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U.S. NUCLEAR REGULATORY COMMISSION

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COMMISSION MEETING

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ALL EMPLOYEES MEETING

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WEDNESDAY,

MAY 24, 2006

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The above-entitled matter convened at 1:30 p.m. in  
Salons D-H of the Marriott Bethesda North Hotel, 5701 Marinelli  
Road, Rockville, Maryland.

COMMISSIONERS PRESENT:

- NILS J. DIAZ, Chairman
- EDWARD McGAFFIGAN, JR., Commissioner
- JEFFREY S. MERRIFIELD, Commissioner
- GREGORY B. JACZKO, Commissioner
- PETER B. LYONS, Commissioner

ALSO PRESENT:

- LUIS REYES, EDO
- MARTY VIRGILIO, Deputy EDO

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

(1:31:28)

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2  
3 MR. REYES: If you would please take your seats. I  
4 know everybody is excited, great weather, unique opportunity. Just a  
5 plug for the *NRC Reporter*. Tonight's article will have a long history of  
6 how we started the All Employees Meeting, who started it, how it  
7 began, the different variations to the theme, culminating with today's  
8 meeting, which we have the capacity to have all employees in our  
9 Headquarters Office located in one location, and we'll be able to have  
10 one meeting for all employees, the Regions and the technical center,  
11 Chattanooga Training Center, are on video, so they'll be able to also  
12 see us, so this is kind of unique opportunity, first time ever that we can  
13 have all employees both here and in the Regions join us for one  
14 session with the Commission.

15 We have plenty of seats here in the middle for those  
16 just coming in. You don't have to sit in the back. We're going to  
17 charge money to the people sitting in the back, so please get up. And  
18 let me not delay any more. Chairman Diaz.

19 CHAIRMAN DIAZ: Thank you, Luis, and good  
20 afternoon everyone, and welcome to the NRC's annual All Employees  
21 Meeting. My Commission colleagues and I are very pleased to join  
22 you to answer questions and concerns that you may have to the best  
23 of our ability.

24 I will provide some "brief" remarks, and then I will ask  
25 my fellow Commissioner for "brief" remarks, and then I'll turn to you.  
26 This is your meeting, and we hope you feel it is your meeting, and we  
27 hope you make it so.

1                   Let me just take a moment to welcome to our All  
2 Employees Meeting those members of our staff who are located in  
3 our Regional offices and the Technical Training Center in  
4 Chattanooga, and in other sites around the country. The Commission  
5 values your active participation in our All Employees Meeting, even  
6 long distance.

7                   We have abandoned the tent on the green this year,  
8 but we have gained a particularly important advantage of being all  
9 together in one session. Togetherness is good, and air conditioning is  
10 even better. As always, we strongly encourage you to use this time to  
11 communicate with us.

12                  In my remarks this afternoon, I want to share with you  
13 a broad and sometimes personal reflection of and expectations for the  
14 NRC. I will be using three images, the way we were, the way we are,  
15 and the way we will be. Notice I said will be, because eventually it will  
16 be a positive, even optimistic view, the kind that shakes my colleague,  
17 Commissioner McGaffigan, into labeling me an optimist. He is right,  
18 of course, I am an unabashed optimistic, but I am also a realist. And  
19 my remarks this afternoon are founded on those two aspects of the  
20 way I am.

21                  The way we were only a short 10 years ago was an  
22 agency very good at doing the necessary, at accommodating  
23 incremental changes, and at jumping with gusto at any event. NRC  
24 had not fully recovered from the TMI Lessons Learned. We did not  
25 trust industry, and they did not trust us. Progress was still made,  
26 however. Often, we felt the benefit of good communications, even  
27 when the common objective was safety, progress was made with hard

1 work and persistence.

2 In the 10 years I have been with the Commission,  
3 there have been many positive changes, on both sides of the aisle.  
4 Those major changes form the basis for the way we are, and we are a  
5 heck of a lot better than what we were.

6 We have focused attention on maintaining and  
7 improving the regulatory framework and contributed to significantly  
8 enhanced industry performance. We ensure and make safety first.  
9 We then added accountability and communications as priorities in the  
10 way we do our work. Specifically, we have changed our regulatory  
11 philosophy from one of safety versus compliance, to one of safety  
12 with capital S, and compliance.

13 We made the minimal meaningful in 50.59. We  
14 made small and very small pay-off big in Reg Guide 1.174. We  
15 moved prescriptive regulation to more risk-informed and performance-  
16 based, and we openly, openly established the ROP, and then  
17 continued to improve it to provide enhanced oversight that is fair and  
18 rigorous.

19 We have issued 42 license renewals, and 108 power  
20 uprates. We have integrated safety, security, and emergency  
21 preparedness. We have worked hard at requiring improved security  
22 whenever needed. Moreover, we use analysis and communications  
23 all the time to increase the assurance that the nuclear power plants  
24 have the defensive capabilities and mitigation strategies needed to  
25 protect the sites and the American people, and they do.

26 We also forged ahead in the materials arena and with  
27 the preparations for Yucca Mountain. We will be prepared to perform

1 the necessary reviews when the time comes.

2 Major facility licensing became and continues to  
3 require significant resources in NMSS, as is the conversion to ISA for  
4 the fuel cycle facilities. We addressed contamination and  
5 decommissioning effectively. We work closer and better with the  
6 Agreement States in addressing radioactive materials issues. We  
7 secured the more significant radioactive sources using a risk-informed  
8 approach. We are putting the closure clips on tracking, transporting,  
9 and securing, as appropriate, the radioactive materials of this nation.  
10 We have sharpened our research efforts, tied them to specific needs  
11 during this period with our new reactor licensing, and have addressed  
12 and resolved many key reactor safety and security issues. In  
13 addition, we implemented a more coherent and consistent planning  
14 and budgeting process.

15 As an optimist, I see this period as a time when we  
16 register substantial success in enhancing public confidence,  
17 improving industry safety performance, and delivering on the promise  
18 to protect public health and safety. The realistic in me would add that  
19 there were many, many, many challenges along the way, and that we  
20 can do better.

21 In many ways, we came out of the shadows into the  
22 public limelight, and we did not shrink from that responsibility. In fact,  
23 we bask in the sunlight, and use it well to enhance the credibility and  
24 the prestige of this agency with the Congress, Federal and State  
25 agencies, and the public.

26 One measure of the respect we have earned can be  
27 found in our budget. The total budget authority in fiscal year `06 was

1 \$796 million, \$92 million more than in fiscal year '05, and last week  
2 the House Appropriations reported with an increase of \$40 million to  
3 the already supportive budget submitted by the President. No longer  
4 burdened with budget cuts, we should be able to firmly plan ahead  
5 with a fiscally conservative, and yet realistic approach.

6 Now we face an entirely new, indeed, a very tough  
7 situation. The Energy Policy Act of 2005 and industry  
8 announcements of their plans to file COL applications, and their  
9 intention to construct new plants have made it very clear that we are  
10 going to have to address a cascade of new requests and the  
11 associated required actions, unlike anything we have addressed in the  
12 past. And, and the "and" is very important, and we cannot, and will  
13 not miss a step on operational safety and security oversight.

14 The way we are is not going to be good enough to  
15 meet this workload in the manner the nation demands, and we all  
16 expect. We have to transform ourselves again into another better  
17 NRC, and become what I have called the way we will be. And what is  
18 the way we will be?

19 It is first and foremost an agency that gets ahead of  
20 the curve and stays ahead of the curve. We cannot afford to repeat  
21 the past like being in a reactive mode when the bow wave of new  
22 activity actually begins. Schedules will mean schedules. They don't  
23 mean something that is just in a computer, and we're going to have to  
24 live by those schedules.

25 The NRC is an agency that has the expertise and  
26 experience to carry out its responsibility, and recognizes that it will be  
27 held accountable for its actions. You need to be better, and at the

1 same time we have to turn every new hire into efficient regulators in  
2 record time. It means that when the time comes, we are ready, able,  
3 willing, and have the knowledge base to review applications efficiently  
4 and well. As an optimist, I am confident because I know you. I know  
5 the NRC, and I know we can do it. As a realistic, I know that there are  
6 serious challenges. We need to be fully mobilized in a war-time  
7 manner to accomplish the tasks that lie ahead, and we need to be on  
8 that origin footing now.

9 Let me summarize. You and I, the NRC, we are in  
10 our own private war. The ways and means of peacetime are not good  
11 enough. Many are saying we cannot do it. I heard that behind closed  
12 doors and open doors they say the NRC cannot do it. I want you to  
13 prove them wrong. I want you to prove them wrong, because you can  
14 do it. I know we can do it, and I know we can do it because we can.  
15 And if you believe we can, like I do, we will be able to do it.

16 The future of the agency depends on our effective  
17 response to the challenge that we already know is coming. We have  
18 time to plan, and we are going to carry it out. The future begins now.

19 As for me, I have had the adventure of a lifetime.  
20 When I left Cuba, I left many yesterdays behind, and I sought my  
21 present and my future in a new land, a land of milk and honey, and  
22 what a land it was. I have adjusted and re-invented myself many  
23 times, and have always known that in this country I will have the  
24 opportunity to be myself, and to prove myself worthy. I have, and I  
25 am free. I have been, and I am free.

26 I have spent 10 years of my adventurous life with you  
27 here at the NRC. It has been an honor for me to serve as your

1 Chairman, to serve with you as a Commissioner, to have this chance  
2 to work with my Commission colleagues, and to work with you in the  
3 great enterprise of protecting the public health and safety, the  
4 environment, and the common defense and security.

5 I want to thank you for your support, for the great  
6 work that you do, and for being the kind of people and organization  
7 with whom anyone would be proud to serve. I know I have been. I  
8 would not change the last 10 years for anything, a nuke's dream come  
9 true. I have loved doing my job, and I know I'm better for it.

10 When I am in Florida at the beach making the tough  
11 decisions in my boat, trying to decide early in the morning whether it  
12 will be Mimosa or Pina Colada, I will be looking forward to hearing  
13 about how you have won the war, and relish that I was one of you.  
14 Thank you.

15 Now I will ask my fellow Commissioners for brief  
16 remarks.

17 COMMISSIONER McGAFFIGAN: Mr. Chairman, I'm  
18 just going to spend a moment praising you, and I think the applause  
19 you just got was entirely appropriate and as sincere as your remarks  
20 were. It's been an honor serving with you for the past 10 years. I  
21 think I missed 103 days last year, and you missed about 90 days back  
22 in the early part of this decade. We haven't always agreed on  
23 everything, although we've agreed on far more than we've disagreed  
24 on. And, of course, you were wrong in all those cases.

25 CHAIRMAN DIAZ: History will absolve me.

26 COMMISSIONER McGAFFIGAN: You served the  
27 nation well. You have served this institution well. You could have

1 stayed in Florida, as I said Reg Info Conference, and made far more  
2 money, might have even prevented the mutual mistake of Steve  
3 Spurrier and the Washington Redskins, kept Florida football on a  
4 winning track. But that all said, this is a much better place for your  
5 presence than it was when we arrived. There were a lot of issues to  
6 fix. There's a lot of issues ahead of us still to be fixed, and we'll talk  
7 about those in the context, in the course of this meeting, but it's been  
8 an honor serving with you, and I wish you and your family all the best  
9 in retirement.

10 CHAIRMAN DIAZ: Thank you, sir.

11 COMMISSIONER MERRIFIELD: It would be easy,  
12 and perhaps desirous by the audience if I just said ditto. And for the  
13 most part I would say yes, but I want to add, I completely agree with  
14 Commissioner McGaffigan's sentiments. And I would just like to add  
15 a little bit to that.

