches that we're trying to do is this question of not going in and auditing before DOE says they're ready to be audited. We're trying to avoid the mistake of anybody relying on NRC's audit as being the foundation for the adequacy of the quality assurance program.

That basically has to be done by DOE and DOE's contractors, with some appropriate level of checking and verifying the hard part. There's no way in the world NRC can do a 100 percent check of everything DOE is doing.

The so-called mini-audits, which is a word I'm trying to get away from because it sounds like the audit is a minimum amount of effort, basically, what it is is a very

indepth audit of a small piece of a particular program to give you a feel for whether the whole program is in place or not.

But I think the example that Mr. Kennedy gave, fitting in the context of Linda Riddle's talk, is we're sort of in an evolving calibration mode with DOE now, as their programs are started up getting ready for site characterization, do they have in place good quality programs? Do they recognize what's a "good", quote/unquote program from a regulatory standpoint?

So, as we've mentioned, it's not surprising to find some time when we can do this audit because we're going into kind of a calibration mode. It's early in the process. It's time to get the stuff in place so that when the licensing data is collected, at least that particular aspect shouldn't be cause for concern.

We can deal with the data itself and not be worrying about the quality assurance underlying the data.

Our dilemma is how we pick and choose the things we audit so that when we draw conclusions, really it's a representative conclusion on the whole program.

Therein, any ideas you folks have about things you think are significant, your people will be observing DOE's program. All the bits and pieces pulled together will give us and, hopefully, you confidence that everything is

being done properly, that the data is being collected properly, it's being analyzed properly and used properly.

MS. RIDDLE: Yes.

MR. SALLANT: The ACRS has basically commented on the QA program. And what you are offering here is basically following their recommendations?

MS. RIDDLE: Yes, we're looking into their comments. And we just received those recently. But their comments will be incorporated into what we're doing.

MR. KENNEDY: As I recall, they had two major comments. One is they came out better on the readiness review. I think the one major readiness review on the reactor program has been successful. And we're trying to do some of those with DOE on a smaller scale. We intend to look into it more.

The other thing they mentioned was internal quality assurance. That is, QA as applied to the staff. And the contractors that we have, they were particularly concerned about the internal program for contractors. We'll also be getting more into that.

We have an internal QA program now and I think they're looking for us to work on that further to get better assurance.

MR. SALLANT: That means the QA program applied to NRC?

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MR. KENNEDY: NRC, right. NRC staff and contractors.

MR. BROWNING: So that we practice what we preach.

MR. KENNEDY: Different from what we're talking about today, where we're auditing DOE and writing a review plan for DOE. This is QA applied to our own.

MR. MACDOUGALL: Thank you, Linda.

We are fortunately a little ahead of schedule, but we'll press on and I'll give my presentation now on the NRC staff's plans for involving States and Tribes in our review of DOE site characterization plans.

I know this is a matter of some import to a number of you. It's particularly timely because we're in the process of putting the finishing touches on the review plan, and this whole area is still malleable.

The concrete hasn't begun to set yet. So your comments and suggestions will be very useful to us now.

Let me just kind of review for you the basic elements of the Part 60 when it comes to our review of the site characterization plan, so you have an idea of the fundamental steps in the process.

As you're probably aware, those of you who have read our repository licensing rule, it does provide for State participation in the whole preapplication review

process, which we're currently in now, leading up to the submission by DOE of a construction authorization application.

And a first step, the first major milestone in that process, I guess, from a site-specific point of view, is the site characterization plan submittal. The Commission intends that you and the States and Tribes be kept fully aware of what we're doing and you have an opportunity for timely input.

We will be preparing a site characterization analysis of the SCP. That will be kind of a final document for the original submission of the site characterization plan. Although we will be opening our site characterization analysis to public comment, we don't plan to be publishing a formal response to comments. The reason for that is, principally, that the process itself is kind of an iterative thing. Every six months, DOE will be submitting updates of the site characterization plan to us, and we will be commenting on those updates.

If we were to get into the mode of responding to comment every time we comment on DOE's SCP and its updates, we will probably wind up getting seriously behind the information curve.

We do, as I said, want to provide for an opporutnity, though, for states and tribes to make their views known to us. My presentation here will be sort of laying our our thinking at this point on what we plan to write into the site characterization and review plan. Within the next couple of months, the Staff hopes to be able to send you a copy of the final site characterization and review plan. We also want to forward the lead NRC Staff technical contacts on the teams that we have assembled for the reviews of each of the SCPs on these teams. There will be members who are cognizant in, say, hydrology,

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geochemistry, engineering. We want the states to know who these people are, so we can promote a kind of informal exchange at the outset.

Informality and flexibility are things that we are kind of hoping will be the hallmarks of our review process, and we figure that it would be a good start to let you folks know who our Staff level people are and request that you send us similar information on the state and/or tribal people and contractors that you will be relying upon.

Tha way, we hope to establish a kind of informal network and you folks will feel comfortable getting in touch with the individual people who can get you the facts.

In our process, those of you who have read the rule know that once we receive an SCP, we will be noticing it in the Federal Register and we will send copies of our notice of receipt to the governor and the legislature of each state within which the DOE is going to be characterizing a site. And of course, the governing body of the affected tribe.

Within a month after we have received the SCP, what we hope to do is to establish a round of conference calls with state and tribal people and ourselves to kind of get a few for what your thinking is on the major issues that are in the SCP of concern to you to get us somewhat more calibrated as we launch into the review.

We hope that we can have conference calls in each of the areas of interest to the states and tribes, such as geology, geohydrology, geochemistry, engineering, and those sorts of things. And our review is segmented into two major parts. We intend to try to get back with DOE with comments on the exploratory shaft-related issues within 90 days. So although the request for you to tell us your cmments, the major issues that you think the document raises will cover the whole scope of the review. We will probably be getting back to you somewhere near the end of our 90-day review period for getting the comments on the exploratory shaft-related issues.

We were hoping that we might have a meeting just before our readiness review team begins its final review of the Staff's work, before it goes out the door to DOE and that the state and tribal inputs to us at that time help to inform the readiness review team that there will be an internal NRC Staff team that will be folks that have not done the actual reviewing of the SCP, will be coming in to review the reviewers, in effect, within our Staff to try to judge how well-prepared we are or whether we have covered all of the major issues and whether our analysis is adequately documented and speaks to the known issues that the Staff is going to have to deal with in the future.

If that runs successfully, we would hope to

repeat a meeting at the end of the six-month review period, when we would be submitting the balance of our comments to DOE on the other issues raised in the SCP.

The exercise would be similar to the exploratory shaft-related exercise, in that we would hope to provide sort of an initial briefing to the states and tribes on where the Staff was preliminarily coming out and give you a few days to meet with the people that you want to meet with on the Staff to kind of give you the run of the place, in a sense, where you would be able to talk to somebody who had done the review on geochemical issues or engineering issues.

And then at the end of the, say, three-day exercise, have a kind of plenary meeting, in which you in the state delegations would be presently to us your findings on the basis of what we had told you, what we had subsequently learned from other conversations with your Staff and the review team, the NRC readiness review team, who would be looking over the Staff's shoulder, would be in on that meeting.

That is pretty much it, in a nutshell.

Once we get the SCA, the site characterization analysis out the door, we would be noticing that in the Federal Register and transmitting a copy of that to the governor and the legislature of the potential host state and to the governing body of the tribe.

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Any questions? Dave?

MR. STEVENS: Rob, you mentioned the fact that you will have a meeting with the readiness review, including the states and tribes. Then you went on to say, if successful, you would have another one.

What is the criteria to determine the success of that meeting?

MR. MAC DOUGALL: In part, it will be how well you folks rsponded to it. That is one of the reasons why I am here, to kind of lay out, informally, our plans, so that you can tell us if you see any booby traps.

MR. STEVENS: If we don't find any, then it is not going to be successful?

MR. MAC DOUGALL: Assuming that we have done our homework, the readiness review team, we hope, will be further edified by the exercise. If they don't like what we have done, they will send us back to the drawing board.

