

**NUCLEAR REGULATORY COMMISSION**

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ADVISORY COMMITTEE ON NUCLEAR WASTE & MATERIALS

September 20, 2007

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This transcript has not been reviewed, corrected and edited and it may contain inaccuracies.

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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ADVISORY COMMITTEE ON NUCLEAR WASTE AND MATERIALS

(ACNW&M)

182<sup>nd</sup> MEETING

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THURSDAY,

SEPTEMBER 20, 2007

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VOLUME III

The meeting was convened in Room T-2B3 of Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, at 1:30 p.m., Dr. Michael T. Ryan, Chairman, presiding.

MEMBERS PRESENT:

- MICHAEL T. RYAN           Chair
- ALLEN G. CROFF           Vice Chair
- JAMES H. CLARKE         Member
- WILLIAM J. HINZE         Member
- RUTH F. WEINER          Member

1 NRC STAFF PRESENT:

2 CHARLES MILLER

3 JANET SCHLUETER

4 PATRICE BUBAR

5 SCOTT FLANDERS

6 GARY COMFORT

7 BOBBY EID

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SEMIANNUAL BRIEFING BY THE OFFICE OF  
FEDERAL AND STATE MATERIALS AND  
ENVIRONMENTAL MANAGEMENT PROGRAMS (FSME) . . . . 4  
ADJOURN

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

(1:30:31 p.m.)

CHAIR RYAN: All right. I think we'll come to order, please. This is the last session of this week's meeting, and we're now going to have a summary or briefing from the Office of Federal and State Materials and Environmental Management Programs, FSME. We have four folks with us, and I'm going to ask - I don't know which order you've planned in, but, Charles, you want to lead off?

MR. MILLER: Yes, I am. Thank you, Mr. Chairman. Appreciate the opportunity to meet with you today, and with the Committee. I've got some of my SES Management Team here from each of the technical divisions to try to cover the activities from their work that might be of interest to you.

I wanted to kick off by making a few global remarks, and I'd like to cover four topics, if I could. Kind of the State of the Union Address of FSME, some budget trends, knowledge management, and areas where we think we could use your help. And you'll hear more about this from each of my divisions.

I think it's a good time to speak with you, because in less than two weeks, FSME is going to be one year old. And that will be our first

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1 anniversary, and we hit the ground running, by  
2 necessity, not necessarily by choice. And, as you  
3 know, our office has been a combination of the former  
4 offices of State and Tribal Programs, and portions of  
5 NMSS. And I'm very proud of where we are at this  
6 point in time. I'm proud of the staff, and I'm proud  
7 of our Management Team, and what we've accomplished so  
8 far this year. It's been a very dynamic period, as  
9 I've mentioned. We've had some pretty big ticket  
10 items to have to face in the last 11 months, and if I  
11 could beg your indulgence, I'd just like to run  
12 through some of our accomplishments.

13 We're continuing to build what I think is  
14 a stronger and closer working relationship with our  
15 regions, our agreement states, and we want to continue  
16 to build a continued strong relationship with the  
17 Advisory Committee. We want to continue to make sure  
18 that we have a viable MPEP program, and I think we've  
19 done that. And over the last year, we've done 13  
20 MPEPs, and 55 regulatory reviews.

21 As you may know, we have to take a look at  
22 states' regulations to make sure that they are  
23 compatible with our own. We've had frequent and  
24 effective international participation in a number of  
25 activities. We participate in the Joint Convention on

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1 Safety of Spent Fuel. I represent currently the  
2 agency in the United States on the International  
3 Atomic Energy Agency's Radiation Safety Committee.  
4 Larry Kamper represents us on the Waste Safety  
5 Committee. We've had a lot of interactions on the  
6 IAEA Code of Conduct over the last year. And I will  
7 be assuming a new role in the next fiscal year with  
8 regard to some international activities. I've been  
9 asked to replace Janice Dunn-Lee as the agency's  
10 representative to Nuclear Energy Agency's Nuclear  
11 Energy Steering Committee.

12 We've had a lot of activity with regard to  
13 rulemakings in the last year. And some rules that  
14 we've completed and working on are the NARM rule, the  
15 in situ leach rule, and Energy Policy Act initiatives  
16 and various rulemakings that fell out of that.

17 We've had to give a lot of timely support  
18 to media inquiries, and issues ranging from Polonium-  
19 210, to irradiated gemstones, to waste incidental  
20 reprocessing, and especially source control issues.

21 Together with the regions, we will  
22 complete 3,000 licensing actions this year, and about  
23 1,200 inspections. We've successfully by the end of  
24 the year will have completed decommissioning  
25 activities on 10 complex sites this year.

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1           One of the big activities that we've  
2 recently had to work on, and was very intense, is  
3 responding to the GAO sting that they did with regard  
4 to obtaining a false license from the NRC. And we had  
5 to develop a complete comprehensive action plan in  
6 five weeks at the Commission's direction. We've now  
7 got the SRM from the Commission with regard to moving  
8 forward with that action plan. As part of that action  
9 plan, the Commission directed us to set up an  
10 independent panel to do a look at our programming and  
11 materials area, and we're in the process of trying to  
12 establish membership for that panel.

13           We had nine petitions for rulemaking  
14 resolved or in process over the course of this year.  
15 And these range in issues from a two-person  
16 radiography rule, to a petition that would request  
17 global positioning to improve tracking of radioactive  
18 sources. And we've had various other rules published  
19 this year, as I've mentioned; the National Source  
20 Tracking System rule, there are some Part 30 changes  
21 in the NARM rule, which we're particularly proud of as  
22 an accomplishment.

23           I'd like to shift gears and talk a little  
24 bit about some budget trends. It's been a unique  
25 budget year for the agency, and for us in FSME, in

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1 particular. Although we have to wait to see what the  
2 OMB pass-back will be, and the recent Commission  
3 budget decisions that they made, and the budget marks  
4 that they've made has been very important, from our  
5 perspective, because they have supplemented resources  
6 in the areas including a National Source Tracking  
7 System, web-based licensing, the surge and recovery,  
8 and uranium recovery casework that we're expecting,  
9 and they restored some rulemaking resources,  
10 especially in the security in the Energy Policy Act  
11 activities. And I think what this shows is that the  
12 Commission is making a real recognition that the  
13 agency does more than just reactor work, and that  
14 there's a lot of activity in the materials, and in the  
15 waste area.