16 One of the things that I think we, as Commissioners,  
17 don't forget, sometimes our staff forgets it, and certainly a lot of folks  
18 out in the regulating community and our stakeholders forget it, but  
19 when you join the Commission as the Chairman did 10 years ago, you  
20 join as a Commissioner. The White House has indicated that it has a  
21 new Chairman in mind, Dale Klein, who will join the Commission as a  
22 Commissioner, and he will be designated as Chairman. But in the  
23 end, you are always a Commissioner. And there's a tendency, I think,  
24 to focus on the accomplishments of what the Chairman has done.  
25 And I think in the time that you have been our Chairman, we have  
26 accomplished a great deal, but I think it's also worthy to remember the  
27 work you accomplished, and all Commissioners accomplish in their

1 role as Commissioners. And in those first seven years before you  
2 became Chairman, you did a large number of things that help set this  
3 agency on the course it's become today, far before the time you  
4 became a Commissioner, and I think that's something else we should  
5 always remember.

6 A lot of the activities that we have taken in recent  
7 years, the framework for that, and the foundation for that was  
8 established by ideas and thoughts that you either had or championed,  
9 and I think we should remember that, as well.

10 One of the things that the Chairman has mentioned,  
11 and I think we all are in agreement, that this is an important institution  
12 beyond any individual member, or any individual Chairman, and that's  
13 the value of the Commission structure. It creates the stability, and I  
14 think we are all celebrators of stability, and in the stewardship that the  
15 Chairman has had over the time he has been here, my hope is that  
16 we can continue that progress that we have established, and have  
17 continued to establish over the years. So the record of the Chairman  
18 and the record of the Commission as a whole is a word he likes to  
19 use, and that is the word "sustainability". And, hopefully, as we all bid  
20 him goodbye over the course of the next month, we can continue with  
21 that one word in mind; and that is, we've had accomplishment, but we  
22 must have sustainability in meeting our mission as a public health and  
23 safety regulator.

24 So, again, I join Commissioner McGaffigan in wishing  
25 you all the best, and we will have other occasions to say it again, but  
26 it's always a pleasure to do so, and thank you for your service.

27 CHAIRMAN DIAZ: Thank you, sir.

1                   COMMISSIONER JACZKO: I had originally prepared  
2 about 10 pages of notes to talk about the Chairman, but in the interest  
3 of brevity, I'll shorten that a little bit. Certainly, on a personal note, I  
4 just want to say that I appreciate the Chairman for the work that he's  
5 done to really show me the importance and to give me an  
6 appreciation for this office, and how, as Commissioner Merrifield said,  
7 although he is now the Chairman, he is always a Commissioner, and  
8 has showed me the way to act as a Commissioner. And while I've  
9 strived to live up to his model, I think I still have work, and I appreciate  
10 his help and guidance in helping me to appreciate this job.

11                   I just want to say a little bit about, I think, the work  
12 and the dedication that he's put in over the last 10 years. I've been a  
13 Commissioner a little over a year now, and certainly in that year and a  
14 half I've seen the rigors of this job and the work that it requires, and  
15 certainly, the job of the Chairman requires even more. And I think his  
16 dedication and his level of energy has always amazed me.

17                   I do have to say on a personal note, I finally learned  
18 the source of some of his energy. Apparently, it's a shot of Espresso  
19 in the morning. But, again, I just want to say, certainly to echo the  
20 comments of my fellow Commissioners that it has been a pleasure for  
21 me to work with you, and I certainly see in the short time that I've  
22 been here the contributions you've made to this agency and to this  
23 country.

24                   CHAIRMAN DIAZ: Thank you.

25                   COMMISSIONER LYONS: I, too, can say ditto, but  
26 let me proceed with just a few very brief remarks in addition to saying  
27 ditto. Like last year, I still speak to you as the most junior of the

1 Commissioners, but thanks to a lot of education from the  
2 Commissioners and our great staff, at least I'm not quite the novice  
3 that I was then. I'm very proud of the way that the Commissioners  
4 have worked together, even while sometimes agreeing to disagree on  
5 some of our votes, and the counsel of the senior Commissioners has  
6 certainly helped me throughout this last year, and I think  
7 Commissioner Jaczko and I have continued to learn together  
8 throughout this year.

9 I've particularly appreciated the time that our  
10 Chairman has devoted to helping me understand the challenges that  
11 go with this job in assuring that the NRC continues to set the global  
12 standard for nuclear regulation. The NRC, as has already been well  
13 stated, is a far better place through the dedicated work of our  
14 Chairman. It's been a real privilege and an honor to serve with him.  
15 The nation is far better positioned in both nuclear safety, and in  
16 opportunities for new plants with his 10 years on the Commission.  
17 Security of our plants has certainly improved beyond the strong base  
18 that already existed on 9/11. Our country, this agency, and the  
19 industry are stronger today because of his leadership.

20 As Nils has spoken of his retirement plans, he's  
21 mentioned relaxing on his Florida porch with his wife watching the  
22 sunsets and sipping Pina Coladas, or we heard today Mimosas.  
23 While I'm sure those are going to be part of his plan, I'm willing to bet  
24 they're not going to consume all of his energies. And I'm looking  
25 forward to his contributions to nuclear safety and nuclear power far  
26 into the future. I believe the agency is well-positioned, thanks to his  
27 leadership, for the challenges that we're going to face in the next few

1 years. And, again, Nils, I thank you.

2 CHAIRMAN DIAZ: Thank you. Now we turn back the  
3 meeting to you. There's been a love feast in here. They usually are  
4 not that nice to me. I'm going to pass notes on this issue.

5 COMMISSIONER McGAFFIGAN: We'll try not to be  
6 the rest of the meeting.

7 CHAIRMAN DIAZ: All right. Turning the meeting to  
8 you, we're ready for first questions.

9 PARTICIPANT: Chairman Diaz, this is from  
10 Headquarters. Have there been any discussions with the recently  
11 nominated Chairman, Dr. Klein, on some of the issues the agency  
12 faces?

13 CHAIRMAN DIAZ: I'm sorry. I couldn't understand  
14 the question well. Would you say it again? There's an echo behind  
15 me.

16 PARTICIPANT: Have there been any discussions  
17 with the recently nominated Chairman, Dr. Klein, on some of the  
18 issues the agency faces?

19 CHAIRMAN DIAZ: The staff has briefed Dr. Klein. I  
20 believe that because of the necessary separation that needs to be  
21 with a candidate that has not been confirmed by the Senate, there is  
22 some limitations on those discussions, but the staff has briefed him on  
23 the issues, and prepared Dr. Klein for what was a successful hearing,  
24 so I think he is burning the books right now. We have given him the  
25 information, and we will continue to work with him as time goes on,  
26 and waiting for the decision of the Senate.

27 COMMISSIONER McGAFFIGAN: Which we hope

1 could be as early as today or tomorrow. The trifecta, as I call it, of Mr.  
2 Klein, Mr. Jaczko, and Mr. Lyons, possibly will get through the Senate  
3 promptly.

4 CHAIRMAN DIAZ: I never presume what the Senate  
5 is going to do.

6 COMMISSIONER McGAFFIGAN: Nor do I as a  
7 former Senate staffer, but just to amplify the Chairman, it's very  
8 important the nominee not presume positive action by the Senate,  
9 and so Mr. Klein, future Chairman Klein, has been very cautious, and  
10 appropriately so, in not conveying any presumption of Senate action.  
11 If the Senate does confirm him, then there can be more open  
12 dialogue, and he'll probably show himself here during that period  
13 before he takes office on July 1<sup>st</sup>.

14 COMMISSIONER LYONS: If I might just add, from  
15 my perspective at Los Alamos, probably 20 years ago, I began  
16 working with Dale Klein on a number of issues. I've known him for  
17 many years. I think he will serve very well at the NRC, and I'm very  
18 much hopeful that the Senate will concur. But as a long-time  
19 colleague, he will make an excellent addition to the NRC.

20 CHAIRMAN DIAZ: Next question, please.

21 PARTICIPANT: This is a question from  
22 Headquarters. Where do you see the nuclear industry in 10 years,  
23 and do you think we will have addressed the President's goal of  
24 reducing dependency on foreign oil?

25 CHAIRMAN DIAZ: As an independent regulator, I'm  
26 not sure I can answer that. I do see the nuclear industry in the United  
27 States considering very seriously every single aspect of additional

1 nuclear deployment, including the very serious aspect of the fact that  
2 they are a regulated industry, and that the NRC will conduct a very  
3 rigorous evaluation of the applications, and will continue to exercise  
4 oversight.

5           Having said that, I've seen a change in the - let me  
6 just say almost the commitment to go forward - and that is shaped by  
7 things that are often not under our control; the need for additional  
8 base-load capacity, the definitely substantial rise in the price of oil and  
9 gas, the fact that all of these gas generating units are not able to work  
10 at the capacity, the importance of the mixture, the importance of the  
11 portfolio, the importance of anchoring the grid, so all of those factors  
12 are coming together in what I have called a couple of times a  
13 convergence of positive factors, so I think the industry is analyzing all  
14 of those issues, economical, social, political issues which I believe  
15 have turned a corner. I am seeing the seriousness in which they are  
16 taken, the potential deployment of nuclear power, and our job is to be  
17 ready, like I said. Our job is to consider that it's going to happen, and  
18 that's what we're telling the Congress, and what we're telling  
19 everybody. We have to be ready, and I think we will be.

20           COMMISSIONER McGAFFIGAN: Mr. Chairman, I  
21 might add; I think that you will see nuclear power plants coming on-  
22 line 10 years from now. I think you will see a very large wave of  
23 additional plants coming on line in addition to the initial plants in the  
24 years thereafter, if our licensing process goes well, and if the initial  
25 construction efforts go well. And those are two big ifs.

26           I would only say with regard to dependency on foreign  
27 oil, if we're successful, if the industry is successful in building, and

1 we're successful in licensing new plants, it doesn't affect oil  
2 consumption. We don't use oil to generate power in this country. It  
3 might help displace some natural gas use in this electricity production.  
4 I think as a recent report by one of the House committees, Tom Davis  
5 is the chair of it, said, "We will rue the day that we generated 20  
6 percent of our electricity through natural gas as the source."

7 I think I'm an environmentalist in some sense of the  
8 word. I grew up thinking I was one. I'm not sure I'd be voted the  
9 member of the year at any of the usual groups, but it is a crying  
10 shame that the focus has been on natural gas for the last 20 years,  
11 because we only have so much of it, and so the best that will happen  
12 as a result of activities in the nuclear sector is hopefully natural gas  
13 will be displaced and used where it is much more valuable in our  
14 economy. And I hope that does happen.

15 That doesn't mean I'm not going to be a tough  
16 regulator looking at the licensing of these plants, but as the Chairman  
17 said, there's a bunch of factors coming together, converging. Instead  
18 of building 104 different flavors of reactors in the next generation,  
19 we're going to build three or four flavors of reactors in the next  
20 generation, and that will make the construction of them, the oversight  
21 of them, the licensing of them much more effective than it was for this  
22 generation of plants.

23 COMMISSIONER MERRIFIELD: Mr. Chairman, I  
24 think that I agree with you and Commissioner McGaffigan. I think the  
25 factors have aligned themselves to the point where we are going to  
26 see a significant number of orders with new reactors potentially  
27 opening in a decade. But I'm reminded - this kind of question reminds

1 me of a book that my six-year old daughter reads, and it's called *The*  
2 *Important Book*. *The Important Book* has a line in it that says, "The  
3 sky is blue, there are clouds in the sky, the moon rises and sets in the  
4 sky, airplanes fly in the sky, as do birds, but the important thing is the  
5 sky is blue."