It is, in a way, a kind of disciplining mechanism for us, for our Staff, to try to make sure we have done a good job before you would come in and see what we have got.

I guess I haven't answered your question, when I think of it. If I am interpreting your question right, you are suggesting that there might be a difference in the fundamental procedure between the exploratory shaft-related meeting and the final meeting, where the state and tribal

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folks come in. Once it is in the Staff review plan, we would try to pretty much hold to the process.

MR. BROWNING: I might add something here. There was some dialogue at the hearing yesterday with regard to the exploratory shaft piece of the site characterization. I think the original agreement on our part that we would try to expedite the exploratory shaft piece of the site characterization plan, was based on an assumption -- not an assumption, based on an understanding from DOE that that would be a limiting path on their production schedule, and that if it were practicable to review that in the context of the overall SCP, kind of on the side, it would be helpful to them to get those comments first.

I think the way things are evolving now, the need for that separate advance review and comment on the exploratory shaft pieces may very well become a moot point. We don't need to do that. We may very well just have a review of the whole thing, the shaft and everything in one piece.

I think that is one areas where events may be passing by our previous commitments and plants and there may not be any need to do it. So I would kind of like to hold that one in reserve. We are trying to be helpful to try to make sure that, in our interest in reviewing the whole thing, we weren't inadvertently holding up the very

important piece of the site characterization plan.

I think this whole process that Rob laid out is sort of evolving from our experience with the final EA comments and draft EA comments. We did have a session where the state and tribe representative came in. We had an interaction, and I was very nervous at that point in time that the thing would be disrupted.

For example, if the scenario were that while the Staff was trying to evolve its comments, we had an interaction, so that we had an idea of what your concerns were, and you had an idea of what our concerns were. Then we went back and started working on the SCP, and the next thing we knew we got all kind of newspaper inquiries and congressional inquiries about what is going on. And this would vector us off from doing our job and our Commission started getting inquiries, and they haven't even had a chance to look at it.

The whole thing would end up being extremely disruptive and frustrate our ability to try and stay on some kind of reasonable production schedule. That didn't happen. I was very pleased with the way the thing went.

So we are going to try to build on that.

My perception was, it was a mutually beneficial evolution. I think that is why we are trying this thing out. If we build on that experience, this go-round, is it

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perceived that would be helpful or would that distract your attention or what?

I think we are pretty close on what the issues are. I don't really see much change, in terms of what the issues are that the SCP ought to be addressing. The main thrust is going to be, has what they laid out really attacked the Achilles heels and the potential Achilles heels at sites? Are the test programs that they are laying out really going to answer some of the questions we've got? But I think the basic issues have all sort of been crystallized pretty clearly as to what their concerns are with regard to the specific sites.

MR. PATT: Is that change in the SCP, with the exploratory shaft, because of funding?

MR. MAC DOUGALL: It's in the rule right now.

MR. BROWNING: Several things. For example, the Hanford thing, you know, they did a test program, groundwater test program for preshaft sinking. It is going to take at least 22 months. So unless the study they've got going on the side soon, whether they think it is reliable or practical or cost-effective, sinking the shaft part way down, until that bears any fruit, if it does, at least in the Hanford case, we need to get prompt feedback on the shaft sinking. It may or may not have gone away.

MR. PATT: I have another question. Is your

Technical Staff happy with the 90-day limit on comments for the SCP?

MR. MAC DOUGALL: For the shaft sinking?

MR. PATT: For the SCP.

MR. MAC DOUGALL: We are planning to take a six-month review of the SCP. The 90 days would be only for the exploratory shaft-related issues.

The reason for that is, that it is in the rule. As Bob pointed out, events have kind of changed the basis for that.

So I am glad you mentioned it, because that is one of the issues, I guess, for us. It is whether you want a separate exercise like this.

Excuse me. The exploratory shaft-related issues.

MS. ZIMMERMAN: One point I do want to make. We feel real strongly about separating the ESF section of the SCP from the total SCP. We don't really agree with it at all, because we see the SCP should be one integrated whole judgment on the whole site. And trying to rush the ESF section, just so the DOE can go put a hole in the ground that they may or may not need by then anyway.

MR. BROWNING: If they technically can't do it, we won't do it, but if you can technically reasonably say it, that we will comment on those aspects first -- well, for example, you can hypothesize there may be some test programs

they have laid out that are going to happen after they have sunk the shaft. Now you look at those and say, well, are they going to be impacted by the shaft? You know, you can deal with that later.

If your scenario is true, is so integrated that you can't single that out and comment on it separately --

MS. ZIMMERMAN: It is DOE's attitude that the shaft is strictly accessed down to the repository horizon.

MR. BROWNING: That is one thing you can comment on.

MS. ZIMMERMAN: We are afraid that they are going to lose a whole lot of data that will be critical to the program, if they try to just -- let's sink the shaft, get it over with and then turn us lose on the rest of the program.

We have a very difficult time with that.

MR. MAC DOUGALL: Can we use the microphone from now on, just to be sure that the folks in the back can hear us?

Susan Zimmerman of Texas was raising the point that Texas, and I am sure a number of other states and tribes have very strong feeling about the sort of segmentation of the exploratory shaft-related issues and the rest of the SCP.

Bob was responding, saying that we would do that only if feasible. I was about to say that in the initial

look at the SCP, we would be looking at the entire document to see how the issues can be parsed out and whether there aren't any extricable links. Where there are, we would want to look at those. If we are going to do a 90-day review of exploratory shaft-related issues, we would obviously want to have all of the related issues dealt with in that exercise, and that would involve a look at the whole SCP.

MR. ERICSON: Hal Ericson. You made a statement in there about you were going to take six months to review the SCP.

MR. PATT: We only have three months. I don't understand that.

MR. ERICSON: That is my question. What is the difference? Are you going to do it in a different time frame? Is there a different ruling or something?

MR. MAC DOUGALL: We've got a rule that says the Commission will complete, the Staff will complete its review within six months.

VOICE: So all we have to do is promulgate our own rules, and we get six months.

MR. MAC DOUGALL: I guess there is another issue that I haven't mentioned in my presentation those of you in the second-round states would probably be interested in. That is, that as we conceive it now, we would be involving only the first-round states and tribes in the review of the

SCPs, obviously, for the first-round repository program.

The reason for this is, we feel we don't really have much of a basis for involving second-round states at this point, given that DOE has suspended its program and doesn't plan to restart it until the mid-1990s, but again, that is another issue that we are willing to hear your views on.

MR. NEAR: My name is Mac Near from Virginia, one of the second-round states. The question is, based on what you just said, that the second-round states would not be participating in the review of the SCP, I think we would have an interest in that. Even if we didn't do anything but sit in, we would know what the game plan is.

I was wondering if we might be able to do that, even though Virginia doesn't have a direct interest. I think if we start up a second repository, we should understand what you are going to do.

We would certainly have an interest.

MR. MAC DOUGALL: Well, that is certainly something that we are willing to take into account. I guess I also should have said that we will be making available to the general public our site characterization review plan and the SCA for your comment.

What I was talking about was the participation in the actual Staff reviews leading up to the development of

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the comments. I take it your comment or your request is directed to that portion.

MR. NEAR: I think we would like to know what the process is as it occurs rather than after the fact.

MR. MAC DOUGALL: We put out on our weekly mailings and on our 800 number, information number, the availability of significant NRC documents. That is available to any interested party.

VOICE: I would like to ask a question about your six-month review.

Are you saying you have an SCA produced six months after your SCP?

MR. MAC DOUGALL: That is what we are shooting for.

VOICE: So we won't have your comments for six months?

MR. ERICSON: Let me ask another question like that. One of the problems I had a hard time dealing with is getting a handle on the starting date of that three months or six months or whatever.

How do you define that? Is that when all the documents are produced, when everything is done? Where do you put that?

MR. MAC DOUGALL: That is a good question.