16 With regard to knowledge management, I  
17 just wanted to make a few brief remarks. I think this  
18 is a topic that we all can share some experiences in.  
19 I want to be able to add some experienced talent to  
20 our staff to get some youthful exuberance. We've got  
21 a lot of very skilled and competent staff in FSME, but  
22 many of the people are approaching retirement age, and  
23 I could lose them at any point in time if they decide  
24 to leave. And we really need to replenish that talent  
25 pool.

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1                   From that perspective, there's a number of  
2 formal/informal tools that we're using to try to  
3 capture and convey knowledge, training courses, Reg  
4 Guide, Standard Review Plans, mentoring are recognized  
5 tools, and to the extent that the Committee can help  
6 us in various updating or creating guidance documents  
7 on certain activities, I think that this is a tool  
8 that can help us with the staff of the future, so that  
9 we can leave a legacy for them to work from.

10                   I'm particularly excited about something  
11 that we've recently completed related to Materials  
12 Operating Events Gateway. Janet will tell you more  
13 about this, but this is a new database that  
14 communicates operational experience with any NRC  
15 staff, and we have it available internally on our  
16 website. And I'd like to ask if the Committee, at  
17 your leisure, could take a look at this. And if you  
18 can give us any insights as to how we can continually  
19 improve this, we'd appreciate that. We're looking for  
20 this to be a living tool that's useful to everyone in  
21 the agency.

22                   As you know, the Commission has recently  
23 expanded your authorities into the Materials area, and  
24 so this provides you and FSME a broader opportunity to  
25 work together. As you'll hear from each of my

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1 divisions today, I'd like you to at least ponder what  
2 they have to say, and think about opportunities where  
3 we can work together. And I think by doing this, we  
4 can build a stronger relationship, and through these  
5 collaborations, I think our products collectively can  
6 serve the agency, and improve the vitality of where we  
7 are.

8 That concludes formally what I wanted to  
9 open up with. And I guess I'd like to turn to my team  
10 to begin. Janet.

11 MS. SCHLUETER: Okay. I'm Janet  
12 Schlueter. I'm the Director of the Division of  
13 Materials Safety and State Agreements. I'll briefly  
14 mention to you the program areas that my division is  
15 responsible for, and those are in addition to the  
16 action plan associated with the GAO sting operation  
17 that Charlie just mentioned.

18 There is a SECY paper, 0701/47 is the  
19 number that just went up to the Commission, that  
20 delivered the staff action plan in response to the GAO  
21 operation, and there is a Staff Requirements  
22 Memorandum that was just issued September 18<sup>th</sup>, and  
23 that is in final. That gives the staff permission to  
24 proceed to implement the action plan.

25 Basically, I'll just give you a few

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1 highlights of that. You can read it at your pleasure.  
2 It recognizes a current activity where we're re-  
3 looking at our existing pre-licensing guidance  
4 document. That's already been in the works since  
5 July. It also discusses a longer term effort, which  
6 is establishing a Materials Program Working Group and  
7 Steering Committee that's going to look at the NRC's  
8 licensing and inspection programs more holistically.  
9 And then we have a shorter term project, which is a  
10 review by an independent group that Charlie mentioned,  
11 which is about four or five months in duration, and  
12 is primarily looking for vulnerabilities from a  
13 security perspective of our licensing program. And  
14 what the independent review group comes up with, that  
15 will feed back into the longer range Materials Program  
16 Working Group and Steering Committee. And that  
17 Materials Program Working Group and Steering Committee  
18 will also take a look at what has come out of the Pre-  
19 Licensing Guidance Group. And we're also trying to  
20 identify short-term actions that we can take in the  
21 more near term to be effective in addressing issues  
22 like how is GAO able to counterfeit the license, and  
23 so forth, and so on. So we have to identify short-  
24 term actions that are effective, as well.

25 So in addition to all that, I have three

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1 branches. One is Sealed Source Safety and Security,  
2 and they do everything from sealed source and device  
3 reviews, to supporting the Chairman's Task Force on  
4 Source Security, working with other federal agencies  
5 on source security initiatives, as well as our own  
6 Office of Nuclear Security and Incident Response.  
7 They're also supporting the development of the  
8 National Source Tracking System. We maintain the  
9 interim inventory database. We're working on  
10 developing web-based licensing. That's all in the  
11 branch ran by Tim Harris of my staff.

12 The other branch is devoted more to the  
13 Materials Program and Agreement State Program. We  
14 develop all of the licensing guidance, inspection  
15 guidance. We do exempt distribution licensing. We  
16 run the Integrated Materials Performance Evaluation  
17 Program, which evaluates the adequacy and  
18 compatibility of the 34 agreement states. We process  
19 new agreements. We do the reg review for new  
20 agreement states, and existing agreement states that  
21 are changing their rules to be compliant with our's.  
22 We issue almost all of the letters to the agreement  
23 states, as well as all 50 states. We coordinate with  
24 the Organization of Agreement States and the  
25 Conference of Radiation Control Program Directors.

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1 And Duncan White is the Branch Chief of that branch.

2 The third and final one is our Medical and  
3 Event Coordination Branch. We coordinate with the  
4 regions on event response, incident review, analysis,  
5 NMED, Agency Action Review Meeting, which is attached  
6 to part of the NMED process, coordinate with OE, OI,  
7 ACMUI. What else? That's about it, isn't it? Sandy  
8 Wassler is the Branch Chief of that branch, so you can  
9 see it's a pretty wide variety of tasks that's focused  
10 on Materials Program as administered through the  
11 regions, but we do have the programmatic  
12 responsibilities for developing guidance documents and  
13 so forth.

14 And we're working on -- latest effort is  
15 we're working with Patty's division in putting out the  
16 guidance that's necessary for the NARM rule. And we  
17 also have NARM transition in my division. Patty's  
18 division did the rule, and we have implementation of  
19 NARM, meaning, primarily, establishing that regulatory  
20 relationship with NARM licensees that exist in the 16  
21 non-agreement states. So let me turn to my slide.

22 Agreement states - there are 34. We have  
23 several in process. Pennsylvania is the furthest  
24 along the line. They would like to have an agreement  
25 signed and be effective by March 31<sup>st</sup> of next year.