6 Well, as a regulatory agency, we think about the  
7 safety of the existing fleet, we think about license renewals, power  
8 uprates, we think about maintenance of the fuel, all the material  
9 issues that we focus on, the security issues, and new reactor orders,  
10 new reactor designs we have to review, but the most important thing  
11 is maintaining the safety of the current fleet. That is a defining factor  
12 for us as a regulator, and for our licensees in the possibility of building  
13 the units.

14 CHAIRMAN DIAZ: Thank you. Commissioner  
15 Jaczko, do you have anything?

16 COMMISSIONER JACZKO: The only thing, I certainly  
17 would echo, I think, the point that Commissioner Merrifield made I  
18 think in many ways. What happens in 10 years will really be a  
19 reflection of what happens today, when dealing with the existing fleet  
20 of operating reactors. And the Commission, I think, has done a good  
21 job of enforcing the importance of that. And one of the things that I  
22 think will be really important in the next couple of years is how we  
23 actually go about implementing that, and making sure that we are  
24 taking steps to ensure the safety of the existing fleet, and that we  
25 ensure that we're not losing focus on those reactors because of the  
26 new work that may come from new reactors. So I think it's an  
27 important issue, and I think it's one that will really test this

1 Commission in the next several years.

2 CHAIRMAN DIAZ: Thank you. Commissioner Lyons.

3 COMMISSIONER LYONS: Let me just a crack at the  
4 part of the question about reducing oil dependence. And I certainly  
5 agree with the comments that perhaps it won't be a direct effect, but I  
6 think one can look into the future, perhaps at some new challenges  
7 that are going to face the agency, where nuclear power could  
8 potentially address the concerns with oil. For example, if the use of  
9 so-called plug hybrids for cars, it does become common place and  
10 expand substantially, that will place significant new demands on the  
11 grid, and that will, in turn, feed back to, perhaps, requirements for new  
12 nuclear plants.

13 In addition, there's been a lot of speculation, a lot of  
14 research done on the use of process heat from nuclear plants for  
15 different applications. There's work going on around the world in  
16 desalination. There's work going on in hydrogen production, and that  
17 hydrogen is at least thought of as a potential fuel for transportation.  
18 This is much further in the future than 10 years, but I think one can  
19 look towards future challenges for the agency where instead of  
20 looking only at the licensing of a plant from the perspective of  
21 electricity generation, we may be asked to license a plant while we  
22 also need to take into account whatever safety issues come about  
23 from the use of that process heat, whether it's for desalination, or  
24 hydrogen production, or maybe something else, so that's at least  
25 another facet to that question.

26 CHAIRMAN DIAZ: Thank you. Next question,  
27 please.

1 PARTICIPANT: Good afternoon. This is from the  
2 Region. Part 50, Appendix E, Section 6 requires an electric data link  
3 between licensee's on-site computer systems and the NRC  
4 Operations Center. Many technological advances have occurred  
5 since this rule was issued in 1991. With respect to the expected new  
6 license applications, are the requirements in Section 6 pertinent to  
7 new plant designs and capabilities, and if Section 6 requirements are  
8 modified with respect to new capabilities, will licensees in process  
9 currently be exempt under back-fitting rules?

10 CHAIRMAN DIAZ: I have no idea.

11 COMMISSIONER MERRIFIELD: Ditto.

12 CHAIRMAN DIAZ: Let's just see who –

13 COMMISSIONER McGAFFIGAN: Mr. Holahan, come  
14 forth.

15 CHAIRMAN DIAZ: Holahan has no idea.

16 COMMISSIONER McGAFFIGAN: Okay.

17 CHAIRMAN DIAZ: Good question. Excellent. We'll  
18 get back to you.

19 COMMISSIONER JACZKO: If I could just say  
20 something to that effect, I had a chance to visit Comanche Peak on  
21 Monday, and one of the questions I asked, although not perhaps quite  
22 to the same level of technical detail, really was about the ERDS  
23 system, and how the ERDS system works, and how the ERDS system  
24 communicates with headquarters. And I think having been here a  
25 year and a half, I think that was what the thrust of that question was.  
26 And to some extent, I do think we should be looking at better ways,  
27 taking advantage of all the modern forms of telecommunications that

1 we have to really make our communications with licensees much  
2 more robust, and particularly systems we'd rely on in an accident  
3 scenario, or a security-type scenario. So I think there certainly are  
4 things that it's worth looking into from that communication protocol.

5 CHAIRMAN DIAZ: We will reply to you, and I think  
6 that Commissioner Jaczko just volunteered to give you the answer.

7 COMMISSIONER JACZKO: I think I've been here  
8 long, but not quite long enough, to really –

9 CHAIRMAN DIAZ: All right. Next question.

10 PARTICIPANT: This question is from Headquarters.  
11 Recently, the Commission reaffirmed their decision to approve all  
12 procurements exceeding \$1 million. For many years, this limit was \$3  
13 million. The reality is that getting Commission approval is resource  
14 intensive, takes months, and often causes delays, or forces existing  
15 procurements to be extended. This can be especially frustrating,  
16 given our current workload. Can you explain the Commission's view  
17 on the need for this approval, even for routine agency support  
18 services?

19 COMMISSIONER MERRIFIELD: So, Luis, who do  
20 you put up to ask the question?

21 MR. REYES: Not my question, but I like the question.

22 COMMISSIONER MERRIFIELD: Did you write it?  
23 And the answer is five-nothing the other way, too.

24 COMMISSIONER McGAFFIGAN: If the EDO can  
25 streamline the process, it doesn't need to take months. That is the  
26 staff - inflicting pain on the staff for no good reason. We just want to  
27 know what's going on. There were years where we didn't know what

1 was going on. We particularly didn't know what was going on with the  
2 DOE laboratories because that wasn't a contract. We fixed it. We  
3 want more experience with the system as it has been implemented,  
4 and the fact that the staff shoots itself in the foot daily taking forever  
5 to produce simple memos is your problem, not our's.

6 CHAIRMAN DIAZ: I wouldn't put it in that manner.

7 COMMISSIONER MERRIFIELD: I wouldn't put it that  
8 way either.

9 CHAIRMAN DIAZ: But I would say that really, too  
10 much is being put into a process that should be simpler. And the last  
11 time we wrote on the issue, we actually tried to clarify that the staff  
12 needs to keep the Chairman and the Commission informed. I believe  
13 it is a good process. We have found little glitches and gaps, and I  
14 think it forces the staff to come forward with a good product. The staff  
15 sometimes overdoes what we're doing, and I think that we need to,  
16 again, get to a better process where we keep the information flowing.  
17 I believe the Office of the Chairman is trying very, very hard to review  
18 these contracts. I think that we all can do a little better, but I see it as  
19 a very good process. I think it keeps the Commission informed, and I  
20 don't see it going away.

21 COMMISSIONER MERRIFIELD: Mr. Chairman,  
22 having authored that idea, I want to comment on that one, too. We  
23 have, as a Commission, we have a fiduciary obligation to the  
24 taxpayers, to the United States Congress, and the President to  
25 oversee the way in which money is being spent at this agency. Now,  
26 fortunately, and I think this is borne out by various reviews, I think our  
27 staff and our senior managers do a very good job of spending that

1 money, but they are not perfect. And I think it was the agreement of  
2 the Commission as a whole unanimously, that allowing an opportunity  
3 for the Commission to have a greater sense of review of those dollars  
4 was wise.

5 The total cost in terms of FTE and dollars should be  
6 and is modest. Now I don't know if Pat Norry is coming back from  
7 retirement to insert that kind of a question, because I know Pat never  
8 liked the fact we were going down this road. But the fact of the matter  
9 is, it is our obligation to do the right things to make sure that we're  
10 spending this money in the right way, because ultimately the  
11 Commission, not the staff, but the Commission is accountable to  
12 Congress for what we spend. And so if we have to be held  
13 accountable for that, I want to be able to say in testifying before the  
14 United States Senate and the United States House that we have done  
15 a thorough review of how we spend money.

16 CHAIRMAN DIAZ: All right.

17 COMMISSIONER LYONS: Nils, I need to make a  
18 slight correction, though. It was not unanimous. Sorry, Jeff.

19 COMMISSIONER MERRIFIELD: I thought it was.  
20 I'm sorry, I take that back. First time around it was.

21 COMMISSIONER LYONS: I also wanted to say that I  
22 didn't plant that question either. But I was comfortable with the \$3  
23 million limit.

24 CHAIRMAN DIAZ: All right. There you go.

25 COMMISSIONER MERRIFIELD: You could answer  
26 to Congress next time around.

27 COMMISSIONER JACZKO: Well, I was in the four,

1 so I think –

2 COMMISSIONER McGAFFIGAN: Mr. Chairman, I  
3 might just take this as a point of departure for a point that you made  
4 earlier about success going forward. I do think that, and I've said this  
5 at these gatherings in prior years, we - not we, you, saddle yourselves  
6 with ponderous processes at times, which I don't think necessarily  
7 serve you well; the infamous concurrence process, and various efforts  
8 to streamline it. If we don't fix those processes so that they're less  
9 ponderous, your optimism maybe won't be realized. I want it to be  
10 realized, but I think the way you fix it is to get your processes faster.

11 Most of us served in Congressional offices – I've  
12 been in government for 30 years. I've been in flat organizations for all  
13 of those years because the Commission is pretty flat, but in a  
14 Senator's office, you cannot take the time that we take to deliberate  
15 on everything, and get the product perfect. Perfection cannot be the  
16 standard, and oftentimes the perfection hurts you. It hurts you in this  
17 instance, the one we're talking about, it hurts us in missing press  
18 cycles, it hurts us in missing other deadlines, so I think the challenge,  
19 and it's a challenge that the staff has to face, is how to fix its  
20 ponderous processes. We fixed them in some cases, we flattened  
21 the organization in some cases when things are important, we bypass  
22 layers of management and get right to the people who are working on  
23 the issue. We do that on an ad hoc basis if it's truly important, the  
24 security area or others, but the institution has to figure out how to  
25 flatten itself if it's going to be successful going forward.

26 COMMISSIONER MERRIFIELD: Mr. Chairman, that  
27 having been said, in all fairness, and I'm sure virtually everyone on the

1 other side of the table is thinking we can help make things a little  
2 faster, too. We're not completely of clean hands, and I think we all  
3 collectively as an agency need to think about how to do things more  
4 strategically and efficiently.

5 CHAIRMAN DIAZ: Well, this is becoming a good  
6 interchange on an issue that we are worried about. The reality is that  
7 there are some products in this agency that take too long, and we are  
8 not sure why they take that long. I think sometimes it's just people  
9 think they have to take that long. I think one of the things that I was  
10 talking about in my introductory remarks, was the fact that sometimes  
11 we need to take a step back and look at it, and say is this really the  
12 way I should finish this product?

13 Everybody knows how to start a product. It's finishing  
14 the product, and that's the same thing that is going to happen with  
15 these two things that we're going on about here. We will know how to  
16 start it. We will have a way to get it started and docketed. It's a way  
17 to finish it. The same thing happens with many other products of this  
18 agency. We've been doing them. We have a process, but I think we  
19 need to step back and say how can I have the same quality, maybe  
20 even better, or maybe just a little less, but in less period of time. I  
21 think that is a fundamental issue. I think you all grapple with it all the  
22 time, and we eventually - the Commission - like Commissioner  
23 Merrifield says - we need to learn when a product comes to actually  
24 give it back to you as soon as we can.

25 COMMISSIONER JACZKO: If I could add something  
26 on this, too. I think perhaps sometimes there's a misconception, too,  
27 among the staff about what the Commission wants and doesn't want.