I really don't have a very good feel for that,

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frankly. John?

MR. LINEHAN: One of the things we are going to be putting in our review plan --

MR. MAC DOUGALL: This is John Linehan, the Chief of our Operations Branch.

MR. LINEHAN: In the review plan, we are going to be addressing that question, and what we anticipate doing is, as soon as we get the document, doing a very quick acceptance review, to make sure everything is there that is needed to complete the review.

MR. BROWNING: Acceptance or nonacceptance.

MR. LINEHAN: Exactly. Whether we go ahead and do the review. If we deem the document acceptable for a detailed review, that is when the clock would start.

MR. KOHLER: Jim Kohler, from the State of Utah.

When you are talking about first-round states, are you talking about the three candidate states?

MR. MAC DOUGALL: Including Utah.

MR. KOHLER; All of the first-round states

MR. MAC DOUGALL: Right.

Any other questions?

MR. BROWNING: One thing I would like to elicit more discussion on, if I could, is the concern you have about segmenting the comments on the exploratory shaft, commenting separatory on the exploratory shaft and those

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pieces of the plan that would relate to any concerns with regard to sinking the shaft.

I think that would be very useful to us, if we have your concerns on that, we can make sure they calibrate with the concerns and the approach that we factor into the standard review plan, or how we would go about doing that.

If I understood your concern, for example, it was with regard to the concern that they will sink the shaft but not look at anything as they go down, and therefore, miss an opportunity to get a technical feel for some of the overlying strataa and the concerns related to those overlying strata; is that it?

MS. ZIMMERMAN: That is partly the concern. Some of the other concern is, if they start the shaft and get it sunk or start it down before you all complete all your comments, and you come across something in a later part of your SCP review that says, hey, no, this is totally wrong, you've got to redo something that might affect that shaft or the water associated with it, this is mainly for Texas, for the aquifers, that they either, one, lost the opportunity to collect the data needed to determine how that might affect public health and safety, or they have gone so far down, that they are not willing to back off and say, well, we made a mistake, we need to fix this. That is sort of the attitude they have have, in part, to the whole program.

We have gone so far into it, we have sunk so much money, we can't go back now. That is one of our major concerns. We have seen the SCP as an integrated whole. If they don't every part tied in to get a complete picture, then they are not going to have adequate data, in our opinion. And to pull something out just so they can jump ahead and maybe screw up the site.

MR. BROWNING: That is clearly the things we would be looking for two and seeing whether we could pull together all the comments.

The Hanford situation is another case in point. I think everybody has already acknowledged that you have to be careful about sinking the shaft, prematurely, before you get a feel for what the groundwater situation is.

I think that has been acknowledged and is being addressed. As that test program evolves and the results become available, it may dictate other tests be run before the shaft is sunk. So if, in fact, there are other things like that at the other sites, I guess I am not personally aware of anything that has been as crisp and clear as that particular one was, but if anybody has any other suggestions, I can make sure I bump that against what the Staff thinking is to make sure we are not missing something.

MR. PROVOST: Don Provost, State of Washington.

I wasted to ask you, Bob, about NRC participation

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in the hydrologic task group that would be addressing the premature starting of the drill rig. Again, my understanding is, if you look at your Technical Position 1.1 and you look at the consultation, they were based on the idea that you would more or less finish the hydrology program, review the results, and then you could start it. And now the Department of Energy is proposing premature drilling.

MR. BROWNING: I don't think they have proposed anything. They are off doing a study.

MR. PROVOST: They are putting an awful lot of effort into it.

MR. BROWNING: To see whether they would want to do it. What I would envision is something very similar to the exchange we had out at the Hanford Site, to understand what thought process they went through and what they were proposing to do on the preshaft sinking exploratory work. I would presume that they would have a very similar session when they get through that. If they decide they want to pursue that, they would then have another session like that, laying out what their thought process was.

If their thought process concludes that they want to do it, we don't even have to bother with it.

So, personally, I am not spending a lot of time worrying about that until I hear from them, in terms of what

they want to do. Right now, the agreement is, all that work will be done before they sink the shaft, period.

MR. PROVOST: Then you are not proposing to participate in any way in those session that the task group has been setting up now.

Are you going to wait until they are done?

MR. BROWNING: Unless they say, hey, we would like to get your reaction to something, I don't really see any need to do it, because we may be wasting our time.

I don't have a lot of time to spend on things that may be, until, you know, they have concluded, yes, we really want to pursue it. I personally don't want to spend a lot of my Staff's time thinking about it right now. Maybe that is wrong, but that is where I am coming out. I would rather concentrate on making sure that the work they are doing and the planning to understand the groundwater situation better is well understood.

You know, we understand that, and we are in lockstep with that, as it goes along. And any of these project management kind of things, well, what if? I don't, personally, think the Staff ought to be spending a lot of time on the "what ifs, until they get more firm responses.

I think the presumption is that because they are studying it, that they are going to go do it. I am not quite as convinced as other people in the room were when

they heard that study being done.

MR. PROVOST: Do you remember what happened in the hydrology meeting? It came pretty close to our script, as we had written it, as we had predicted, you know? How they were going to handle the mission plan and everything else. They have gone through an awful lot of effort and a lot of public comment on it and everything else.

They made a big deal out of it already. It seems to us that it would be kind of hard for them to back down, now that they have gone that far out on a limb.

MR. BROWNING: They can't do it this year, I think, because of the funding restrictions.

MR. PROVOST: They have reconstituted that task group to look at that issue, and they are in the process of scheduling meetings, and they are looking at other participation by the states and tribes in discussing that now, and we wondered, had they approached you on that at all?

MR. BROWNING: Let's make sure I am calibrating.

You are talking about some meetings that they are having with, I think, if not the same group, a very similar group that looked at how to study the groundwater situation with regard to, could they sink the shaft, if they elected to do that, without perturbing the tests that they are running. The pre-emplacement groundwater or pre-shaft

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sinking groundwater tests.

MR. PROVOST: We would call it premature shaft drilling.

MR. BROWNING: To the best of my knowledge, we didn't participate in the thought process leading up to the options that they laid out, and personally, I found that a very acceptable and desirable way to deal. Let them think the thing through, lay out their case, and then get the visibility for the whole case, so that we've got complete visibility, rather than getting involved in all the "what ifs" leading up to it.

So I am not pushing to get involved in that.

MR. PROVOST: The question was, did they offer you participation in that?

MR. BROWNING: No. As a matter of fact, they'd just as soon we stayed out of it until they made up their minds. And personally, I don't mind doing that, provided the end result is very similar to, if not identical, to the process that I personally found very satisfying, where they laid out all the options that they had considered, showed us which one they picked and what their rationale was.

MR. TOWNSLEY: Lee Townsley, the Yakima Nation.

Does the Commission have a technical rationale for considering the shaft sinking separately and first?

MR. BROWNING: First, it would have to be the

Commission Staff, I don't think the Commission is particularly focused on that. We told them, if we could segment it, we would, to try to be responsive to whatever operational problems and concerns DOE had.

I think we are probably belaboring a moot point, to tell you the truth.

My own perception is that the shaft sinking is not going to end up happening very soon.

What I am talking about is the exploratory shaft, the real large diameter. I am not referring to bore holes, the kind of thing that is done at the sites. I don't want to be misleading. I think -- is that what you were referring to?

MR. JIM: Russell Jim, the Yakima Tribe.

Let me digress a little bit from what I heard you say earlier. This exercise, in the begining, was perhaps mutually beneficial to both sides. It may have been beneficial to the NRC, but it was not completely beneficial to the Yakima. And the reasoning behind the concerns, coupled into the second repository issue, I think it is justified. And some of the insidiousness of the proposals by the Department of Energy and the term of a shaft is not a shaft, referring back to the meeting at Richland, which you attended. The NRC said, in Richland, that they accepted one of the options proposed by the Department of Energy.

The DOE said, let us assume we are able to drill down through the sediments, down to the salt formations and perhaps we won't disturb the hydrology.