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1 That is possible. Virginia we just received. It's  
2 going under review. They would like to have their  
3 agreement in place before the waiver of the Energy  
4 Policy Act for NARM expires in August '09. That is  
5 possible. New Jersey is apparently in the mail. We  
6 should receive tomorrow. We have a team formed. That  
7 process will begin. They, too, would like to have  
8 their agreement in place by August '09. Possible. I  
9 say that because typically in the past, we have not  
10 gone through the review process of an application, and  
11 been able to sign an agreement and have it into effect  
12 in that short of a period of time. Two years is very,  
13 very quick. It's typically been three, four, five  
14 years, but we're working to do that, because these  
15 states do want to have their agreement in place before  
16 the waiver expires, because neither we, nor them, want  
17 their NARM licensees to transition to the NRC for some  
18 short period of time, and then flip back to the state,  
19 because have, of course, authority for NARM, once that  
20 rule is published, probably today, tomorrow, we think.  
21 And then it's effective in 60 days, so then we begin  
22 to have NARM authority.

23 We do support, as I mentioned, the  
24 Organization of Agreement States, and the Conference  
25 of Radiation Control Program Directors. If you've not

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1 caught up with those annual meetings, I suggest you  
2 might take a look at their websites. OAS annual  
3 meeting is next week in Oklahoma City. There's a lot  
4 of topics, of course, relevant to the Materials  
5 Program, and the Agreement State program. We always,  
6 FSME Management, support that meeting heavily.  
7 Chairman Klein will be there for a plenary talk.  
8 Commissioner Lyons is going. Typically, we do have  
9 one commissioner or more that is able to attend that  
10 meeting.

11 CRCPD generally holds its meetings in May.  
12 They move around the country. That's a very large  
13 meeting, primarily because it is for all 50 states.  
14 They have a longer meeting agenda, and more board  
15 meetings, and committees, and working groups that meet  
16 during that time. It's typically more than a week.

17 We also have a lot of interface with the  
18 agreement states on various Materials issues. At any  
19 one time, we have approximately 20 or 22 working  
20 groups established, where there are agreement state  
21 members that are either just members, or they are co-  
22 chairing the working groups. And it's over a wide  
23 variety of topics, and we share that responsibility  
24 with the Division for Inter-Governmental Liaison  
25 Rulemaking, which Patty will talk about. But any one

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1 given time, there's a lot of activity in that area.

2 As I mentioned, we have the Integrated  
3 Materials Performance Evaluation Program called IMPEP.  
4 That's how we review the adequacy and compatibility of  
5 an agreement state program. It's done by a team. We  
6 have an agreement state member on the team. The teams  
7 vary in composition, depending on the program, program  
8 scope, program size. The reviews usually take about  
9 a week. We prepare a lot beforehand. The state has  
10 to prepare a lot. It's a big resource burden, if you  
11 will, on the agreement state when we're coming in to  
12 review them, because it's an audit. It takes a lot of  
13 time and effort on their part, as well as our's. The  
14 team comes back with their findings. The agreement  
15 state gets a chance to look at the findings, and then  
16 the team's report goes to an NRC Management Review  
17 Board. Charlie is a member of that. Marty Virgilio  
18 is the Chair. There's an agreement state liaison to  
19 the Board, as well as General Counsels on the Board.  
20 It's the MRB that makes the final decision on the MPEP  
21 findings. And those go on all the time. There's  
22 anywhere between like 12 and 13 a year, but there are  
23 other periodic reviews that are less intensive of  
24 agreement states going on quite frequently, as well as  
25 monitoring calls with certain states that are on,

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1 perhaps, heightened oversight status under the MPEP.

2 We've also been working with them very  
3 intently on a lot of security initiatives, increased  
4 controls. I'm sure you've heard about over 2005, 2006  
5 and 7, where we, as a nation, are imposing additional  
6 security requirements on our higher risk sources,  
7 Category 1 and 2 under the IAEA Code of Conduct. The  
8 agreement states have implemented the compatible  
9 requirements. We inspect our licensees, just as they  
10 inspect their's. In addition to that, we're now  
11 working with them on a difficult area related to  
12 increased controls, and that is the fingerprinting  
13 requirements that became effective, or we received the  
14 authority to impose fingerprinting requirements under  
15 the Energy Policy Act of 2005. So that's another  
16 initiative that we're working very closely with the  
17 agreement states, that has proven to be time  
18 consuming, full of complex issues, and difficult to  
19 work, both from a technical standpoint, and from a  
20 management standpoint.

21 With regard to irradiated gemstones, this  
22 is just kind of an interesting topic that I thought  
23 would be a little different. We became aware in our  
24 division of distributors of gemstones where the  
25 radiation levels associated with the gemstones.

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1 First, it turned out to be Topaz, but it's broader  
2 than that, had radiation levels which exceeded the  
3 exempt concentration limits in Part 30. Currently, we  
4 don't have anyone licensed in this country for exempt  
5 distribution, so right there, we knew we had an issue.  
6 There used to be an entity or two licensed for exempt  
7 distribution of such gemstones in this country, but  
8 not at present. So we immediately got a hold of  
9 industry reps, we had a public meeting in July. We  
10 tried to use that meeting to get a better assessment  
11 of the lay of the land, what was the current inventory  
12 of these gemstones in the country, and what were their  
13 practices with regard to imports, exports, where were  
14 they irradiated, where were they cut, who were the  
15 workers, does anybody have a license, and so forth,  
16 and so on. So that was a productive meeting, we  
17 learned a lot. We have a plan whereby we have been  
18 collecting additional information from the wholesalers  
19 in the country, several different locations where  
20 there's a fair amount of inventory, where these  
21 distributors would like these further distributed out  
22 into the market in the coming months, so we've been  
23 trying to do dose assessments. We've been surveying  
24 stones. We've had visits to various wholesalers  
25 around the country. We're working with our regional

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1 offices, in some cases it's a proximity issue where  
2 they could get out faster than we could. And we're  
3 gathering information to ensure that we have as much  
4 as we need from a technical basis perspective to make  
5 a decision one way or the other on, one, is it safe  
6 from a public health and safety perspective to allow  
7 these gemstones to be distributed with their current  
8 radiation levels. And what we've discovered is,  
9 essentially, they vary wildly. They're coming in and  
10 out of the country at different junctures. They're  
11 irradiated both by accelerators and reactors. They  
12 have different radiation levels associated with them.  
13 Some will say you could tell by looking at the color  
14 how they've been irradiated, what the method has been.  
15 Some are coming from Thailand, Germany. We've learned  
16 lots of different activity that we just weren't aware  
17 of, so we're trying to make a decision on the short  
18 term, can we let this inventory go. But we also have  
19 now five applications in-house for a distribution  
20 license, so we have those distribution license  
21 applications under review. And so that's the longer  
22 term actions to get somebody licensed to legitimately  
23 distribute the stones.