1 And certainly speaking as one Commissioner, I don't expect the staff  
2 to be perfect, and I don't expect the staff always to have all the  
3 answers. But what I usually expect from the staff is to have thought  
4 about things. And oftentimes, I find I'll want briefings on issues, and  
5 there's sometimes I think a reluctance in some staff to want to come  
6 and brief me or maybe other Commissioners because they haven't  
7 come to the conclusion, they don't have the answer, they have some  
8 disagreement within offices. And I fully welcome that kind of  
9 exchange, I welcome that in briefings, and I welcome papers that  
10 come up with matters unresolved. That's, I think, a perfectly  
11 acceptable thing to do. That's why they let us sit up here at the adult  
12 table, is sometimes to make those tough decisions and work out  
13 problems that sometimes can't be resolved in the staff. But I think it's  
14 important to remember that that's an okay solution, sometimes. And it  
15 doesn't always have to come up fully resolved, and fully answered.

16 COMMISSIONER McGAFFIGAN: Mr. Chairman, I  
17 might just add - I have a conversation with a very senior staffer  
18 recently, and remarked about how I had never seen in my 10 years  
19 here a paper that I routinely saw during my years at the State  
20 Department; which is, here are four options, NRR and Research  
21 believe option one, Region 1, Region 2, and Region 3 believe option  
22 two, Region 3 and NMSS believe option 3. And the staffer said to me,  
23 that would be regarded as a failure by the system.

24 I remember when the IRAP was created, wherever  
25 Bill Borchardt is, the Integrated Review of the Assessment Process,  
26 and apparently, there were roaring debates in the staff about various  
27 aspects of this beginning of the Reactor Oversight Process. And this

1 would have been back, '98 or so. And Joe Callan was the EDO, and  
2 we got a single point solution, which is what the staff produces, having  
3 rounded the edges of all those debates. And then we proceeded to  
4 have a roaring debate up in the Commission recreating the debate  
5 that the staff had had, and everybody in the staff was accusing each  
6 other, according to Joe Callan, of whispering in our ears. And we're  
7 capable of doing the same stuff you have, but we'd sort of like to be  
8 treated like adults, too, and be privy to the debates that you have,  
9 rather than get single point solutions. But at State, where I spent the  
10 first even years of my career in government, it's routine to have  
11 papers saying PM, the Political Military Bureau and the European  
12 Affairs Bureau believe X, and T, the Under-Secretary for Security and  
13 Science and Technology believes Y, and P believes something else,  
14 and the Secretary is asked to make a decision. The President gets  
15 papers like that in the national security, and I'm sure other areas.  
16 DOD and CIA believe blank, and State and somebody else believes  
17 something else. We don't get those.

18 I mean, it is absolutely impossible in this culture,  
19 apparently, to give us that sort of paper, and I, like Commissioner  
20 Jaczko, would love to see one, one of these days.

21 CHAIRMAN DIAZ: No? Okay. Next question.

22 PARTICIPANT: Mr. Chairman, this question is from  
23 Headquarters. Some of you spoke of the importance of knowledge  
24 transfer at the March 2006 RIC Conference. This concern was an  
25 important finding from the IG survey, each office showing significant  
26 disagreement with the statement that NRC has done an effective job  
27 of capturing knowledge of retiring employees. Several EDO updates

1 have mentioned planned actions, but I have not been able to find out  
2 much about actual office efforts. What priority do you believe is  
3 appropriate for knowledge transfer; and if high, what efforts can you  
4 make to get any office plans results better communicated to the staff?

5 CHAIRMAN DIAZ: I believe I'm going to let – you  
6 want to answer?

7 COMMISSIONER LYONS: I'll start.

8 CHAIRMAN DIAZ: Yes, go ahead.

9 COMMISSIONER LYONS: Certainly, in my mind, the  
10 knowledge management, knowledge transfer is very, very important.  
11 At the same time, I think we should recognize that there could be  
12 many different approaches, and at the same time, many beneficiaries,  
13 if you will, to knowledge transfer. And whatever we do as an agency  
14 is going to have to evolve. We're going to have to find the best fit for  
15 the agency, and it may even be a different fit among different offices.

16 For some of you who may have visited in my office in  
17 the last few months, you may have noticed a copy of the book *Lost*  
18 *Knowledge* sitting on my table. I believe that was read by a large  
19 number of the managers at the agency, trying to come to grips with  
20 the issue that many other companies, many other agencies are facing  
21 in terms of lost knowledge and knowledge transfer.

22 At least in my mind, knowledge transfer has, at least,  
23 two different major facets; one would be that the staff has got to be  
24 trained and skilled in cataloguing their knowledge, making sure that  
25 that knowledge is available for future generations. At the same time,  
26 the staff has to be trained and knowledgeable on how to access the  
27 information that's been stored for their benefit by others, or by

1 previous colleagues.

2 I think the whole process is evolving within the  
3 agency. I know there's just recently been some moves to assign  
4 people within offices to start to move out more vigorously on  
5 knowledge management, and it was noted in the IG survey as being  
6 an area that wasn't well understood throughout the agency. It's a long  
7 answer. Anyway, very important. I believe we're moving ahead, and I  
8 strongly support it.

9 CHAIRMAN DIAZ: I was going to ask Luis or Jim if  
10 you want to – Marty, give some –

11 COMMISSIONER McGAFFIGAN: While he's coming.  
12 Again, I think we all think it's terribly important, because we have this  
13 tsunami of new people we're going to have to absorb, and that the last  
14 time we had Luis address this publicly, he told us as a result of  
15 everybody reading that book and discussing it at senior management  
16 meetings, you were trying to get people into, I think, it was - the quote  
17 was something like "the same chapter", the same page was not  
18 necessarily a goal, but trying to get them on the same chapter, but  
19 Marty will now update us.

20 MR. VIRGILIO: I'm not sure which way to face in  
21 addressing this question.

22 COMMISSIONER McGAFFIGAN: That way, that  
23 way.

24 MR. VIRGILIO: Fine. They've asked me twice,  
25 where are we? For those of you who don't know me, I'm Marty  
26 Virgilio, and I've been designated by the EDO to be our knowledge  
27 management champion. What we owe the Commission and what we

1 owe you is some answers to those questions. First, on priority, the  
2 Commission has clearly made this one of their top priorities for us.  
3 They've just recently sent us direction with regard to developing our  
4 budget for 2007 and 2008, and they've identified this as one of their  
5 top priorities.

6 The second question with regard to communications,  
7 I think Commissioner Lyons touched on it. We have identified an  
8 individual in each office who is responsible for communicating both to  
9 you about what knowledge management means from our perspective,  
10 and also to hear from you and communicate back up to us what you  
11 believe we need in terms of a knowledge management program.

12 We have a paper that we're going to be presenting to  
13 the Commission within the next couple of weeks, and once that is  
14 done, we'll be delivering the message to you, and seeking your input,  
15 and that's most important, seeking your input on areas where you  
16 believe we need to advance the program.

17 As the Commission has mentioned, we have a large  
18 number of people, an unprecedented number of new people who  
19 have joined the agency, and in order to make sure that we maintain  
20 our organizational capacity, our effectiveness, our ability to innovate,  
21 we need to transfer an awful lot of knowledge in a short period of  
22 time. Thank you.

23 CHAIRMAN DIAZ: Thank you, Marty.

24 COMMISSIONER JACZKO: If I could just add  
25 something, one of the adage in politics that all politics is local - I think  
26 when it comes to knowledge management, if anything, all knowledge  
27 management is prioritization. And I think the question really talked

1 about prioritization. And a lot of the things that we're doing right now  
2 for knowledge management, a lot of it is capturing knowledge in  
3 written form. And the best example probably in the new reactor side,  
4 or the reactor side is Standard Review Plans, updating Standard  
5 Review Plans, updating Reg Guides. And a lot of that work really  
6 comes down to prioritization. Prior to this year, the last couple of  
7 years, if you had a bunch of things to do during the day, the last thing  
8 you were going to do was update a Standard Review Plan with a new  
9 process or new procedure that you just implemented in some  
10 particular licensing process. So a lot of it is really, to some extent, just  
11 focusing on, certainly from the Commission through the EDO, and  
12 through all the senior managers, that this truly is important, and it is  
13 acceptable to say look, I need to get this Standard Review Plan  
14 worked on as an equal priority to, perhaps, finishing a license  
15 amendment work. So that's the kind of emphasis I think we really  
16 need to see in order to get a lot of these things accomplished in the  
17 next few years.

18 COMMISSIONER McGAFFIGAN: The book that  
19 Pete Lyons referred to has some horror stories in it that Person X  
20 leaves, and has been making something work for a long period of time  
21 way outside of procedure. And the documented procedure is there,  
22 and the new person comes in and tries to make it work based on the  
23 documented procedure, and lo and behold, they eventually, after  
24 expending horrendous amounts of money, call Person X back and say  
25 why isn't this working? He says oh, gosh, you really need seven times  
26 as much of this, and half as much of that. And then, lo and behold, it  
27 works, but it wasn't ever documented, so getting that documentation

1 up-to-date before people leave, and getting the knowledge in their  
2 head properly documented before they leave is vital.

3 CHAIRMAN DIAZ: I believe there was someone very  
4 smart that once said that knowledge transfer really is transferring of  
5 know-how-to-do. There is a difference between knowledge transfer  
6 and know-how-to-do-it. And I think we have many, many good  
7 training programs in the agency, and I believe we're going to get  
8 better. However, that know-how-to becomes very important, and that  
9 is in the key face of knowledge transfer, we need to have people  
10 knowing how to do it.

11 COMMISSIONER MERRIFIELD: For the sake of  
12 brevity, and for us to get to other questions, I will just say I agree with  
13 the need that this is critically important, and we've got to do it right.

14 CHAIRMAN DIAZ: All right. Next question, please.

15 PARTICIPANT: This question is from Headquarters.  
16 What organization will move into the new building on Executive  
17 Boulevard?

18 COMMISSIONER McGAFFIGAN: The Commission.

19 PARTICIPANT: And if no decision has been made  
20 yet –

21 COMMISSIONER MERRIFIELD: You're going to get  
22 yourself in trouble, Luis, because we could move you over there.

23 COMMISSIONER JACZKO: As long as the elevators  
24 work, I'm willing to do it.

25 CHAIRMAN DIAZ: The fact if the elevator work, you

26 –

27 PARTICIPANT: If no decision has been made yet,

1 when will the decision be made, and what factors will be taken into  
2 account in making this decision?

3 CHAIRMAN DIAZ: The decision has not been made.  
4 The Commission is deliberating in not only this issue but in a series of  
5 issues. My personal expectation is that we will make that decision  
6 shortly, because we need to be able to move. Once we do that and  
7 take the decision, it will be factored in with all the other things that we  
8 believe need to be taken into account, including the potential high  
9 number of new hires. I understand from Jim that we are now at 363  
10 new hires. We're losing people, but that's over 200 net. We expect to  
11 repeat that next year. We need to be looking at the entire  
12 organization to be able to really provide a synergistic environment  
13 people that can work together and not repeat what some of us so  
14 many years ago, in what was in nine different offices. So the  
15 Commission is concerned of providing the right environment. We  
16 want to move as quickly as possible to make sure that those offices  
17 have not only the right equipment, the right environment, but also the  
18 right organizational plug-in to the rest of the agency.

19 COMMISSIONER MERRIFIELD: Mr. Chairman, if I  
20 may just add a couple of things. I think the Commission recognizes  
21 the importance of the quality of our work environment in helping to  
22 make this agency the place that people want to work. I mean, it's one  
23 of the reasons why we did as well as we did in the government, in  
24 coming in third in terms of best overall satisfaction in the workforce  
25 last year. And so, as we work with EDO and Tim Hagan and folks in  
26 the Office of Administration, we obviously want to identify work spaces  
27 where people will have the kind of quality that we've become

1 accustomed to at the agency. I think we're also very mindful of the  
2 impacts that that's having on the staff as a whole right now, because  
3 of the overcrowding we clearly have in our White Flint complex.