We have been looking at the hydrology for many years now. We are concerned about the hydrology, as you are aware.

So the issue about even the second repository proposal, indefinite postponement, as you heard the gentleman mention earlier, puts political pressure upon Hanford, as the site that perhaps can be expanded.

So I do not think the issue is moot at this time. The exercise is being carried out. And I am afraid that unless something is definitely determined, are they able legally to drill the shaft through the sediment?

Are they able to determine, without a hydrologic baseline, that it is indeed safe to do?

I think we need some of these questions answered. And it is of necessity, as you see, we depend upon the NRC to assist us in helping answer all these questions.

MR. BROWNING: I want to make that one thing is very clear. The context in which we approved the concept of the underground testing was based on the presumption and the clear understanding that they would not sink the shaft, period. Not through the sediments, not through the salt, not through the bisalt, period. I thought we made that quite clear at the meeting.

We agreed with the option that they laid out as a legitimate first step toward trying to understand the groundwater travel situation at the Hanford site. A lot of details remain to be worked out. We haven't seen those details yet.

But, one of the details is that they would not sink the shaft. Period. That machine they've got there shouldn't start moving downward. And until they come forward with some kind of a study or recommendation as to

why they think that would be a legitimate thing to do, our understanding and the agreement is in place with us, does not involve sinking a shaft. That would have to be the subject of another whole session.

So, to my way of thinking, there is no possibility at all that they'd start sinking that shaft until we had another session at which all you people would be a party. And that ought to be very clear.

Any other questions?

(No response.)

MR. BROWNING: If you do think afterwards of any specific kinds of technical concerns where, for your particular site or the site you're interested in, where you think that the sinking of an exploratory shaft would have some repercussions back into other elements of the test program, we'd like to make sure we've got a good communciation on that subject, so we don't get surprised with any good ideas you have late in the game.

That offer goes through the entire, you know, after we get the site characterization plan in, if you'll look at it, let us know because we'll be looking for exactly the same kinds of things in the event that there is any incentive whatsoever from a programmatic standpoint, to try to have that particular set of comments come out in advance of the overall comments; because we are obligated to try to

do that if technically you can make that case.

So we'd be very interested in any concerns you folks have in that area. That's a standing invitation.

MS. KANY: What is the NRC's involvement in the research that's being done in Manitoba, for instance, as far as the lengthening of that shaft?

What are you doing regarding DOE's commitments on their international agreements?

MR. BROWNING: Right now, we're doing essentially nothing.

MS. KANY: Are you monitoring those situations and the Strepa research also?

MR. BROWNING: With regard to some of the research, our research people have in fact been following some of that work. I think, with regard to the Canadian situation, that's something we want to start getting a better handle on.

Up until now, my staff has not been directly involved. We haven't been up there, for example, to take a look at what's going on. I think the research people have been up and taken a look at it.

We clearly want to understand what's going on in those areas. I just recently came back from a trip that I'd made for other purposes over to Europe and visited some of the sites. So I personally have a feel for some of the

things that are going on there. But not the indepth technical field that I think my staff needs to have.

MS. KANY: I have a similar line. Has the NRC bee involved in any way in WIP. I know you do not have a statutory responsibility or role there. But are you, do you get all the information as WIP is progressing in its construction? Are you a party to all the research findings going on in WIP?

MR. BROWNING: We have access to all the reports that are coming out, the information that's coming out, yes. The degree of early-on involvement in terms of the test planning and thought process stage, I don't think we have that kind of involvement. It's more after they've done some work and published a report, we have access to the report.

In the event any of that stuff was to be used for licensing purposes, we'd clearly have to be intimately involved.

But, since I think a lot of the stuff is very site-specific, I don't see any of the site-specific data that they are generating having too much impact on the other sites, things like test procedures and test approaches that would be extremely useful to get visibility with that information.

Any other questions?

(No response.)

MR. MACDOUGALL: Okay. We still have another 15 minutes before break. I understand that the Yakima Nation has developed some other plans to meet with some folks on the Hill. We wanted to try to open up this portion of the agenda for State and Tribal comments on how well we're doing, what more we need to do, how constructive meetings like this are to you, that sort of thing.

So, if we could maybe defer the break a little bit to give the Yakimas and others a chance to comment in general on ways to improve our relationship with the States and Tribes, if any of you have a message to bring us that we haven't already heard, or that we should hear again...yes...

MR. HALF MOON: My name is Ron Half Moon, with the Nez Perce Tribe. I think I probably talked more on improving interaction and I'm sure you've probably heard it from a number of folks independent of today.

This kind of a meeting spot is not really one conducive to good participation. It's kind of like when we've been to Silver Spring and we get to the meeting rooms there where it's crowded and we're sitting at the edge of the room and everybody's asking questions, which not everyone always hears, the point of it is, at one point, I think we were meeting regularly with NRC in some form of interaction.

I think somewhere down the road something

happened. I don't know whether DOE by their schedule preempted those opportunities, but I think we lost something of a rapport that we had started to develop. I think that is gone now.

I think we've had Mr. Browning out to the reservation, and Mr. Bunting out on the reservation, come see us. I think we've stated this as well. But, for one, this meeting site is not adequate. This is not a good meeting place at all.

Another thing is, in the development of an agenda, that it could have been done with some consultation with the States and the Tribes. I came here with some expectations. My expectations were vague except that there may be some interactions and we can development a relationship. It doesn't appear to be practical today.

The day long meeting is too short to conduct the kind of business that we as a Tribe look upon NRC for. NRC, in terms of the expectations of the Tribe, is looked upon as representing the public interest. We're the public as well. We have standing under the law. But we know that NRC is the one who is going to be the one who eventually gets the license application.

So we look to them as advocates. We look to them in many ways. And when we see what appears to us as remission, we're disappointed. I think the disappointment

is that States and Tribes could have had a better meeting today. I think it's too late to do something today, but I would suggest that, down the road, just a technical exchange, like I think we suggested at other locations, that our technical folks have talked, are talking among themselves about different issues that evolve in the different sites.

The bisalt waste isolation project. We talk about groundwater. We talk about other things. We talk about natural resources. For one, the possibility of gas and oil there. Naturally, we talk among ourselves.

I think I would like to see the opportunity for us to air this before NRC technical types, too, so there could be some exchange of opinions, some interchange of ideas.

MR. MACDOUGALL: Just so I understand what you're saying, the meeting site here being adequate, I would be the last to argue that this room is not inadequate.

Are you talking about these facilities, or are you talking about the District of Columbia as a meeting?

MR. HALF MOON: No, D.C. is not too bad. But this meeting site, the meeting room, the layout of the room, the organization, the seating.

MR. MACDOUGALL: We certainly are going to try to do better. We didn't really see the location of the meeting

room until yesterday afternoon when they had it set up.

I have to agree with you this is an uncomfortable room for us to meet and it's not conducive to an easy exchange of information.

All I can say is we're certainly going to try to do better next time. But you don't disagree that we could have it in D.C.?

MR. HALF MOON: I think the idea is a good one. It's easier for us to get into. Silver Spring is a little bit more difficult, but it's not impossible. Those meetings of the NRC in Silver Spring aren't very good either.

MR. MACDOUGALL: I think I also heard you say that you wanted a longer meeting?

MR. HALF MOON: Yes, I think I was saying that. In the development of the agenda, I think we would have appreciated a draft comment, a review and comment on that and suggestions on ways to improve it. What we're hearing now is something that the staff has prepared and, obviously, adherred to, are presentations.

But there's not good interaction.

MR. MACDOUGALL: In preparation for this meeting, we did send out copies of draft agendas for comment. Nancy specifically wanted to get comments from everybody. Maybe you didn't get a copy of it, but we laid out an agenda and a list of issues.

So we also...one of the reasons we compressed the meeting into one day was that we had some comments on the other side saying that they wanted to have a one-day meeting so that they could get back for the weekend holidays.