24 As Charlie mentioned, a good example of  
25 the youthful exuberance that's been directed in the

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1 right place, our Materials Operational Experience  
2 Gateway has just been developed. It is on the NRC  
3 internal website. And what I mean by that is, we had  
4 one of our Nuclear Safety Professional Development  
5 Program participants, NSPDP, begin to develop it, and  
6 another one finished it. But what they saw was, when  
7 they came in as a new person to our branch and trying  
8 to do regional event coordination follow-up on a daily  
9 basis, they did not have at their fingertips a ready  
10 source of information. They were always in this mode  
11 of either passing it on one person to the next, or  
12 learning it on their own. You know, where did they  
13 get the information that they needed to review events  
14 on a daily basis, coordinate, analyze, so forth and so  
15 on, trends, and so forth.

16 So what they did is, they looked at the  
17 NRR Operational Experience website, and they basically  
18 mimicked it, mirrored it onto the Materials side of  
19 the house, and then put in other relevant information  
20 so it's like one-stop shopping for anybody in the NRC  
21 that has access to the internal website to be able to  
22 get resource information when it comes to existing  
23 documents, to look at Materials event information as  
24 far as trending, to exchange information. There's a  
25 chat room-type effect on there, which we will monitor.

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1 And it is a good way for in one location for people to  
2 be able to tap into all of those different topics and  
3 source of information on Materials events.

4 It is new. I do encourage you to look at  
5 it, to use it. We want feedback. This is just the  
6 first iteration, I'm sure there will be more. And  
7 we'd like to improve it with user's feedback once you  
8 had an opportunity to take a look at that. And that  
9 concludes my remarks.

10 MR. MILLER: Thank you, Janet. Patty.

11 MS. BUBAR: Hi, I'm Patty Bubar, and I'm  
12 the Deputy of the Division for Inter-Governmental  
13 Liaison and Rulemaking. I'm new to the NRC, so I  
14 appreciate the opportunity to begin to build my  
15 relationship with you. So being new to the NRC, new  
16 to the rulemaking, and Dennis Rathbun being the  
17 Division Director, also new to those topical areas,  
18 we've actually been spending a lot of time this year  
19 just really trying to understand exactly what is the  
20 scope that we have on our plate, and what tools do we  
21 have, and resources to make sure that we actually can  
22 do that work effectively. Obviously, rulemaking is  
23 not a new function, but just trying to get our arms  
24 around it so we can do it efficiently.

25 We have two branches, Rulemaking A, and

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1 Rulemaking B in the Division, and there's some topical  
2 assignments within those branches as to which rules  
3 get assigned to A and B. But, in general, they have  
4 the same kind of scope, same kind of resources  
5 associated with them. And then we have a third  
6 branch, which is the Inter-Governmental Liaison  
7 Branch. That is somewhat of a new function in the  
8 organization, FSME organization; although, I think  
9 many of those activities were being done before, but  
10 concentrating them into one branch gives us the  
11 opportunity to focus our efforts on working with other  
12 federal agencies, other state organizations, although  
13 Janet's got the main focal point on the agreement  
14 states. So we actually have one branch where we're  
15 actually trying to grow our relationship, strengthen  
16 our relationships particularly with EPA, and the  
17 Department of Energy on the many things that go on  
18 across the waste and materials area, so it's really  
19 helpful to have one group of people who are focusing  
20 on that. And then we get to kind of bring a lot of  
21 things to a nexus there, and look at them from more of  
22 a corporate standpoint.

23 So in the rulemaking area, as we've been  
24 trying to get our arms around it, developing or  
25 looking at the tools that had been developed and using

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1       them, we have a prioritization. The NRC has been  
2       working on trying to get all rules corporately  
3       prioritized across the reactor and the materials area,  
4       so that's a great tool that we use to make sure that  
5       we understand when you look out particularly over a  
6       two-year period what rules are on the horizon, what's  
7       the relative prioritization of those rules,  
8       prioritization based on risk, as well as visibility  
9       and direction from the Commissioners. And then also  
10      making sure that we have the resources applied to the  
11      right set of rules. So that's a tool that helps us  
12      make sure that we can give management attention where  
13      it's necessary.

14                So, anyway, what I'd like to talk about  
15      with you folks today is to talk a little bit about  
16      that process, but more particularly where I think we  
17      have been able to use your Committee, but also, where  
18      we hope to intend to continue to use it.

19                The rulemaking process, as you know, kind  
20      of has several stages. It has the technical basis.  
21      Sometimes a rulemaking plan, although we're not doing  
22      those as much as we used to. Of course, the proposed  
23      and the final rule stages, and then guidance. And I  
24      think what we're learning is that the technical basis,  
25      or having a good technical basis is extremely

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1 important. And what we're trying to do is to get  
2 better clarity out, particularly to the program  
3 organizations that we're doing the rules for, on what  
4 a good technical basis is. And so, we've actually  
5 been spending a lot of time on that. And if the  
6 technical issues are solved with a good technical  
7 basis, or laid out clearly with a good technical  
8 basis, then the rulemaking is easier. And you don't  
9 try to solve those technical issues in the rulemaking  
10 process, because the rulemaking process is really to  
11 focus on the policy.

12 So, as I mentioned, we have developed some  
13 guidance for what a good technical basis is, laying  
14 out for the program organizations. Well, first of  
15 all, let me clarify. The rulemaking, the rulemakers  
16 do not write the technical basis. We generally want  
17 to receive the technical basis from the program  
18 organization that has a need for this policy. But, as  
19 I said, we want to work closely enough with them that  
20 we get a good technical basis, so we are actually  
21 trying to make it clear that we will not even initiate  
22 rulemaking until we actually get a good technical  
23 basis that clearly lays out what needs to get done,  
24 because that then allows us to really have more  
25 confidence in our schedules as we're doing the rules,

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1 if we know that we're kind of hitting the ground  
2 running once we get into the rulemaking stage.