4 As we go forward, I think there are going to be some  
5 temporary steps we're having to take to move and to do some  
6 shuffling. The overall desired hope, and we're working with the folks  
7 in the General Services Administration, as well as directly - I know the  
8 Chairman has had discussions with folks in Congress - we want to try  
9 to maintain our White Flint complex together as much as we possibly  
10 can, and there'll be longer range issues of trying to get some space so  
11 folks can stay nearby, and we can be together as one NRC family.

12 CHAIRMAN DIAZ: All right. Next question, please.

13 PARTICIPANT: This is a question from  
14 Headquarters. There are two parts to the question. A licensee can  
15 break a formal commitment with the NRC at-will, but not be subject to  
16 enforcement. Why is this allowed to continue? And the next –

17 COMMISSIONER MERRIFIELD: I'm sorry. Can you  
18 repeat that question? The acoustics up here are terrible.

19 CHAIRMAN DIAZ: The acoustics are bad.

20 PARTICIPANT: Okay. A licensee can break a formal  
21 commitment with the NRC at-will, but not be subject to enforcement.  
22 Why is this allowed to continue? The next part of the question --

23 COMMISSIONER McGAFFIGAN: We don't know  
24 what licensee the person is talking about. The question – a licensee  
25 is breaking commitments. Is that the question?

26 PARTICIPANT: Yes. It says a licensee can break a  
27 formal commitment with the NRC at-will.

1                   COMMISSIONER McGAFFIGAN: Okay. So why is  
2 that allowed to continue. Okay. Now we understand the question.  
3 Give us the second part.

4                   PARTICIPANT: Equipment installed under  
5 commitment, for example, radiation monitoring under TMI  
6 commitments, is found many years later to be installed, but not  
7 functional. Why is this allowed to continue?

8                   CHAIRMAN DIAZ: All right. Let me try to answer  
9 probably in the same manner. A licensee commitment, it's not in  
10 regulatory space. It is not in their design basis. However, it is  
11 considered in their good practices, it is considered something that the  
12 licensee cannot remove from their normal operating procedures  
13 without informing the NRC if that has become a commitment.  
14 However, it is not in, what we call, enforcement space, so a licensee  
15 could actually say I'm going to change this commitment. I'm going to  
16 do it this way. They need to inform us, and that's where the  
17 commitment is.

18                   I think the same thing happens when you have a  
19 radiation monitor, it maybe has been put in there in a performance-  
20 base, saying that we're going to monitor this area. It might not be  
21 required for any part or any of the components that are in the design-  
22 basis; and, therefore, it is not enforceable. That doesn't mean that we  
23 do not maintain awareness of it, or that the licensee doesn't have the  
24 obligation to inform us if this has been a commitment, that it's been  
25 changed.

26                   COMMISSIONER JACZKO: I would just say that – I  
27 mean, I certainly think it's important that when we do make decisions

1 about commitments that the NRC looks carefully at whether  
2 commitments should be, in certainly this kind of commitment space,  
3 or whether they should be in regulatory space, because clearly, there  
4 is a fundamental difference, and that is really the enforceability issue.  
5 And the Commission right now is faced with some issues where the  
6 industry is interested in doing things using more of a commitment  
7 basis, and not putting something into their licensing basis, so that's a  
8 question and issue that I think the Commission does deal with quite a  
9 bit. And it's not always clear, and there's many issues that could go  
10 either way. And, certainly, I think that there's healthy discussion  
11 among Commissioners about what is the right, or where the right  
12 location is to draw the line in those situations.

13 COMMISSIONER McGAFFIGAN: Mr. Chairman, we  
14 do, as Commissioner Jaczko mentions, bear this in mind when we  
15 make decisions. But the reason something is in commitment space  
16 rather than regulatory space often goes to the Backfit Rule, and  
17 whether we can demonstrate that there's a substantial increase in  
18 public health and safety, and that benefits exceed costs. And if we  
19 can bluff, I suppose, at times about the fact we might put something  
20 into regulatory space without those criteria having been met, but  
21 industry, at times, calls our bluff, and so things remain in commitment  
22 space, and it's a lot looser.

23 CHAIRMAN DIAZ: The reality is that this is a  
24 democratic country, and the way we regulate is different from other  
25 countries. We actually have a regulatory system that has many  
26 checks and balances into it. And like the way I said in the first time I  
27 talked at the Regulatory Information Conference, those of you who

1 don't remember might go back to it, there is a play that is naturally  
2 good in democratic countries into what is regulated and what is not,  
3 what becomes a part of regulatory space under enforcement, and  
4 what is not. And the reality is that they're both good, and it is  
5 important to know the difference, and it is important to actually use  
6 both of these components to get the best of what you can.

7 The NRC does quite well in using both regulatory  
8 requirements, commitments, and even non-commitments to come  
9 with a more complete and comprehensive performance that actually  
10 serves the public health and safety mandate that we have. And I  
11 think those mesh and come in and out, and I don't think it's always  
12 that clear, but I believe it's the right thing to do.

13 COMMISSIONER MERRIFIELD: Mr. Chairman, I  
14 think most of this has been captured by my other fellow members of  
15 the Commission. I would only say as a general matter, and I'd  
16 certainly want to talk to Luis about this, I don't think we ignore  
17 commitments. If a licensee makes a commitment to us that they're  
18 going to do something, I think we have an expectation that they're  
19 going to do it. And I think a licensee to ignore an agency commitment  
20 is at its peril. I mean, obviously, we, as an agency, are informed by  
21 that. There's a healthy tension between ourselves and our licensees,  
22 and although it may not have the formality of some of our other  
23 regulatory requirements, it certainly informs our inspectors, it informs  
24 our senior managers and the Commission about the degree to which  
25 we can trust the word of an individual licensee. And I think that  
26 certainly is part of the overall framework, as well.

27 CHAIRMAN DIAZ: All right. Next question, please.

1 PARTICIPANT: This question is from Headquarters.  
2 Commissioner Lyons, you have frequently spoken of ensuring that our  
3 computational codes have adequate validation, particularly as they  
4 become more complex. Do you have any specific concerns that any  
5 existing codes may not be adequately validated, and do you include  
6 PRA models within your scope of concern?

7 COMMISSIONER LYONS: I have spoken frequently  
8 about the importance of code validation. My experience at Los  
9 Alamos led me on a number of occasions to become concerned  
10 whether codes were being used outside their range of validation, and  
11 perhaps used in ways that perhaps were not well understood, so I  
12 have asked those questions.

13 Do I have specific concerns? I'd say I'm still learning.  
14 I'm trying to ask questions as I become exposed to different codes  
15 here. I think I can at least point to areas where we don't have  
16 complete understanding in validation or codes. Things like stress  
17 corrosion cracking, I think is very much still an ongoing area of  
18 research, and one that I would certainly encourage. As we look  
19 towards some of the challenges that the agency is going to be facing  
20 with advanced reactors, higher burn-up fuels, those are all going to  
21 further strain the validation-basis that we have for existing codes, and  
22 I hope that as an agency we will continue to seek opportunities to  
23 validate our codes, validate codes through whatever range of  
24 parameters we are using those codes.

25 You asked about the use of codes in PRA. Again,  
26 PRA is certainly an area where I have an immense amount to learn,  
27 but I tend to look at PRA as having certainly, if you will, a deterministic

1 part in that it does involve code predictions of particular phenomena,  
2 and it also has a probabilistic part where individuals, staff, are making  
3 their best guesses, best informed guesses I should say, of probability  
4 distribution functions for some particular types of events.

5 I would think that improved experiments can,  
6 perhaps, inform the way we construct a probability distribution  
7 function in a PRA analysis, and for the deterministic part that goes  
8 into those PRA codes, then very definitely validation plays an  
9 important role. I don't know if others want to comment on code  
10 validation or not.

11 COMMISSIONER JACZKO: Well, I would just say  
12 one particular area where I think it's very important right now is in the  
13 fire protection arena, where we have a lot of licensees, far more than  
14 originally anticipated, that are interested in moving to the new risk-  
15 informed performance-based fire regulations. And I had an  
16 opportunity last Friday it was to go up to the facility at NIST where  
17 they actually do a lot of the validation of the fire modeling. And it's  
18 certainly an area - one of the interesting things I think came out of the  
19 briefing was the fire models are in pretty good shape when it comes to  
20 verification and validation. But incorporating those models into the  
21 PRA and that interface is an area where there's still a lot of need for  
22 work. The most specific example there had to do with, we have a  
23 good understanding if you take a room in a reactor, how temperature  
24 and energy will flow throughout the room, but we don't necessarily  
25 have a good understanding of how that will affect cabling, for  
26 instance, and what temperatures, or if there is a particular  
27 temperature energy correlation we can find that will tell us when cable

1 failure will occur.

2 Of course, from a PRA standpoint, it's that cable  
3 failure that's really a crucial aspect of the fire PRA, and of the  
4 modeling, so that's an area where there's still some need for further  
5 experimental work, to try and either develop models, or validate some  
6 models that we have.

7 CHAIRMAN DIAZ: Yes. I think most of us have been  
8 beaten one time or another by computer validation, and the reality is  
9 that there is an ongoing fight in here between those that make  
10 computer simulations and those that are experimentalists. Some of  
11 us that have found many times that the best computer simulation  
12 doesn't really have that factor that was going to be a very important  
13 factor like to have some validation of the models in the computer.  
14 That is becoming more and more a very, very difficult task, because  
15 you have to select, because of the cost of experiments, like  
16 Commissioner Lyons said, those parameters that are actually going to  
17 support your model, and not necessarily all parameters.

18 On the other hand, the agency sometimes has the  
19 obligation to do some experiments and some validation that maybe  
20 science is saying you don't need it. The cask, spent fuel cask, full-  
21 size validation, I think 99 percent of the scientists say you do not need  
22 to do a full-size because quarter-size is perfectly good, and we want  
23 to do it. However, we were drilled on a Senate floor, and we all look  
24 at each other and we say look, we might as well go ahead and do it.  
25 And I think we will eventually do a full-size cask set of experiments,  
26 maybe narrower, maybe focusing on validating a series of  
27 parameters, but that value is still there. It hasn't disappeared.

1                   COMMISSIONER LYONS: If I could just add one  
2 point, which ties in with something the Chairman just said. Another  
3 comment I've made in a number of remarks around the agency is to  
4 question whether we, as an agency, are gaining as much as possible  
5 from international experience. The very few occasions I've had to  
6 participate now in international meetings, I am very impressed with  
7 what is being done in other countries, and in many cases, those other  
8 countries have experimental facilities that we don't have, either don't  
9 have, or they may have had experiences, like the PAKS plant in  
10 Hungary. They've had experiences that we don't have, and we don't  
11 want to have, but still, it's an opportunity to validate codes. And I  
12 hope that we look, as an agency, at international, as well as domestic  
13 experience.

14                   CHAIRMAN DIAZ: All right. Next question, please.

15                   PARTICIPANT: Okay. This question is from  
16 Headquarters, and it's a two-part question. In anticipation of new  
17 reactors, NRC is staffing up now. Do you have any contingency plan  
18 if new reactor COLs do not happen? What happens to additional  
19 staffs that we have? And are you ready for the second part of the  
20 question?

21                   CHAIRMAN DIAZ: The second part?

22                   PARTICIPANT: It is a two-part question.

23                   CHAIRMAN DIAZ: Oh, that is a two-part question.

24                   PARTICIPANT: That was the first part.

25                   CHAIRMAN DIAZ: Oh, okay. All right. Well, we are  
26 staffing, and we believe we have no choice. Fundamentally, this  
27 agency is chartered to license and regulate. We are being told, we

1 haven't got an application in-hand, that it's going to happen. I  
2 understood Monday, and I'm not sure of the number, that the industry  
3 has already spent between \$1 billion to \$1.2 billion getting ready for  
4 the applications, so it is not like we're just doing this, to get into the  
5 newspapers. I think it's a lot more serious than that, the fact that I just  
6 said that, to me, it's no longer a flash in the pan.