So I guess we get it from both sides. But, in particular, this time, which wasn't something that we actually picked, it kind of, this was not our first choice of a time to have a meeting. We just wound up with other scheduling problems and DOE's unavailability and the Commission's unavailability, and that sort of thing.

The other activities that they had on the agenda that we had to be involved in resulted in the date that we have here.

Any other suggestions or comments?

MS. BLASEK: Mary Lou Blasek, State of Oregon. I have a question.

The State of Oregon and the State of Washington, the Governors from those States, about a year ago wrote letters to NRC and DOE requesting that some of the meetings, technical meetings having to do with BWIP, be held in Richland. The response we received both from Secretary Herrington and Chairman Palladino was that that would occur and that we would be notified of the meetings.

We continually get notice of upcoming meetings. On June 5th, we received a notice of meetings that gives me

three meetings that are going to be held sometime in June.

So from June 5th, they are saying there's going to be more meetings in June. That's not helpful at all.

MR. MACDOUGALL: That was from us as opposed to DOE?

MS. BLASEK: That's correct. From NRC. One of them is supposed to be held mid-June. I got this on the 5th. So we have a problem with that kind of notification of meetings.

MR. MACDOUGALL: Fair enough. Sometimes, we don't know about meetings far enough in advance to give you much more notice than we have. But we try to get it out to you as early as we can. I know Nancy has been especially dilligent about that.

I don't know the particular circumstances about these three meetings and the preparations for them. But I have to agree it doesn't give you much notice.

We try to provide at least 10 working days prior to our meetings to provide notice to the States. And I think we have an understanding with DOE that we will not conduct, will not go ahead with a meeting unless there is at least 10 working days of notice to the States.

But, sometimes, even that's a little short.

MS. BLASEK: Clearly, nearly always.

MR. LINEHAN: Just on the meeting notice thing,

we have recognized the problem and we've changed the way we listed the meetings. The problem we ran into was there were a number of meetings we and the Department tentatively agreed to for the June time frame. We could never agree on specific dates, and we kept those on the list. Those have been there, I think, for a number of months now.

And we realized after the fact that we were negligent in not having put on the list that these were just indefinite meetings.

But the goal is not just -- it's 10 days to get material out. Hopefully, four weeks before a meeting. But, even before that, as soon as we have a general time frame, we will put a date on the general time frame and put tentative. The idea there is just to give you as much notice as possible. Ideally, there should be much more than four weeks for most of the meetings.

Again, the four weeks and the 10 days are the minimum time that we should be getting meeting materials to you so that you can review them and participate in the meeting.

MS. BLASEK: Is there any attempt by NRC to hold more of the technical meetings, with respect to BWIP, in the Richland area?

MR. LINEHAN: All of the meetings that have been referred to since bulletins went out to the Governors with

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respect to BWIP have been in Richland. There haven't been that many meetings, but they have all been in the Richland area.

We do have travel constraints ourselves. We will still attempt to have a good number of meetings in the Richland area, because the number of the meetings picks up and we're going to have them much more frequently and then travel would, indeed, become an important factor.

But that's something that we want to work with the States and Tribes on. And we'll try to have the most important meetings in the Richland area.

MS. ZIMMERMAN: Susan Zimmerman, State of Texas.

I just wanted to say that we feel meetings like this can be beneficial, maybe not when we're all sweltering, but definitely beneficial. We'd like to see them continued, but it was a little disheartening for me to hear that especially with respect to the ESF comments separating it out from the SCP:

Mr. Browning feels it's a moot point; therefore, why talk about it?

We think it's very important and if we can't even, or have trouble, or feel like you're not interested in hearing our side because you feel it's a moot point, it might as well not happen, it tends to give sort of bad feelings, to me anyway, that you're not really listening.

We realize, especially at the Salt site, they're not supposed to put the shaft down until 1989. And supposedly the SCP will be out, all commented on and reviewed and everything. We'll be fine.

But, as we all know, there's no telling what can happen to this program. Who knows what will happen?

We would like at least to be able to come to you with our concerns and have a little better response than, well, I feel it's a moot point.

MR. BROWNING: I hope I rectified my moot point statement by saying we were very interested in any specific concerns you had. The only saying that it's a moot point is that we may very well be arguing about something that never becomes a reality.

And my understanding of the situation is it's not going to become a reality. If they don't have money to do it, they're not going to do it, no matter how many studies they run.

So it's sort of like arguing about something that has a very small probability. You know, we're spending a lot of time worrying about something that has a very low probability of actually occurring.

I've got to worry about am I focusing my resources on the most useful things. And one of the things that is extremely useful is making sure we have your input.

I must not be communicating very well because I thought I made a point that we are very interested in your concerns in that area. We encourage, not just at this meeting, but throughout the program.

When you see the site characterization plans, if you see anything along those lines, make sure we're aware of it in addition to making the comment that you did yourself.

So I hope I haven't sent the wrong message that we are not interested. We are very interested. In fact, if we conclude we can't do it technically, we're not going to do it. We haven't made a blanket commitment that we will do it in the face of any technical concerns.

I don't know. Maybe you'll still go away thinking I'm not too concerned about it. But, if I'm not, my technical staff is.

In the interest of commenting a little bit on the previous comments that were made when I had to leave the room, I'd like to emphasize that I support fully really good horizontal communications with all the technical people working in this area.

And one of the things I think was highlighted in our plans for reviewing the site characterization plan was our attempt to identify who the technical teams are, or the technical lead person reviewing the particular area, so you can see who that is. We'll give you the name and telephone

number. You can have your technical people pick up the phone, talk with them, arrange for meetings, whatever you want to do.

In the past, what we've done is we've identified, after the fact, I think, who the reviewers were. In our final EA comments, we specifically listed who the individual reviewers are.

Hopefully, depending on my particular attrition over this period in terms of personnel attrition, most of these people will be exactly the same people. So your technical people would know who they are.

I hope that would go a long way toward assuring good horizontal communication, so they know what our concerns are and we know what your concerns are.

With regard to the agenda, my understanding was we had made an attempt to try to get input from the participants. I know that was one of the things Nancy Still was trying to do. And I think many of the items on the agenda came from feedback that we got from the participants. We'll have to run an individual check on that because, clearly, it was not by design or intent that we not solicit comments on what would be useful to you.

If it broke down in your particular area, I apologize, but we did make an attempt to try to find out what was on people's minds and what was of interest.

This particular kind of meeting I don't think can substitute for the kind of detailed to technical dialogue that needs to take place, and we've got to have a separate forum or vehicle.

And I think as informal as it can be, the better it will be. We certainly are willing to try. This whole thing is an evolutionary process for all of us. My hope is it's moving toward a better evolution rather than a degeneration.

I was kind of appalled to hear you think it's sort of gone down hill. We need to do something to turn that around.

Any specifics you've got on how we can turn it around? Even if they're not for this particular forum? You can either pick up the phone and let me know -- I'll try. With the reorganization, I'm only responsible for high level waste now, whereas I used to be responsible for low level mill tailings and high level.

So, theoretically, that should be an improvement, although I think my staff questions whether that's the case or not because they'll be paying more attention to high level waste.

MR. TOWNSLEY: Dean Townsley, Yakima Nation.

I wanted to ask you about an issue that Steve Fishman raised at the Commission meeting a couple of weeks

ago. That is, what exactly is the staff position about the likely suitability of the recommended sites for development as a repository?

Steve characterized Mr. Thompson's testimony in a Senate hearing one way and it wasn't clear really what the Commission's position was, whether they said that at least one site will prove to be suitable, certainly. I'd like to ask you if you'd be willing to try to clear that up.

MR. BROWNING: Rather than trying to clear it orally, because, apparently, I'm not getting my points across very well on interest in certain things, what we're planning to do on all the points that were made in that Commission meeting, we're going to deal with each one of them in some way, manner or form; and that would be one of them.

So, if you could beg my indulgence for a while, I think it would be a lot better to actually put something down in writing, preferrably. So that the record is clear on that.