3 In this guidance, what we've highlighted,  
4 and the guidance has gone to the different program  
5 organizations, what we've highlighted is that the  
6 technical basis needs to provide the scientific,  
7 legal, or technical information that supports the  
8 decision to undertake rulemaking. And these technical  
9 issues may include calculations, scientific or  
10 engineering analyses, modeling, research undertaken,  
11 so really kind of bring focus to having that  
12 information laid out in the technical basis.

13 We also describe in this guidance that the  
14 technical basis should discuss the stakeholder  
15 interactions that have taken place in developing this  
16 technical basis, and discuss stakeholder views to the  
17 extent known. It also advises the program offices  
18 that ideally the technical basis should be discussed  
19 with stakeholders, including the appropriate Advisory  
20 Committees during the development. And we hope that  
21 that's the way we continue to do business using the  
22 ACNW&M in the development of the technical basis.

23 As an example, I think that we have tried  
24 to do this with the in situ leaching rulemaking, and  
25 we hope that we can follow that model, because that is

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1 where your talents are most helpful, particularly at  
2 the beginning, and then towards the end as we're  
3 developing the guidance. As you know, the in situ  
4 leach rule is focused on groundwater protection at the  
5 uranium recovery facilities, and we have been using  
6 your input. You sent us a letter in May, and that is  
7 something that the rulemaking group is taking under  
8 advisement. And we actually have formed a working  
9 group now that we are into rulemaking space. We have  
10 a technical basis for that rule. We have the  
11 Commission direction, we have your feedback, so we now  
12 have a working group formed to develop the ISL rule.  
13 That working group has a statement member on it, and  
14 it also has two EPA members on it. We have a member  
15 from the EPA Groundwater Office, and a member from the  
16 EPA Radiation Protection Division Office. And it's  
17 important to have both of those organizations from EPA  
18 represented because of the issues rulemaking working  
19 group is facing. And so, we're developing the --  
20 well, we're talking amongst the working group, but  
21 they will be developing the rule language very closely  
22 with EPA, and we will then have a public meeting to  
23 discuss this with the public.

24 As we develop, or have the draft language  
25 for the proposed rule, we will share that language

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1 with you prior to it going to the Commission. And  
2 then we have guidance documents that we know are going  
3 to have to be developed, because the rule will not  
4 prescriptively lay out all the information that would  
5 come into the guidance document, so it will be most  
6 beneficial to have your input on the guidance  
7 document.

8 As we look out using the prioritized, or  
9 the rulemaking prioritization chart as we look out  
10 over the next couple of years, specifically, the kind  
11 of rules that we will be putting most of our resources  
12 on are mostly associated with materials users. We  
13 have general license restrictions rule that we're  
14 putting a lot of time and attention on to, National  
15 Source Tracking System, looking at tracking categories  
16 of sources lower than what we currently track. As  
17 Charlie had mentioned, we will actually be hopefully  
18 working with the NSIR organization. We'll be spending  
19 a lot of attention on security rules that have not  
20 necessarily gotten the attention since 2001, because  
21 we took care of a lot of those issues through orders.  
22 So as you look out over the horizon for the next  
23 couple of years, certainly the ISL rule, or  
24 particularly the guidance, we would want your input  
25 on. But most of our rules are not going to be in the

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1 waste area over the next couple of years. We're going  
2 to be in the security area, and the general licensing  
3 area.

4 We are revitalizing the Inter-Agency  
5 Jurisdictional Working Group, if any of you remember  
6 that. That actually will be looking at NRC's  
7 regulatory authority regarding low concentrations of  
8 Uranium and Thorium, so we also will be working very  
9 closely, certainly with EPA, but actually many other  
10 federal agencies. We have actually invited several  
11 other federal agencies to participate with us as we  
12 revitalize that group, and we'll be having a public  
13 meeting sometime in the October or the November time  
14 frame.

15 So I guess in summary, we welcome your  
16 participation. We hope that we can have a model that  
17 allows you to provide us input, particularly in the  
18 technical basis and the guidance, but also, we expect  
19 to continue to share proposed rule language with you  
20 at appropriate times. Thank you.

21 MR. MILLER: Thank you, Patty. What Patty  
22 neglected to mention, she said she recently joined the  
23 NRC. She worked for a number of years at the  
24 Department of Energy prior to joining us, and before  
25 that, at the Environmental Protection Agency, so she's

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1 had very broad-based experience that feeds directly  
2 into the job that she has now.

3 MS. BUBAR: I'm looking for the best  
4 federal agency. I think I found it.

5 (Laughter.)

6 CHAIR RYAN: It says so in your --

7 MS. BUBAR: Exactly.

8 MR. MILLER: Scott Flanders.

9 MR. FLANDERS: Good afternoon. My name is  
10 Scott Flanders. I'm the Deputy Director for the  
11 Division of Waste Management Environmental Protection.  
12 I'm very pleased to be here today. I always enjoy our  
13 interactions with the Committee, and look forward to  
14 more in the future.

15 Before I go any further, I do want to  
16 mention that Larry Kamper sends his regrets that he  
17 couldn't attend the session today, but he's obligated  
18 to some other duties, but he does look forward to  
19 interacting with the Committee in the future.

20 Today I'm going to cover two slides, one  
21 that talks primarily about some of the current  
22 activities we have going on, and some of the near term  
23 activities that we've had with you over the year, and  
24 we expect to have with you in the very near term, next  
25 few months or so. And then the second slide I'm going

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1 to talk is some more of the future activities that we  
2 see opportunities for the Committee to provide us  
3 their insights for some of the things we'll be working  
4 on in the future.

5 The first one I wanted to talk about is  
6 our staff guidance for activities related to DOE's  
7 waste determinations. We met with you twice in 2006,  
8 in May and in July, and we provided overviews of the  
9 document, and provided some basis, I think in the  
10 second meeting, for the approach that we took on  
11 certain issues. And in December, we received a letter  
12 from you on the SRP providing comments to us. And we  
13 took those into consideration as we prepared the  
14 final. We just recently issued the final, and intend  
15 to come and meet with you next month in October to  
16 talk about how we resolved the comments, how the  
17 document was modified, how we specifically addressed  
18 your comments as we developed that document. So we  
19 look forward to that interaction.