7 Contingencies - we have contingencies, upon  
8 contingencies, but right now the main contingency is if they come, we  
9 have to be ready. I have personally told members of Congress and  
10 OMB that we need to make this budget strong. We need to make  
11 sure that we have the resources, so whether there are six, twelve,  
12 fifteen, sixteen, that we're still going to be able to go forward and do  
13 our job. If they don't come through, we will have to then put into effect  
14 all of the mechanisms that we have to make sure that our employees  
15 are protected. We need to look for how we're going to do it, but I  
16 think the overriding responsibility is we have to hire, we have to have  
17 people in place, we have to have the procedure, we have to have the  
18 SRPs, we have to have the draft guidance, we have to have people  
19 trained, we have to have the structure, we have to have the inspectors  
20 in the right places, so this whole set of structures, including everything  
21 that supports it, needs to be there. We just cannot afford not to do it.

22 COMMISSIONER McGAFFIGAN: And, Mr.

23 Chairman, I agree with you entirely that the chance of having to  
24 implement a contingency is very small, epsilon small, but in point of  
25 fact, if you look at Mr. McDermott's famous tsunami curve, our largest  
26 age cohort is between 55 and 60 years of age, and I think our next  
27 largest is between 50 and 55 years of age, and so all we would have

1 gotten is a year or two ahead in dealing with the tsunami. We,  
2 presumably, would slow down the hiring, let the 200 to 230 people a  
3 year we lose be lost, and we'd be back to where we were. And I'm  
4 sure some of the people who came to work for us because there was  
5 enthusiasm about the possibility of a nuclear renaissance might be  
6 among those who leave, so our attrition rate might be even higher.  
7 But if the concern is would there be a riff at that point, I think the  
8 possibility of that is point zero, zero one, I'm not sure I have the  
9 percent, it's a very small percentage.

10 CHAIRMAN DIAZ: All right.

11 PARTICIPANT: Okay. The second part is, to  
12 maintain objectivity, would the Commission consider rotating SES  
13 managers, directors, division directors between offices. Three to five  
14 years is a good assignment for an SES manager in a division/office.

15 CHAIRMAN DIAZ: The rotation of SES managers we  
16 normally leave to the EDO. That's his responsibility. The  
17 Commission, of course, is always looking at how to best utilize the  
18 talent that we have. The Chairman works with the EDO, the  
19 Commission reviews what are the issues and what we can do better,  
20 the Commission just essentially actually intervenes and say we need  
21 to have more SESers. We need to be aware of the fact that we're  
22 going to need them more. I don't think that there is a specific plan  
23 that says this manager is going to be there, but a rotation is taking  
24 place, movement in the agency, the dynamic growth is there, and so  
25 opportunities are going to be there. Luis, I don't know if you want to  
26 add something to that.

27 MR. REYES: I just want to add that we do have a

1 succession plan, and when opportunities come up, in addition to the  
2 interested parties, we look at the succession plan. We have a list of  
3 every executive and how long they've been at their job, and if they've  
4 been at their job more than five years, they get included in the  
5 discussion of whether this is the right time, and this is the right  
6 experience for the individual and the organization. So we do have a  
7 plan that we're executing, and we do consider individuals that have  
8 been at their particular job for long periods of time to enhance the  
9 individual's skills, and enhance the capacity of the agency executive  
10 core.

11 COMMISSIONER McGAFFIGAN: And I think a data  
12 point, and Luis can tell me whether this is right or not, but something  
13 on the order of 75 percent of the existing SES is retirement eligible by  
14 2011. Seventy-two percent, sorry. I was off by 3 percent.

15 COMMISSIONER LYONS: If I could just add as a  
16 relative newcomer here to the Commission, I've been very, very  
17 impressed to see the extent to which senior managers are moving  
18 around the agency. I think that kind of cross-training, broadening of  
19 experience, is very, very important, certainly for the satisfaction of the  
20 individual and their own advancement, but I think it's also very  
21 important for the agency to have people who truly do understand  
22 multiple offices within the agency.

23 CHAIRMAN DIAZ: All right. Next question, please.

24 PARTICIPANT: Mr. Chairman, this is a question from  
25 Headquarters, and it's a two-part question. Given the dichotomy  
26 between adequate safety review and timely decision-making for the  
27 future, number one, how does senior management assure mid-level

1 career employees that imminent deadlines do not preclude pursuing  
2 safety questions to conclusion? And number two, how does a senior  
3 manager have sufficient assurance that he or she has all the  
4 information necessary to make a sound and wise decision?

5 COMMISSIONER MERRIFIELD: I think I could hear  
6 the question. I mean, I think the heart of the question is, do we have  
7 sufficient time and information to make the decisions we need to do  
8 as a regulatory agency. And I think to the extent that the Commission  
9 has made it clear it wants us to be a timely agency, and an efficient  
10 agency, we also said that we want to be an effective agency. And an  
11 effective agency asks hard questions, and wants to make sure, and  
12 the Commission wants to make sure that the recommendation it gets  
13 from its staff are as the result of a thorough review, and the best  
14 information possible, so there's a balance. There's a balance in terms  
15 of making sure that we're asking the right questions, we're asking  
16 them in a timely way, getting the information we need from our  
17 licensees to evaluate and make the best decisions, and not be  
18 dilatory about it, not be inefficient in asking those questions.

19 Senior managers, obviously, have to expect the same  
20 out of their mid-level management, as the Commission has to expect  
21 it out of the management chain as a whole, so I think it's a balance. If  
22 there were circumstances where a manager within this agency,  
23 wherever they were in the management chain, they felt that in order to  
24 meet the safety requirements, that they needed to have some extra  
25 time to get the right answer, I don't know of any manager in this  
26 agency who would not say okay, let's make sure we've got the right  
27 time to make the right decision. In the end, we've got to make the

1 right safety decision, so I think there's somewhat of – the way that  
2 question is postulated, I think, makes it seem as if we are inflexible in  
3 that regard, and I don't think the Commission, despite wanting to be  
4 timely, has ever told our senior managers that we want things without  
5 any consideration of what the impacts are.

6 COMMISSIONER McGAFFIGAN: There's a well-  
7 used process, I forget what the proper title of it is, but the EDO  
8 routinely extends deadlines and informs the Commission that he has  
9 extended the deadlines on a wide range of topics. Sometimes there's  
10 grinding of teeth when some of us see some of the items that have  
11 been extended, but if the EDO believes, or any other senior manager  
12 believes that there's extra time needed, there's a process for getting  
13 the extra time, and there's a way to justify it.

14 When the Chairman and I first came to this agency,  
15 we confronted a situation where we would have Joe Colvin, then the  
16 head of NEI, routinely abrading us about multiple, not just two, but  
17 three or four rounds of requests for additional information on routine  
18 licensing actions that were taking forever, in his view, and there was a  
19 lot of truth to that view. And I think Sam Collins came in as Director of  
20 NRR, and provided a lot of discipline to that process. And I think it  
21 wasn't just in NRR, Bill Brock in NMSS, and the SFPO office, which  
22 was getting similar complaints, we did more thinking up front. What is  
23 it that I need to do to write this SER, that I have to write at the end,  
24 what information do I need? And by thinking up front, we got the  
25 rounds of RAIs down to one, with the rare exception where you would  
26 go to two, so there's ways to fix problems, and be both efficient and  
27 effective, as Commissioner Merrifield says, and make quality

1 decisions. And that's what our hope is, is you'll continue to adjust  
2 your processes so you can meet both goals, but if you have to get  
3 time, you'll get time.

4 COMMISSIONER MERRIFIELD: I think

5 Commissioner McGaffigan makes a good point, I want to fill in a little  
6 bit more. I think the Commission, when we find out from our staff that  
7 we need to have more time because we're not getting the information  
8 from the licensee, or we need more information from research or  
9 other sources to make the right decisions, if presented in that way, I  
10 think the Commission logically weighs that, and is generally  
11 deferential to the need for more time.

12 Where the Commission finds that for whatever reason  
13 that it's been sitting on somebody's desk for five months, and they've  
14 finally gotten around to asking the questions, and I think that's where  
15 our patience level goes way down. We expect – I think we can  
16 support you on the time, if there's a demonstration that you've used  
17 your time wisely. Ultimately, at the end, if we've got to get the right  
18 answer, we're going to give you more time either way, but I think our  
19 patience for it is more if you can demonstrate that you've really  
20 worked efficiently in terms of trying to make it happen.

21 Now in terms of requests for additional information,  
22 sometimes it's our fault. Sometimes we do not formulate the  
23 questions appropriately, and it requires multiple times to get the  
24 answer right. That's our fault, collectively our fault. There are times  
25 where we ask the right questions, and the licensee isn't very good at  
26 giving us answers. I recollect a recent example, and I won't name the  
27 licensee, but a licensee wanted a licensing action which was relatively

1 important for them, and it was taking time, and a multiple of rounds of  
2 questions from our staff to get the answers. And the CNO for the  
3 company said to me gee, you know, NRC staff are dragging their  
4 heels. They're being overly-conservative on this stuff. What's the  
5 story? And I said well, listen, I'm happy to look into this, but if I'm  
6 going to look into it with our senior managers, you need to really ask  
7 the hard questions of your staff whether they have formulated the  
8 questions properly, and whether they put together a licensing action  
9 that can meet our standards.

10 Well, two months go by and I ask questions, and lo  
11 and behold, our staff is asking the right questions. And just last week  
12 the licensee came up to me and said oh, by the way, I wanted to – on  
13 that issue, we're going to be withdrawing our licensing request  
14 because we got it wrong. So I think there's always this misconception  
15 that somehow the Commission, when confronted with facts, always  
16 goes against the staff. Quite the contrary. I think what the  
17 Commission wants to do is find out what the real story is. And some  
18 part of the time, we're not getting it right, and some part of the time  
19 the licensees aren't getting it right, and we just have to get to the  
20 bottom line. We've got to make sure our licensees submit quality  
21 applications. We've got to make sure that we have quality questions  
22 in answer to that, and that we use a timely, effective, and efficient  
23 process to make the right safety decision. And if we can keep doing  
24 that, then we're doing the right thing, as a safety agency.

25 CHAIRMAN DIAZ: I think out of the discussion that  
26 one bottom line that is there, and we have been emphasizing, is that  
27 the request for additional information process, our's and the licensee,

1 needs to be more disciplined. We need to make sure that you're not  
2 only asking the right question, whether it's at the right time, and then  
3 we need to eventually make sure that the licensees are giving it the  
4 importance and responding at the right time. So discipline in this  
5 area, it's going to become more and more important. And I think that  
6 it comes, again, with some of the things we said, if you know what the  
7 heck you're doing, you can do it a lot better. Next.

8 COMMISSIONER JACZKO: If I can just add. One of  
9 the ways that I look at this, I mean, the responsibilities that you all  
10 have as staff is ultimately to safety. That's your responsibility, that's  
11 what you need to do as staff. Timeliness is a goal, it's something that  
12 the Commission has set some ideas for how we'd like to complete,  
13 the times that we'd like to take to complete certain actions. But  
14 fundamentally, safety is the most important thing, and if there's ever  
15 situations out there, that the agency has mechanisms in place for  
16 people who have objections through the Differing Professional  
17 Opinion program, or the Non-Concurrence Process, to raise those  
18 views and those differing views. And I think it's certainly important, I  
19 think, for staff to take advantage of those, and I don't think, certainly  
20 from my perspective, I would want you to leave with the impression  
21 that the Commission places timeliness over safety, and that's certainly  
22 not the impression that I have from many of my fellow  
23 Commissioners, that I know they've stated that very clearly. But that  
24 is fundamentally what we need to do, and what we need to be  
25 focused on primarily.