MR. HOLVIS: Jim Holvis from the Yakima Indian Nation. And I'm going to be leaving the program. Before I go, I thought I might talk a moment about our relationship with the Commission and its staff that has been going on for about 10 years, and about four years with your particular division.

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Our first relationship was in regard to the licensing of Skagit Hanford. And for an intervenor and particularly an Indian Tribe that had little experience in the area, it was quite an interesting experience -- to get in late when the staff had already formulated whether the reactor was licensable or not and to be in the middle of that circumstance against the staff and the applicant.

It was an unusual one for us, indeed, and left us with not the best taste in our mouth. When a little over four years ago, we met with people from your division, who were nice enough to come and visit us on the Yakima Reservation, I guess it was probably a very difficult meeting for all of us, because they certainly didn't know what an Indian Tribe was, and what we were doing and what our interests were.

They were exploring and certainly we had our tongues in our cheek about the Nuclear Regulatory Commission. But, starting from that very suspicious beginning on both sides, at least I personally feel quite warmly toward the staff and particularly the people in your division, your branch.

I consider you, Mr. Browning, a friend. I think, if you don't mind, I hope this word "bureaucrat" is sometimes thought of as being a very bad word, but to me, I think you handled things very even-handedly.

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I never ever saw you take a very strong position. If I asked you a question, I says, "It looks like this material we've delivered today, that it's going to be 95 degrees in Washington today, don't you think that will help us in our fight against the repository?" You would come up on the other side and say, "Yeah, but don't forget, it's going to be cooler tomorrow."

I think, in your position, that's a good attitude. And I think our relationships with you have been good. And with your division have been good.

Let me talk as I'm leaving now after four years in retrospect, and saying as a friend some of the things that I think can be helpful.

Number one, I think we all must have a tremendous disappointment. The Yakima Nation has taken very seriously the Nuclear Waste Policy Act and thought it was an opportunity for, on a govenrment to government basis, to work towards handling a national purpose and satisfying the health and safety of this country in this particular areas.

And we worked hard with our limited means at the beginning, without any funding whatsoever. And then with limited funding, we worked as hard as we possibly could towards furtherence of the act. We have a lot of disappointment in the fact that the proceedings under the act are in total disarray. There is not anyone that even a

subjective observer of the act, let alone an obective observer, that doesn't have a lot of concern about the disarray that we have underneath the act.

Now I don't think that the Nuclear Regulatory Commission can be absolved from total blame in regard to what has happened. And let me go back to the very fundamentals.

And, to me, the very fundamentals has been the concurrence in the no guideline guidelines which took place right at the very beginning of this program.

So, with no guideline guidelines, it gave an indication to the Department of Energy that it was operation under normal circumstances in regard to the location of this new repository.

And they have made a lot of mistakes. And, again, I don't want to be disrespectful to the many fine people who work in the Department of Energy. They have a lot of people that I have a high regard for there. But it has not been really not trying to have the kind of consultation and cooperation that's necessary under the act; even though the Nuclear Regulatory Commission has not been charged with that underneath the act and has only, on their own regulations, had such a responsibility, I think we find over the course of the years, four years, I think we find that the cooperation and consultation aspect with the

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Nuclear Regulatory Commission exceeds that that we've had with the Department of Energy when they have that statutory responsibility.

I do have some concern about the future. One of the things that gives me some concern, some of the things that are said to date, I'm afraid that because things are in such disarray, that there will be just a natural -- and we're having this problem now -- where is everything going?

So, therefore, you don't know where everything's going. So why really go out and try to work on something until you know it's going to be an absolute necessity?

I worry about you. Your staff has always been...you have too short a staff to do the kind of workload that you've had. Your appropriations, your budget has been too small. And I'm worried with the fact that there isn't something facing you right today that your budget and your appropriations will be reduced; because I think if we are to pull this act back together, if we are to go anywhere toward solving this particular problem, the Nuclear Regulatory Commission will not have a reduced role, but will have an increased role.

And I'm talking about the Commission from the staff level. I think working and planning, I know it's terrible to say to people that, at least as a taxpayer, I certainly support your increase. I'm leaving the program,

so I won't gain a benefit.

I'll be paying the taxes. And I certainly support that increase.

The other thing of it is I think you've been working very closely in a critical way with the technical people in DOE. Sometimes I've noticed that they have to be told three or four times that maybe they're going the wrong way. And sometimes they even get the message and come back and do things in a correct, technical way that, after all, you're going to have to look at as your license.

I would be hopeful that perhaps you can increase your staff responsibility on your staff, so that maybe some of the technical people who are working for at least the three States who are within the bite of the line, and give us some quality control, some assurance, some help in regard to the materials that we are preparing, as to whether those materials we are preparing will be acceptable to the staff; much in the same manner as your working with the Department of Energy.

All in all, it has been a frustrating four years, but a pleasant one. And I couldn't leave this meeting without having a few words and thanking you for your past help. And hoping that your division can be of more assistance to us in the future.

Thank you very much.

DAVbur

MR. BROWNING: Thank you.

MR. PROVOST: Bob, I would like to bring up one subject that we would like to have a little help on.

To go back to that hydrology meeting that we talked about in Richland, which was I think a very good meeting, I thought we had a fair understanding between technical staffs about the hydrology problems and how much confidence it could or could not have at this time concerning the NRC regulation on thousand year travel times.

But then we read the testimony, both prior to our testimony for NRC and at yesterday's hearing, and that is lost. The message that comes across is basically -- in both testimony before Congress is that there really is no problem.

Even yesterday in the discussions at the hearing, the nature of the problems or the probabilities that there are problems, say, in groundwater travel times or the hydrology programs didn't come across.

I know that is a rough committee, but the written testimony even didn't have that sense that came across at the hydrology meetings.

I don't know how we could work that out or how that message gets across, but you are translating a very technical message to legislators, Congressmen or whatever. It is a difficult job, but I think that is an area that has

DAVbur

to be worked on so there is better understanding in that area.

MR. BROWNING: I would like to understand a little bit more, maybe not right now, but understand a little bit more.

Your understanding of the written testimony didn't reflect accurately the situation with regard to the groundwater because we did identify groundwater as a concern.

MR. PROVOST: But in a passing way. It is always with the proviso that we know of no technical reasons for not going ahead. It seems to us that you could also say, you know, that there is some kind of probability that they are going to have trouble meeting the standards. Even if that statement, if it would be in there, would help.

But the way it comes across in testimony is it appears to people in the audience --

MR. BROWNING: Your impression when we talk about raising issues and resolving them is that they are always going to be resolved in a positive sense.

MR. PROVOST: That is what comes across in the testimony. I checked with other people in the audience yesterday, for example, to see if they are reading it the same way I was. The people I talked to were reading it as a very positive situation at the sites.

DAVbur

Again, that is not the message we were getting at specific hearings on specific subjects. So I think that is something to work on.

MR. BROWNING: All right.

MS. JACKSON: My name is Candy Jackson, with the Lake Superior Tribe of Chippewa Indians. We are in a second repository state.

I want to let you know that we appreciate all the information and certainly being able to attend the meetings, although we don't receive as much information as we would like to.

I know with the indefinite status of the second repository, I guess we have been kind of put on hold, but again we don't know what or when anything is going to occur.

There is something, though, that I was told that NRC does currently provide the states with information as to transportation -- the transportation issue as to when nuclear waste does come through the particular states. The tribes have not received similar type notice.

We have a great deal of ceded territory in Wisconsin, Michigan, and Minnesota. We would appreciate having that information as well. Not everything that goes through the states comes back to the tribes, and the tribes are separate governments. So I guess we would appreciate that from the NRC.

DAVbur

Thank you.

MR. HOLDER: Robert Holder, representing the National Congress of American Indians, to which the tribal government Candy represents is a member of as well as the three tribes here, the Yakima, Umatilla, and Nez Perce. We represent those three tribes, as well as the majority of the tribes of these voters are adjacent to state voters in a five-state region.