20 Also related to Waste Incidental  
21 Reprocessing, we also met with you to talk about our  
22 monitoring activities, just our general approach to  
23 monitoring. And, also, we gave an overview of the  
24 first two monitoring reports we developed, the one for  
25 the Savannah River Salt Waste determination, and the

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1 second one for the Idaho National tank farm facility.  
2 And we also touched a little bit, at that time we had  
3 actually been to Idaho and conducted some of our on-  
4 site observations, which a portion of our monitoring  
5 activities. And we shared some of the results with  
6 you about that. And we'll be coming back to talk to  
7 you a little bit in the future about monitoring, and  
8 we'll talk on the next slide when we see our next  
9 opportunities to interact with you on monitoring  
10 activities.

11 Low-level waste strategic assessment, we  
12 had a wonderful workshop that the ACNW sponsored, and  
13 it provided a great deal of information. It really  
14 provided a good platform for us to collect stakeholder  
15 input, as well as to give us an opportunity to kind of  
16 explain why we were doing low-level waste strategic  
17 assessment, and what we were trying to accomplish.  
18 And we have the paper in development, and it should be  
19 going up to the Commission soon, and to be made public  
20 soon. And right after, as soon as we can after that's  
21 made publicly available, we'll come down and meet with  
22 you, share with you the insights, and the rationale as  
23 to how we came out with some of our views and  
24 conclusions, recognizing that we are still waiting for  
25 -- we would still be waiting for, possibly, the

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1 Commission's views in terms of the priorities that we  
2 offer in the area of low-level waste. And really, the  
3 focus, again, on strategic assessment, it's really  
4 looking at the universe of activities in the low-level  
5 waste area. And right now, environment is fairly  
6 dynamic, and I know just this week NEI was in talking  
7 about some of their activities as they prepare the  
8 environment. And we factored those things into  
9 strategic assessment, and really looked at how do we  
10 ensure that we have a stable, predictable regulatory  
11 framework for low-level waste? And then how do we --  
12 and in doing that, what are the main things that we  
13 need to work on, and how do we efficiently use the  
14 resources that we have to ensure that we're focused on  
15 the right activities? And so we'll explain to you the  
16 logic that we used, and how we went about constructing  
17 the paper, and how we came out with the priorities.  
18 And, specifically, how we addressed - you guys  
19 provided us with a letter and views on certain  
20 activities and things that we should consider focusing  
21 on following the workshop, based on the Committee's  
22 views, based on things that you also heard at the  
23 workshop. And we can explain how we factored those  
24 in, and how that influenced kind of how we constructed  
25 our priority list.

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1           The last issue I wanted to mention on the  
2 first slide, it's a near term issue, is the legacy  
3 sites rulemaking for decommissioning. We've come down  
4 and talked to you a few times over the years, I think  
5 in 2005, and I think twice in 2006, about this issue.  
6 And we're in the process of putting together the rule,  
7 working with Patty's folks. And as that rule is  
8 finalized, we will come down and talk to you. There  
9 was one issue, in particular, in addition to just the  
10 overall discussion on the rule that we want to come  
11 and talk to you about, there was one issue that we do  
12 want to come and talk to you about, and that had to do  
13 with the financial incentives. And I think that was  
14 the subject of a few letters that we received from the  
15 Committee, and we do want to come down and talk a  
16 little bit more to make sure that we have a good grasp  
17 on the views that the Committee was providing us as we  
18 move forward on that rulemaking activity.

19           On the next slide, I want to focus on some  
20 of the things that we see as future activities, and  
21 future interfaces. The first one I'm going to talk  
22 about is the on-site storage guidance, that's low-  
23 level waste on-site storage guidance, really a topic  
24 that we talked about at the workshop in May of 2006,  
25 and had mentioned that that was an activity that we

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1 were working on. We're continuing to work on that,  
2 and we are -- our focus is primarily on developing a  
3 guidance document for the materials and fuel cycle  
4 facilities. And we have had members of our staff, Jim  
5 Shaffner, who is working on that. He's been out on  
6 site visits with our regional staff, and with  
7 agreement state staff really collecting information to  
8 help support and provide insights for how we should  
9 construct, and what kind of information we need to  
10 cover in that guidance document. And we're also  
11 interfacing with NEI. NEI spoke earlier this week  
12 about their guidance development activity for storage  
13 for reactor facilities, and we've met with them twice,  
14 and we intend to meet with them again in early October  
15 to talk about their guidance document, and the  
16 approach they were taking there to ensure that we have  
17 a comprehensive guidance in terms of storage for both  
18 materials and fuel cycle facilities, as well as  
19 reactors. We really are going to look to endorse or  
20 leverage the work that they've done to the extent that  
21 we can, so that's the subject of the meetings that  
22 we've had in the past, given that they provided us  
23 with an overview how they were constructing that  
24 guidance, what kind of information they were going to  
25 include. And the next meeting is a continuation of

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1 that, so that's really the goal, so that we can have  
2 something out and available prior to the expected  
3 closure at Barnum in June of 2008.

4 The next topic I want to talk about -  
5 before I leave that on-site source guidance, we'll  
6 come back and meet with you, and share where we're  
7 headed with our guidance document. I think we're  
8 actually looking at as early as November, possibly,  
9 but I put this in future activities, because while we  
10 meet you in November and talk about where we're at  
11 right now, I'd see this as a continuum. This is  
12 something that is going to continue over some time,  
13 and we need to continue to have a dialogue on it, so  
14 we'll continue to -- the first initial interaction may  
15 be in November. We'll also look forward to future  
16 interactions with you following that.

17 The next item I wanted to talk about is  
18 dose modeling evaluation. That is a division  
19 initiative. One of the things that our division over  
20 the last years that we have completed several self-  
21 assessments, low-level waste strategic assessment is  
22 one, where we're looking at how can we ensure our  
23 program is adequate to ensure good regulatory  
24 framework. We've also looked at our NEPA program. We  
25 had a contractor come in and do an audit of our NEPA

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1 program to ensure we're working as efficient and  
2 effectively as we can, and provide some good insights,  
3 particularly with the expectation, the large amount of  
4 environmental work that we're going to see with the in  
5 situ leach facilities licensing activities if that  
6 comes in, as well as some fuel cycle licensing  
7 activities, as well.