26 COMMISSIONER McGAFFIGAN: We might just take  
27 the most important - I mean, license renewal is the most important

1 licensing actions we've done. We've been timely on most of them, but  
2 when we had to turn back Beaver Valley's, when we had to stop Nine  
3 Mile's, we did it, and that was because the quality of the applications  
4 wasn't up to snuff, and the quality of the responses wasn't up to snuff.  
5 ESPs is important, but we had to redo the environmental impact  
6 statement for North Anna, so if circumstances arise, time is not the  
7 most important thing, timeliness. But if we can make our decisions in  
8 a timely way with full information, we do it.

9 CHAIRMAN DIAZ: I think the challenge is out there.  
10 I mean, beginning when I went to INPO and then totally supported by  
11 the Commission, the issue of giving us a high quality application, and  
12 that we said it has to be acceptable for docketing. I just upped the  
13 ante last week, and I just went to the Senate Monday and essentially  
14 told them what is really the bottom line for the industry. It's not only  
15 an application that can be accepted, and is docketed, it's an  
16 application that can have a timely review completed within the  
17 schedule given. And that puts dual responsibility on them to look at  
18 the application, not only when it gets there, but how is this going to be  
19 reviewed, and for us to make sure that we have the discipline to  
20 review it in that period of time. It's a very, very good point. I think we  
21 need to hammer at it. It's not how you begin, but it's how you end that  
22 becomes important.

23 COMMISSIONER LYONS: Nils, could I add one  
24 thing?

25 CHAIRMAN DIAZ: Sure.

26 COMMISSIONER LYONS: Commissioner  
27 McGaffigan listed several examples where the Commission has been

1 very supportive of - you mentioned license renewal process, for  
2 example - I think another one that could be mentioned is the Vermont  
3 Yankee Uprate, where I think the staff should be commended for the  
4 very, very thorough job, admittedly lengthy, but at least to my  
5 knowledge, there was no one on the Commission telling you to hurry  
6 up. The time you spent on Vermont Yankee Uprate, I think shows in  
7 the quality of the product, the careful ascension in power. In my book,  
8 that was all done correctly, and it was all done safely.

9 CHAIRMAN DIAZ: Thank you. Next question,  
10 please.

11 PARTICIPANT: This question is from Headquarters.  
12 Will there be any reduction in the high level waste staff due to delays  
13 in the Yucca Mountain license application?

14 CHAIRMAN DIAZ: Would you say it again, please?

15 PARTICIPANT: Will there be any reduction in the  
16 high level waste staff due to delays in the Yucca Mountain license  
17 application?

18 CHAIRMAN DIAZ: We don't expect to have any  
19 reductions in the staff. However, we're not expecting to have any  
20 increases in the staff, either. This issue is really in a point of what I  
21 believe that should be called a decision-making point for the Nation.  
22 There are many factors in there. They're being weighed in the  
23 Congress of the United States. I think that resolution is not going to  
24 be around the corner, probably not this year, but the eventual  
25 resolution of the issue will allow us to make the proper judgment in  
26 how we're going to proceed with that program. But just like with the  
27 reactors, we need to maintain the capability to review a license

1 application if it comes, so we have to have that capability established.

2 We also might be asked to work in other issues; for  
3 example, the House Appropriation just reported out an extra \$10  
4 million for the NRC to work in the Hanford tanks. The WIR work, the  
5 Waste Incidental to Reprocessing is now continuing, so we have  
6 serious efforts that are coming in those areas, which in many ways is  
7 the same type of work we intend to be using, the talent that we have,  
8 the resources, and be ready. We have the licensing network  
9 essentially set and hungry. We are looking at how we use it, so we're  
10 trying to use the resources, but we don't believe we're going to grow in  
11 that area in the immediate future. It will have to wait until we actually  
12 get better definition of where the entire spent fuel program is going.

13 Yes, sir.

14 COMMISSIONER LYONS: I think another key input  
15 to this question, and to Nils' answer, is the debate going on sparked  
16 by the DOE with their proposal for GNEP, the Global Nuclear Energy  
17 Partnership, a large part of which would suggest that the country  
18 should be looking in alternative directions on high level waste  
19 management. But it still requires a repository, and in my mind, there  
20 may well be additional challenges for the folks who have been  
21 following the Yucca Mountain program, as not only Yucca Mountain or  
22 whatever future license application is turned in, however that evolves,  
23 as well as how the GNEP program evolves, because there may be  
24 some very important new challenges for the agency to face, if the  
25 country does, in fact, move more towards the reprocessing and  
26 transmutation ideas that are suggested in GNEP. But even with all  
27 the reprocessing and all the transmutation, you still end up with high

1 level waste that is going to require some form of a repository, may  
2 have different characteristics of the waste, but I think the challenges  
3 in this area, to put it mildly, are far from over.

4 CHAIRMAN DIAZ: Next question, please.

5 PARTICIPANT: This is a Headquarters question.

6 Have you seen any change in the NRC's relationship with DOE? Do  
7 you think the relationship has improved?

8 CHAIRMAN DIAZ: Yes.

9 CHAIRMAN DIAZ: Yes. Yes, we actually have made  
10 sustained effort, and so has DOE, in communicating better at both the  
11 high levels and the mid-levels. We still believe that we have a  
12 significant challenge if the GNEP program and the next generation  
13 nuclear power plants move forward. Those are areas in which we  
14 want to be prepared early enough, just in case the agency gets called  
15 to have a substantial role in the issue. And one way or another, we  
16 eventually will have a role to play, whether it's first consultation on  
17 eventually licensing these facilities if they get to be commercial, so in  
18 many, many, many aspects yes, the answer is we are communicating  
19 better, both with the DOE and NNSA. And I think there is a healthy  
20 interchange, and a realization that these two agencies need to work in  
21 many areas together, although, in areas like Yucca Mountain, we  
22 maintain a distinct separation.

23 COMMISSIONER MERRIFIELD: Yes, Mr. Chairman,  
24 I agree with all you said there. I think there has been real progress  
25 made in the last year in terms of our communicating with DOE,  
26 particularly with NNSA.

27 I think part of it is, like a lot of other things in life, is

1 really a function of simply getting the two sides sitting down and  
2 talking through some issues. And I think in the past, we had some  
3 miss-communication about where each of us were coming from, and I  
4 think we've been able to work our way through that over the course of  
5 the last year, and come to some mutual agreement on some areas  
6 that, in the past, we had not been able to be as unified on.

7 I think there's a lesson in this for the staff, and for our  
8 senior managers. I think there's a tendency sometimes to try to  
9 resolve some of these issues, either agency-wide or otherwise, at a  
10 staff level, and try not to bother the Commission with these issues. I  
11 think there are times where, in fact, maybe to the surprise of some in  
12 the audience, but certainly not to the surprise of folks here, the  
13 Commission can actually help at our level in dealing with some of  
14 these issues. And I think the challenges we had in our inter-  
15 relationship with DOE and NNSA is a classic example of that. There  
16 had been issues which had been difficult to resolve at a staff level. It  
17 came through the senior managers, and ultimately the Commission,  
18 the Chairman and other members of the Commission, including  
19 myself, were able to resolve that with our counterparts at NNSA to  
20 help move those issues forward. So I think a lesson from that for us  
21 to learn is, if you see these issues festering at a lower level, don't hide  
22 them from the Commission. In fact, keep us fully and currently  
23 informed so we can, in fact, be part of the solution.

24 CHAIRMAN DIAZ: All right. Next question, please.

25 PARTICIPANT: This question is from Headquarters.

26 We are taking great strides to accommodate the projected flood of  
27 new plant applications. What if this flood doesn't happen? The public

1 is not aware of the flood. How will we respond to significant public  
2 intervention?

3 CHAIRMAN DIAZ: Well, I think we kind of answered  
4 that question. I believe that we're going to have some kind of a flood,  
5 it might be a mini flood or a large flood, but it is going to take place. I  
6 think all indications are there. I believe that the agency has looked at  
7 how to handle the large number of applications. I believe the staff has  
8 been moving forward in all of the critical areas that needs to be  
9 addressed.

10 If the flood doesn't happen exactly at the right time,  
11 it's still going to happen. I mean, this country in many ways needs to  
12 have a secure base of electricity, and I think what we are seeing is  
13 that we will have to play a role in making sure that it's done safely,  
14 that nuclear power, if it becomes an increasing part of the portfolio,  
15 has the safety base. We just need to be there. We cannot do it any  
16 other way.

17 One time somebody asked me how dare you license  
18 PFS. I mean, how could you do that? How can you actually license a  
19 private fuel storage facility in Utah? And I said we licensed it because  
20 somebody applied, provided the right information. We went through  
21 it, we reviewed it, it went through our fair processes, it went through  
22 adjudication. We answered the question, got the legal challenges,  
23 and then the Commission found out that they complied with the  
24 protection of Public Health and Safety standards, and we say it is  
25 licensable.

26 Well, I think that we need to be able to be ready to  
27 license. It's not only oversight, and that requires taking some risk.

1 And I think the agency is taking the appropriate risk in both staffing,  
2 preparing, and getting everything that we need to do to be able to  
3 exercise that responsibility, which is a critical responsibility.

4 COMMISSIONER MERRIFIELD: Mr. Chairman, I  
5 would add on to that. I think part of the question went to the issue of  
6 intervention. And I would say in line with that, I think the Commission  
7 has made a number of changes since the last time we went through a  
8 round of reactor license applications to make a more effective  
9 process, that is fair to all parties involved. We made major changes  
10 to Part 2 of our regulations which deals with how the Atomic Safety  
11 and Licensing Board adjudicates the contentions raised by  
12 intervenors.

13 The Commission has taken a lot of attention in the  
14 context of the last five years in making sure that those judges who  
15 retire from ASLBP are replaced with high quality, well-trained judges  
16 who will fairly adjudicate issues raised before the Commission.

17 I think one of the things that we need to maintain  
18 discipline on is making sure that we treat all the parties fair to the  
19 process. We have a potential licensee who wants to apply, we have  
20 intervenors who have concerns and we need to treat them all fairly in  
21 a timely way through our process. And I think what the Commission  
22 has attempted to do over the time the Chairman has been here and  
23 the time I've been here, is enhance that adjudicatory process so that  
24 if, indeed, we do see this coming wave of new reactor applications,  
25 we can review those applications, we can review interventions, we  
26 can review contentions related to those applications, and work  
27 through those, and resolve those in a timely way that is fair to the

1 licensee, and is fair to the parties involved.

2 CHAIRMAN DIAZ: And, by the way, Commissioner  
3 McGaffigan and I have referred to this wave in different manner. He  
4 calls it the tidal wave, I call it the bow wave, something that is nice,  
5 and generated by human beings and is not destructive.

6 COMMISSIONER MERRIFIELD: And I call it the  
7 second band wagon.

8 COMMISSIONER JACZKO: If I could just add  
9 something to that question.

10 CHAIRMAN DIAZ: Sure.

11 COMMISSIONER JACZKO: I think how we handle  
12 intervenors, I think, is really important for the ultimate outcome of this  
13 process. Ensuring that we continue to maintain enhanced public  
14 confidence is a really crucial aspect of what we do. The public has a  
15 tremendous avenue to our regulatory and our licensing process, really  
16 through our hearing requirements. The Atomic Energy Act really  
17 gives people tremendous authority and responsibility to be involved in  
18 licensing decisions, making sure that we give people the opportunity  
19 to have their issues fairly and adequately addressed in that hearing  
20 process is really a crucial aspect of making sure that whatever  
21 licensing decisions the agency reaches are accepted and viewed as  
22 credible by all parties that are out there. So that hearing process is  
23 really probably one of the most fundamental parts of the licensing  
24 process, and it's also one of the areas of the licensing process that,  
25 as an agency, we have the least control over, really. It's an area we  
26 don't necessarily dictate who will intervene, we don't dictate on what  
27 issues they will intervene, so we could do everything we can to be

1 prepared to deal with these applications from the technical review  
2 side, but a lot of the uncertainty in how this process will play out really  
3 involves how those intervenors will participate. And certainly, I think  
4 the more that we provide a good and open forum for them to do that,  
5 the better the result will be in the end.