Someone made the comment or stated this morning that we represent second round repository tribes' interests. We do that, but above that I think that it is incumbent on NRC to reach out to tribes in the corridor states regarding information, making the information available to all tribal governments across the country.

We represented NCAI. We represent approximately 150. That fluctuates, but lately it has been in an upward spiral, thank goodness. But we can only do so much in our outreach efforts, and these are tribal governments, and it is within the grounds of the trust responsibility for NRC.

But I do also say that we have some good rapport with some of the fine people in NRC, within tribal-state relations, but there is also so much that they can do.

But I think it is something that needs to be done, and other than that things, I think, are working on a positive note.

DAVbur

Thank you.

MR. BROWNING: We will note that and see what can be done in response to the request for further information in that area. We will try to include that as the response or the action being taken as part of the record of this. I can't really deal with it directly myself.

Any other comments or ideas?

MR. HOLVIS: I guess somebody ought to note or put on the record how disruptive it is that either you or DOE goes through a reorganization. I know you people who are in DOE or NRC say, well, you ought to be there, but it is terribly disruptive. Just about the time we get used to working and having some kind of relationship with somebody, they are over in left field or they are out, and it is a terribly disruptive thing for this long-term relationship that I think this act contemplates.

I hope that people can be paid more money and stay and have a continuing relationship with the fine people you have.

MR. BROWNING: Unfortunately, we don't have a thing called slavery any more.

(Laughter.)

MR. BROWNING: Which would keep everybody here. I would like to hang on to my staff, too, but they often think the pastures are greener somewhere else.

DAVbur

I think with regard to the reorganization my impression is there should be enough benefit, but I think you should see that in terms of focusing the resources on the high level waste program.

You are talking about the number of resources. One of the things that amazed me when I was over in Europe is the small number of people that do similar kinds of things over there compared to here.

Of course, they don't have this kind of session either. So it is not comparing apples and oranges. But when you go ask the regulators how many people they have, you can count the people on two hands, yet somehow they are managing to get by.

MR. HOLVIS: I think that is exactly correct. People have to understand that the CNC process does require additional staff, additional help. It always does. When you have a cooperative function, it always is a lot more difficult than when you have a totalitarian government or a despot or somebody that just goes ahead and does it on a technically efficient basis.

But Congress has asked us to give this some consideration underneath this act.

Secondly, the thing that really gives me some concern is the breakdown of this process may mean that we will not have a repository ever, certainly not within the

DAVbur

timeframe that is going to be necessary for our country to have it, unless there seems to be an improvement underneath the CNC process. I think almost every objective observer would come to that kind of conclusion.

MS. KANY: Kany from Maine.

Just commenting again on your trip to Europe, I was just remembering that waste management, it is my understanding talking to a number of Europeans and people from other countries in the world, that usually transuranics are considered high level waste in other countries.

I am wondering how the NRC is leaning on calling transuranics high level waste.

Would you comment on that?

MR. BROWNING: That will be covered in the rulemaking that was referred to earlier with regard to the definition of high level waste. That particular area is the forum in which that will be decided.

I can't say how it is going to come out because it is under a rulemaking.

Interestingly enough, some countries -- for example, England, apparently has made a decision to put everything in the high level waste repository. So things are not necessarily being done on a technical basis. They are being done on other bases, which doesn't necessarily make for a direct comparison.

DAVbur

It is kind of interesting how things are evolving internationally.

Okay, thank you very much.

One thing we will be doing is we are trying to resolve some of the issues and concerns you raised, both in the session you had directly with the Commission and this session. We probably will be having some additional discussions with you to make sure we fully understand the point and perhaps some dialogue in terms of what we are planning to do with it to make sure we are on target.

So I would expect to be having some discussions with the various participants in that meeting and this meeting, with some follow-on to these meetings.

I also would like as soon as it is mutually convenient to get out and meet some of you firsthand. The last time I was out at the Hanford hydrology session I didn't have a chance to get out and visit you folks. Unfortunately, we didn't get around to everybody. I wasn't trying to slight anybody. I just didn't have enough time to do all the things I wanted to do.

So I think your higher level management that is coming in and getting involved in this program, they also want to get out and meet you first hand. So I think we will continue the process, if not enhance it, where we had before when Joe Bunting came out to talk and made sure you

DAVbur

understood what our role was and how you could interface with that.

We fully intend to continue that, but probably give the higher management focus than was the occasion before.

MR. MAC DOUGALL: Okay. One last reminder, for those of you who haven't gotten a demonstration of the system and would like it, we will have staff standing by there.

I notice that Phil Altomare was unable to make the meeting. As I mentioned before, he is around here, however.

Phil, are you in the room?

He must have ducked out.

Anyway, thank you very much for coming. Again, I apologize for the venue. Things could have been better, and we hope they will be next time.

But please feel free to come by and see me. I will be here for a while after the meeting, and if there were any concerns that you have that we didn't address.

Thank you again.

(Whereupon, at 3:15 p.m., the meeting was adjourned.)

CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING: SECOND ANNUAL MEETING

WITH STATE AND TRIBAL REPRESENTATIVE IN THE HIGH-LEVEL WASTE PROGRAM

DOCKET NO.:

PLACE: WASHINGTON, D. C.

DATE: TUESDAY, JUNE 30, 1987

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission.

(sigt) David L. Hoffman

(TYPED)

DAVID L. HOFFMAN

Official Reporter

ACE-FEDERAL REPORTERS, INC.

Reporter's Affiliation

REVISION TO QA REVIEW PLAN

LINDA K. RIDDLE
June 30, 1987

PURPOSE OF QA REVIEW PLAN

- GUIDANCE FOR DOE QA PROGRAM
- NRC EVALUATION OF DOE QA PROGRAM
- SITE CHARACTERIZATION PHASE

1984 QA REVIEW PLAN

- GAME PLAN - BRIEF
  1. REVIEW DOE QA PROGRAMS
  2. ON-SITE REVIEWS
  3. MEETINGS WITH DOE

- 18 CRITERIA
  1. BASED ON REACTOR STANDARD REVIEW PLAN
  2. TERMINOLOGY - REACTOR VS. REPOSITORY
  3. SCIENTIFIC INVESTIGATIONS

1987 REVISION

- WHY
  1. FORD STUDY
  2. 3 YEARS USE
- OBJECTIVES
  1. IDENTIFY IMPROVEMENTS/CLARIFICATIONS
     - (A) FORD STUDY
       - TECHNICAL/TEAM AUDITS
       - READINESS REVIEWS
     - (B) COMMENTS FROM DOE
       - LINE MANAGEMENT RESPONSIBILITY FOR QA
       - CERTAIN QA CRITERIA NA TO SCIENTIFIC INVESTIGATIONS (I.E. INSPECTIONS, TEST CONTROL)
       - QA RECORD - SAMPLES EXCLUDED
       - COMPUTER SOFTWARE QA - SCIENTIFIC AND ENGINEERING VS. END USER
     - (C) NQA-1
  2. INCORPORATE IMPROVEMENTS/CLARIFICATIONS
     - (A) VALUE
     - (B) IMPACT

- EXPECTED CHANGES

  1. GAME PLAN - MORE DETAILED

     (A) REGULATORY REQUIREMENTS
     (B) INFORMATION NEEDS
     (C) PLANS

         - REVIEW DOE QA PROGRAM DOCUMENTS
         - READINESS REVIEWS
         - DATA REVIEWS
         - AUDIT - TECHNICAL

  2. 18 CRITERIA

     (A) ELABORATE ON QA FOR SCIENTIFIC INVESTIGATIONS

         - DEVELOPMENT OF STUDY PLANS
         - PERFORMANCE OF SCIENTIFIC INVESTIGATIONS
           (I.E., GOOD LABORATORY PRACTICE)
         - DOCUMENTATION OF THE SCIENTIFIC INVESTIGATION
           (I.E., LABORATORY NOTEBOOKS)
         - CHECKING SCIENTIFIC INVESTIGATIONS
           (I.E., TECHNICAL AUDITS, INSPECTIONS)