8 And we've also looked at our  
9 decommissioning program. We've been looking at that  
10 for some time over several years. And one of the  
11 areas we wanted to look at was our dose modeling  
12 program, and really examine our methods and  
13 techniques, tools that we apply in the right places,  
14 right approaches. And that effort is being led by Dr.  
15 Bobby Eid of our staff, our Senior Level Scientist, in  
16 examining that, and interfacing with our staff. And  
17 once that's completed, we're looking at completing  
18 that towards the end of the year, but once that's  
19 completed, we do want to come back and share with you  
20 some of the insights from that effort and analysis.  
21 We're looking forward to seeing results. Again, we  
22 think we have a very strong program in terms of dose  
23 modeling. We have some outstanding experts in that  
24 area, Dr. Esh, Dr. Ridge, some of those folks. But  
25 it's always good to continually look at yourself, and

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1 look for ways to continually improve, and become more  
2 efficient and effective, so that's one of the  
3 activities that we're doing there, and we'll come back  
4 and talk to you about. I think that will be an  
5 interesting session when we do that.

6 The next topic I wanted to talk about is  
7 in situ leach rulemaking. Patty touched on that, and  
8 mentioned that we intend to come back and talk to you  
9 once the rule language is completed. And, also, one  
10 of the things that we see as particularly valuable, as  
11 Patty mentioned, is to get your insights as we go  
12 forward in developing the guidance. I think a lot of  
13 the work in terms of how you implement the use of  
14 ACLs, et cetera, in the guidance document is where we  
15 can see some valuable insights from the Committee as  
16 we move forward on that, so we look forward to future  
17 interactions on that, as well. And we'll look for the  
18 right times to come and meet with you to talk about  
19 some of those things.

20 Monitoring at Savannah River site, this is  
21 the -- we talked about when we came and met with you  
22 earlier this year, we talked about the monitoring  
23 report, but we would like to come back to you after  
24 we've had an opportunity, we have not initiated  
25 monitoring activities at Savannah River site. DOE has

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1 not started their activities there, but once they  
2 start and we have an opportunity to initiate our  
3 monitoring activities, we do want to come back and  
4 talk to you about that, as well. So we'll look for  
5 the right time, and we'll interface with the staff to  
6 find the right time to come back and talk with you,  
7 and give you a report of some of the things that we're  
8 seeing, and how that process is working, recognizing  
9 that the monitoring activity that we have is new, and  
10 it's early in its implementation, so we'll continue to  
11 examine ourselves, and how we're going about doing  
12 that monitoring. We think we have a good approach,  
13 and a good plan, but we continue to look for insights  
14 as we implement.

15 The next topic, West Valley Project  
16 Erosion Issues, the slide says West Valley Project  
17 Erosion Issues, and certainly, you know the history of  
18 West Valley, and the issues associated with erosion.  
19 But we really see a benefit interacting with the  
20 Committee in a little bit broader sense on erosion  
21 topics, not just limited to West Valley, but really  
22 more from a look at some of the Lessons Learned and  
23 experience that we gained from dealing with some  
24 complex cover designs, complex erosion issues. We've  
25 had some that we talked about in the Savannah River

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1 Waste Determination for the Salt Waste Facility.  
2 There was issues with the cap design, some of those  
3 things. And what we're doing is collecting our  
4 Lessons Learned, and how do we implement those in the  
5 future. And I think that's one of the topics which we  
6 would want to come back and talk to you about. And,  
7 certainly, West Valley activities and insights we're  
8 learning from West Valley, we would certainly include,  
9 but that is something that we see as a probably  
10 broader discussion, as opposed to just West Valley.  
11 We see more benefit from interacting with you in that  
12 standpoint.

13 And then the last topic I'll mention,  
14 again, is the Low-Level Waste Strategic Assessment.  
15 As I said earlier, we're coming down and talking to  
16 you once that document is public, but then it becomes  
17 -- the most critical part is in the implementation,  
18 how do we start moving out in implementing some of the  
19 recommendations, and the activities. And, certainly,  
20 many challenges as we start to tackle some of those  
21 topics, and how do we go about doing some of those  
22 things. And I think that's an opportunity for us to  
23 interface with you again, as we start to look at how  
24 we tackle some of those issues, and implement  
25 potential changes, whether it be changes to a guidance

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1 document, or generation of a new guidance document, or  
2 something of that sort, as an opportunity to come and  
3 get your insights on how we go about doing that.

4 So with that, that concludes my remarks.  
5 And, again, I just wanted to recap that I think we've  
6 had a number of positive interactions over the last  
7 few years, several this year, and we look forward to  
8 more in the future. We value the insights and input  
9 that's given to us by the Committee, and we look  
10 forward to future interactions.

11 MR. MILLER: Thanks, Scott. Before we  
12 conclude, I just want to acknowledge my appreciation  
13 for the support that I get for my Monday morning staff  
14 meetings from the ACNW staff members. Antonio, Derek,  
15 Latif faithfully come to my meetings, and I think it  
16 gives us a good opportunity for them to hear the  
17 issues that are on my plate, with my managers, and  
18 they get feedback from them concerning issues that are  
19 of interest to the parties, and things that you're  
20 interesting in hearing from us. So, again, I'd like  
21 to thank them for their support in the interface of  
22 that. That concludes our presentation, Mr. Chairman.

23 CHAIR RYAN: Thank you very much, Charlie.  
24 That's great. Boy, there's a lot accomplished in a  
25 year, isn't there?

1 MR. MILLER: Yes.

2 CHAIR RYAN: So that's really good news.  
3 And I think I certainly second the fact that our  
4 interactions at a staff level week to week, and month  
5 to month really help us identify things of interest to  
6 the Committee, that they're under our action plan, and  
7 I think we collaborate very well on, so I appreciate  
8 that very much. It's something we'll continue to  
9 nurture, and our rolling calendar, which we all share  
10 how we schedule talks I hope is efficient for you. It  
11 sure is for us, and gives the opportunity, as Scott  
12 mentioned, of integrating their low-level waste  
13 strategic assessment with our working group  
14 assessments on the same topics was really a way for  
15 everybody to be in the same room, and hear the same  
16 experts, and get the same information all at the same  
17 time, so we really appreciate that.

18 I'm sure everybody is going to have some  
19 either questions or comments. Let's see. Patty, if  
20 I could just ask you a question. You did not mention  
21 Indian Tribes in any of your interactions, and I  
22 wanted to give you the opportunity to give us some  
23 additional information on how they're involved,  
24 particularly on the Uranium, perhaps some of the other  
25 questions.