6 CHAIRMAN DIAZ: Thank you. Next question.

7 PARTICIPANT: This question is from Headquarters.  
8 Staff is producing many policy papers and rules on expedited  
9 schedules necessitating much overtime. Yet, when the papers get to  
10 the Commission, the Commission does not act on them for months.  
11 Does the Commission realize how demoralizing this is for staff?

12 CHAIRMAN DIAZ: The Commission realizes that at  
13 times we take a little bit too much time in our deliberations.  
14 Sometimes the staff doesn't give us all the information, occasionally.  
15 Sometimes the Commission gets very, very committed to getting the  
16 right decision, but the point is well taken. We need to do the best job  
17 that we can to respond as quickly as we can. Sometimes, the  
18 Commission sees a different set of issues than the staff does. In  
19 other words, the staff provides a paper that has toward their viewpoint  
20 is complete, analyzes the issues, and the Commission sees an  
21 additional set of issues that then we have to work with, we need to  
22 deliberate.

23 It's always been my hope that we can do better, and  
24 I've messaged that. I'm hearing that to some of you that is unnerving.  
25 I wouldn't call it demoralizing, but unnerving. We realize that. It has  
26 been the subject of discussion. I think we can do better. I think the  
27 staff can also do better. Sometimes when they present these papers,

1 they require additional work from the Commission, and I think we're  
2 working to get that problem solved. Better communications between  
3 the staff and the senior managers and the Commission, I think we are  
4 trying to work into that problem.

5 COMMISSIONER McGAFFIGAN: And I agree, we  
6 probably can do better. I'll match my work hours with any person on  
7 the staff's, and so I think that's true for every Commissioner. We don't  
8 make the big bucks. We get paid \$30-45,000 less than many  
9 managers and many staffers, so we work hard. We have a lot of stuff  
10 that comes together at us, and there may be some staffer being  
11 demoralized because his rule or her rule is not being voted on  
12 instantaneously, but it may be because we have a few other things to  
13 say grace over.

14 COMMISSIONER MERRIFIELD: Yes, I think we can  
15 always do better in our timeliness, and I think we all work hard at  
16 doing that. I think the one thing - I'm reminded of when I go home  
17 some days, I have two bags that I take home with me. And frequently  
18 in the elevator people say gee, where are you going on travel? And I  
19 say I'm not going on travel, those are my two briefcases. One of them  
20 is a litigation bag. And I think one of the things that the staff  
21 sometimes forgets is that there are 3,400 of you, thereabouts, and  
22 there are five of us. And so the amount of paperwork that is  
23 generated by all the folks in this agency ultimately has to get resolved  
24 by the five of us, and there is some degree of sausage making that  
25 goes on at the Commission level that you could expect. Some of it, it  
26 takes a while for us to deliberate, and work through, and try to come  
27 to consensus on a given issue. Sometimes, as Commissioner

1 McGaffigan has spoken of, it is the sheer magnitude of the piles of  
2 paper that gets shipped up to our offices each and every week, and  
3 we're going to have to deal with that. There's no crocodile tears that  
4 you need to shed for us, but we have work challenges we have to  
5 grapple with, as well.

6 COMMISSIONER McGAFFIGAN: You can look at  
7 the number of SECY papers and COMSECY papers that are not on  
8 the web page to get a sense of the tip of the iceberg that you see in  
9 papers that are on the web page. Just look at the numbering system,  
10 every one of those papers exists and was sent to us. They just  
11 happen to not be widely available to all of you, but just count the  
12 numbers sometime.

13 COMMISSIONER LYONS: But still, even though I  
14 agree with my colleagues, I think the point is well taken. Wherever  
15 possible, we need to be trying to expedite our own processes, move  
16 as fast as we possibly can. And I can only say that I think each of us  
17 is literally doing our best.

18 COMMISSIONER JACZKO: I could just briefly add to  
19 those who are demoralized, I would just perhaps say that the  
20 Commission is taking time, because we do value the work that you  
21 do, we value the input that you give us, and if there are long papers,  
22 sometimes we read those, and we take time to think about the issues,  
23 so sometimes the time we take is really a reflection on the quality and  
24 the breadth of the material that you give the Commission, and the  
25 time that we do take, and the importance we put on really going  
26 through that information in detail, and understanding the decisions  
27 that the staff is recommending to us.

1 CHAIRMAN DIAZ: But having said that, we  
2 appreciate the question or the interest behind the question very much.

3 PARTICIPANT: Thank you.

4 CHAIRMAN DIAZ: Thank you. One more question?

5 PARTICIPANT: We have lots more.

6 CHAIRMAN DIAZ: Oh.

7 COMMISSIONER McGAFFIGAN: Is there any from a  
8 Region because I haven't heard a regional question in about 45  
9 minutes.

10 PARTICIPANT: No, these are all Headquarters.

11 COMMISSIONER McGAFFIGAN: Okay.

12 PARTICIPANT: We see the Commission and senior  
13 management on the cover of *NR&C*, most often related to license  
14 renewals, power uprates, or design certifications. These are  
15 important outcomes of staff work, but could the Commission also  
16 more visibly recognize the regulatory oversight function of the NRC,  
17 including inspection, enforcement, and investigations?

18 CHAIRMAN DIAZ: Well, if we haven't, it's mea culpa.  
19 I think we do all the time. There are some things that are a little more  
20 visible. If you look at my comments of today, I tried to be as inclusive  
21 as possible. There is no doubt that there are two things going on in  
22 here, one is licensing, and the other is oversight, and they're both  
23 critical functions. Oversight sometimes really takes more of our  
24 attention because, like we used to say, was it Joe Callan, where the  
25 rubber meets the road, or was it Sam Collins, or Stu or somebody  
26 used to say that.

27 The reality is that both are critical functions of the

1 agency, both are well-recognized. We actually value the fact that  
2 decision-making is one the fields that people are having to deal with  
3 licensees, whether they are in hospitals, or nuclear power plants, or  
4 fuel facilities, or decommissioning. All of these activities make this  
5 agency what it is. They're all valuable, they all contribute, some of  
6 them are a little more glamorous than others, because the press  
7 makes them glamorous. We don't. We do appreciate every one of  
8 them every day.

9 COMMISSIONER LYONS: Safety is job one for this  
10 agency. I don't think any of us would state it any differently, and that  
11 safety is derived from the careful oversight that the staff provides,  
12 whether we're talking about reactors or materials issues. I know  
13 personally, I've started each RIC speech, all two of them, with  
14 comments about the importance of safety. And as we talk about a  
15 nuclear renaissance or power uprates, or anything else, none of that's  
16 going to happen if we don't have the safe operations. Public  
17 confidence is derived from those safe operations, and without it, there  
18 simply won't be a future for any of the future activities that we talk  
19 about.

20 COMMISSIONER MERRIFIELD: Yes, I mean, if you  
21 subdivided all the time that the Commissioners spend working on the  
22 litany of issues we have in the agency, you would see it falls on any  
23 number of individual areas. And I think *Inside NR&C*, obviously,  
24 reports on things that are going on with our senior managers and with  
25 the Commission. The likelihood that you're going to have a licensee  
26 or a member of our staff there when we're visiting a plant, or when  
27 we're handing over a license renewal document is a lot higher than

1 when the Commissioners are sitting in their offices reviewing reports  
2 from the Office of Investigation, Enforcement, or other things. And  
3 that doesn't make one more important than the other, it's, perhaps,  
4 just a function of the way things work, sometimes. But I think if  
5 anyone takes what they read in the sort of top of the fold of *Inside*  
6 *NR&C* and reflect on that as being where the Commission spends its  
7 time and believes what is the most important, I think that's not the  
8 best reflection to take, no more than you should necessarily think that  
9 what you read on the top-fold of the newspapers is always the most  
10 important stuff that's going on.

11 CHAIRMAN DIAZ: Well, I believe that to be on time  
12 and having emphasized the issue of schedules, we are getting to end  
13 of our session. First, I want to recognize Sue, Sue, and Susan, and  
14 Rhonda and Mauricio for helping with the questions. I believe, as  
15 always, these meetings bring out issues. We appreciate every one of  
16 them, and like all of my fellow Commissioners, you do know that we  
17 hold an open door policy. If you believe you need to talk or talk to any  
18 one of us, and sometimes you use the email, we welcome those  
19 comments, as well. The value of this meeting is the value of the  
20 dynamics of the group, and how group dynamics actually reinforce  
21 itself. Same thing happens in the Commission, and here you see how  
22 the group dynamics gets drawn on by the questions and by the  
23 interactions.

24 I want to thank you for being here. I wonder if my  
25 fellow Commissioners have any final comments.

26 COMMISSIONER MERRIFIELD: Mr. Chairman, I do.  
27 You made a mention of our open door policy, and in all - whatever the

1 number is - any of these meetings that I have attended, I think we  
2 generally have made a recitation of the fact that the Commissioners  
3 do have an open door policy. I think not only expressing my re-  
4 commitment to that, I would want to take the opportunity publicly to  
5 thank those members of the staff who have taken me up on that open  
6 door invitation. There have been a number of them over the course of  
7 this year and the years preceding. They have provided me invaluable  
8 information. Obviously, I haven't always been able to do precisely  
9 what the staff would like us to do, but I think it has provided an  
10 additional conduit to allow people to express their concern, to express  
11 issues that they would like to see addressed, and where appropriate  
12 and applicable, I've been able to intercede in that respect, so I thank  
13 you.

14 COMMISSIONER JACZKO: If I could just make a  
15 brief comment in close, kind of echo some of the thoughts of the  
16 Chairman and Commissioner Merrifield, and this is, for me, a very  
17 valuable opportunity to hear from the staff. As I think Commissioner  
18 McGaffigan mentioned, there's 3,000 or more of you, and so it's very  
19 seldom that we have an opportunity to interact with you on an  
20 individual basis, other than when we're waiting for the elevators, which  
21 is one of the advantages of the elevators. But I would –

22 CHAIRMAN DIAZ: The only advantage.

23 COMMISSIONER JACZKO: I would just certainly  
24 encourage those folks who aren't here today, if you're listening in on  
25 various ways, or the managers that are here, we have a big room  
26 now, and it would be nice to see the room filled, and I think that's  
27 something that we can really shoot for in the future. And we have a

1 good opportunity now with this nice space, and the air conditioning, so  
2 I hope in the future we'll really see all those rows all the way to the  
3 back filled with people.

4 COMMISSIONER McGAFFIGAN: I passed on my  
5 opportunity, but if there are really a lot of questions out there, then we  
6 can next year schedule a longer period of time, I think, because if  
7 we're having one session, it's been our past history, especially in the  
8 afternoon session, that we almost had a filibuster to fill the time. But  
9 this is an interesting data point, because it's the first time that we've  
10 not been able to answer all the questions.

11 CHAIRMAN DIAZ: And, of course, we will. Please  
12 submit the questions, we will answer them in writing. And with that, I  
13 want to thank you again for being here, for being what you are, and  
14 for being what you will be. Thank you.

15 (Whereupon, the proceedings went off the record at  
16 3:33 p.m.)

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