     (B) ENDORSE NQA-1

- SCHEDULE

  1. DRAFT - FALL 1987

STATUS REPORT:

AMENDMENTS TO 10 CFR PARTS 51 AND 60

- O CONFORMANCE WITH EPA HLW STANDARDS
- O DEFINITION OF "HIGH-LEVEL WASTE"
- O ADOPTION OF DOE ENVIRONMENTAL IMPACT STATEMENT

AMENDMENTS TO CONFORM PART 60

TO THE EPA HLW STANDARDS

- PROPOSED AMENDMENTS PUBLISHED JUNE 19, 1986 (51 FR 22288)
- FINAL AMENDMENTS DUE TO THE COMMISSION EARLY JULY
- NO CHANGES OF SUBSTANCE FROM PROPOSED RULE
  - -MANY COMMENTS ATTACKED THE EPA STANDARDS RATHER THAN OUR ADOPTION OF THEM
  - -SOME ADDITIONAL ADOPTION OF EPA'S TERMINOLOGY (E.G., "UNDISTURBED PERFORMANCE" AND "LIKELY NATURAL EVENTS" REPLACE THE TERM "ANTICIPATED PROCESSES AND EVENTS")
  - -ADDITIONAL EXPLANATION OF "REASONABLE ASSURANCE"
  - -ADDITIONAL EXPLANATION OF MONITORING REQUIREMENT
  - -CLARIFICATION OF LIMITS ON INSTITUTIONAL CONTROLS
  - -REVISED WORDING DESCRIBING THE ANALYSES TO BE SUBMITTED IN DOE'S LICENSE APPLICATION

ADVANCE NOTICE OF PROPOSED RULEMAKING

DEFINITION OF "HIGH-LEVEL WASTE"

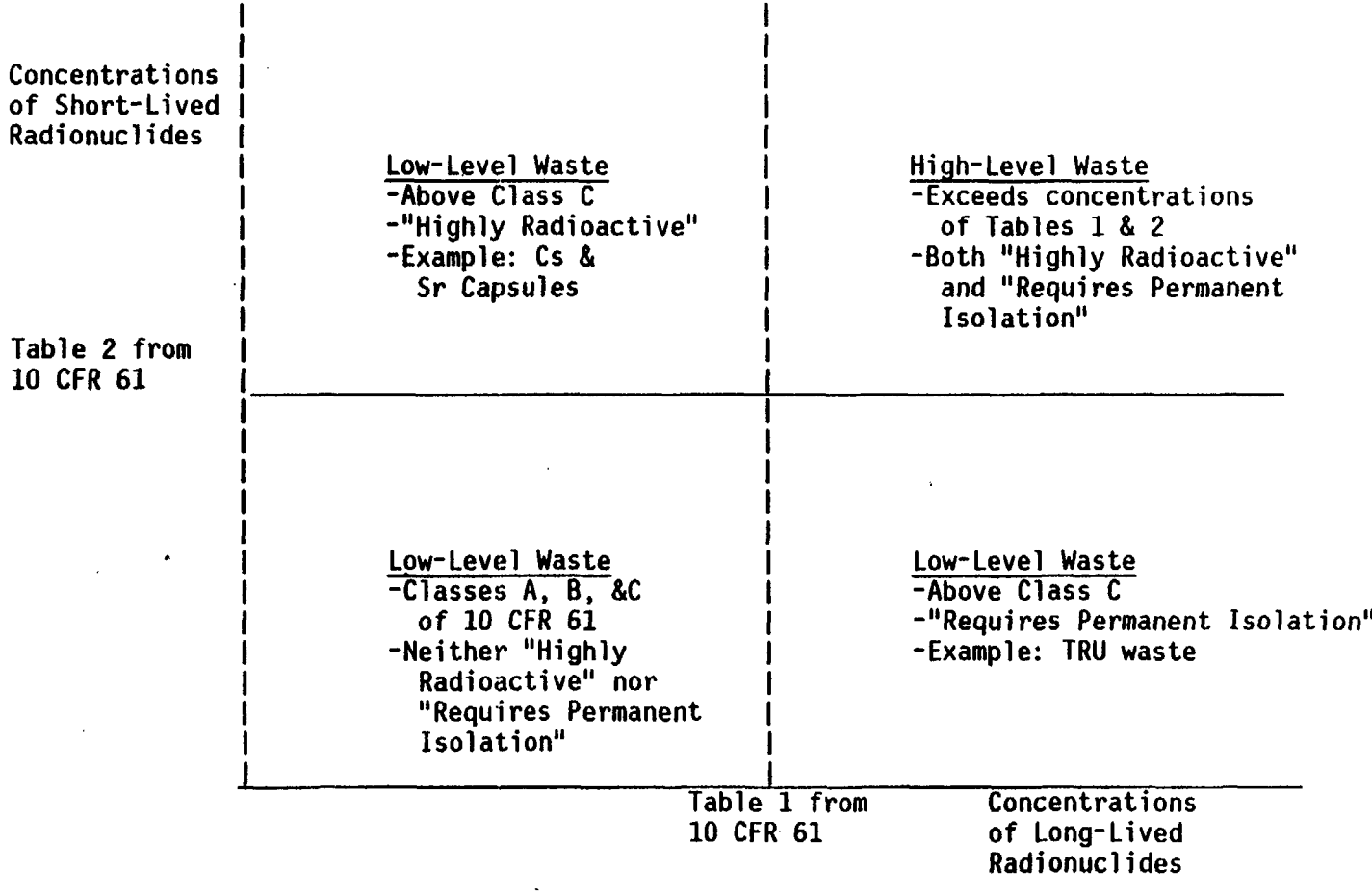
- O ANPR PUBLISHED FEBRUARY 27, 1987
- O COMMENT PERIOD CLOSED JUNE 29, 1987
- O COMMENTS ARE GENERALLY SUPPORTIVE OF CLASSIFICATION BASED ON RISK RATHER THAN SOURCE OF WASTE
- O NO RECLASSIFICATION OF CLASSES A, B & C WASTES
- O SOME COMMENTS ARGUE FOR NUCLIDE BY NUCLIDE CLASSIFICATION RATHER THAN "DUAL" SYSTEM PROPOSED IN THE ANPR

NUCLEAR WASTE POLICY ACT OF 1982

"HIGH-LEVEL RADIOACTIVE WASTE" MEANS:

(A) THE HIGHLY RADIOACTIVE MATERIAL RESULTING FROM THE REPROCESSING OF SPENT NUCLEAR FUEL, INCLUDING LIQUID WASTE PRODUCED DIRECTLY IN REPROCESSING AND ANY SOLID MATERIAL DERIVED FROM SUCH LIQUID WASTE THAT CONTAINS FISSION PRODUCTS IN SUFFICIENT CONCENTRATIONS: AND

(B) OTHER HIGHLY RADIOACTIVE MATERIAL THAT THE COMMISSION, CONSISTENT WITH EXISTING LAW, DETERMINES BY RULE REQUIRES PERMANENT ISOLATION.



CONCEPTUAL DEFINITION OF HLW INCLUDED IN ANPR.

ADOPTION OF DOE ENVIRONMENTAL IMPACT STATEMENT

- O NWPA DIRECTS NRC TO ADOPT DOE'S EIS "TO THE EXTENT PRACTICABLE"
- O NWPA ALSO PROVIDES FOR JUDICIAL AND CONGRESSIONAL REVIEW OF DOE'S EIS BEFORE NRC LICENSE REVIEW
- O NWPA LEAVES SOME RESIDUAL NEPA RESPONSIBILITY FOR NRC
- O NEW INFORMATION MAY ARISE DURING NRC LICENSING REVIEW
- O ALTERNATIVES:
  - -"UNQUESTIONING" NRC ADOPTION
  - -COMPLETELY INDEPENDENT NRC REVIEW
  - -SOMETHING IN BETWEEN