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1 MS. BUBAR: Yes, thank you. That was  
2 actually a big oversight. We are really trying to  
3 spend a lot of time developing not only our staff in  
4 terms of understanding the value of interacting with  
5 Tribal government, but actually doing that, and using  
6 the feedback that we get from the Tribal government.  
7 So, actually, Rich Turtill is our Branch Chief, and  
8 then we have one staff person, Shawn Smith, who we  
9 have really kind of asked to dedicate to forming  
10 relationship with the Tribal governments. Rich was  
11 actually facilitating a meeting yesterday in Mexico,  
12 and he's going to be going to the meeting next week in  
13 Gallop. And Shawn has actually been spending a lot of  
14 time into getting to know particularly the tribes up  
15 in the Alaska area because of the Galina reactor  
16 proposal. But, in general, trying to understand the  
17 issues, and the culture that you have with the Tribal  
18 government. So we clearly are trying to ensure that  
19 we develop those relationships.

20 Developing those relationships are  
21 important for us to hear their input, not only on the  
22 in situ leaching activities, but on many activities,  
23 reactor issues, not necessarily waste. So we really  
24 have been trying to dedicate that time.

25 On the in situ leaching, I mean, Scott's

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1 organization has the bulk of the technical expertise  
2 on those issues, but we're interfacing with them, and  
3 trying to make sure that as we listen -- resolve these  
4 technical issues, that we're taking the advice and the  
5 input from the Tribal governments into account. So as  
6 part of that, we're also asking ourselves the more  
7 broader questions of dealing with the Tribal  
8 governments, in general.

9 I came from the Department of Energy, and  
10 we actually had a policy on dealing with Tribal  
11 governments. I know in a regulatory agency, it's  
12 different, but we're asking ourselves those questions,  
13 as do we need to think about that long-term in terms  
14 of how the NRC, in general, might be reacting with the  
15 Tribal governments. So that's a long way away, and we  
16 have to spend time building those relationships so  
17 that we understand exactly what the issues are. But  
18 yes, thank you for that reminder. That was an  
19 oversight because we are putting time and energy into  
20 it, and there's tremendous payoff.

21 CHAIR RYAN: Sure. Again, I knew there  
22 was a little bit there, but I just didn't want the  
23 members and the audience to not hear your summary of  
24 that part of your program, as well.

25 MS. BUBAR: Thank you. And in addition to

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1 individual Tribal representatives, we're also trying  
2 to interact with the NCAI, National Congress of  
3 American Indians, as well as other groups which  
4 represent tribes as best that they can. So we're also  
5 trying to make sure that we have relationships with  
6 those folks, also.

7 CHAIR RYAN: It might be interesting at  
8 some point as it might integrate with other briefings  
9 to hear a little bit more on the specifics of how  
10 those interactions are going, and so forth, so we  
11 could maybe advise the Commission on anything we might  
12 see. Appreciate it in those efforts.

13 MR. MILLER: Yes. I mean, just to augment  
14 Patty's comments, Scott gave Larry's regrets. Larry  
15 was out participating in a public meeting this week.  
16 Next week meeting is primarily going to -- it's a  
17 public meeting for all parties, but we expect heavy  
18 participation by the Navajos. If I could just make a  
19 point, with the Indian tribes that are located in  
20 vicinities where there's large deposits of Uranium  
21 that companies want to either mine or build in situ  
22 leach facilities, this is a very delicate interaction  
23 with them, because they've got a lot of history with  
24 regard to what we deal with now is legacy sites. And  
25 for previous activities in the United States with

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1 regard to Uranium mining, and mill tailings piles.  
2 And in many instances, it's not a very happy story,  
3 and so the tribes are very concerned about that, and  
4 what the future might bring. And is the future going  
5 to be a repeat of history? And that's something that  
6 we're trying to spend a lot of time trying to talk to  
7 the tribes about with regard to how we see the future,  
8 how we see our role, and trying to assure that that  
9 doesn't happen.

10 CHAIR RYAN: Great. Let's see. You know,  
11 Jan, in your talk I noticed that the MPEP program is  
12 alive and well. That's good to hear. We've written  
13 a couple of letters about it. I think it's a real  
14 interesting program, very proactive because it not is  
15 an inspection process, which is important, but it's at  
16 the leading edge of leading indicators, which is  
17 always a good thing. And I think that's a strength in  
18 the program, and really appreciate that. And, Scott,  
19 you know there's plenty of waste stuff to talk about.  
20 We see you on a regular basis. We feel like you're  
21 going to be in the room no matter what we're talking  
22 about, so we really appreciate that. And, again,  
23 we've commented in the past that we think your  
24 Performance Assessment, use a slightly different  
25 phrase, Dose Modeling staff is probably one of the

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1 strongest groups in the country in that area of skill,  
2 and that's something to be nurtured, and really  
3 cherished because it's hard to put together that many  
4 people in one room that have that much talent. They  
5 really do tremendous work on WIR and other performance  
6 assessment kinds of work, and that's a real strength,  
7 so there's a lot of value there.

8 So with that, I'll turn to my colleagues,  
9 and start with Dr. Clarke. Do you have any questions  
10 or comments?

11 DR. CLARKE: Thank you, Mike. Thank all  
12 of you for your presentations. Let me start with  
13 Scott. I think that's an awfully good list you have  
14 up here, and we really look forward to continuing  
15 exchanges on these topics. And with respect to  
16 preventing legacy sites, we welcome further  
17 discussions with you on that. I think we've clarified  
18 our comments, but it's an opportunity to look at what  
19 kinds of incentives could be provided for people who  
20 do engineer their facilities to prevent releases,  
21 detect them if they have them, and remediate them  
22 effectively and quickly so that they don't get to the  
23 end of the process with a lot to do, and so the stuff  
24 doesn't get into the groundwater. When it gets into  
25 the groundwater, you know it's a whole new challenge.

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1 So thank you for that, and we -- and I think your  
2 group in the decommissioning efforts that I've been  
3 involved with with the Committee are good examples of  
4 how we can best help, if we come in early. And we  
5 appreciate that, and we appreciate your coming.

6 I had a question for Patty. As you know,  
7 the restoration of contaminated groundwater is a  
8 challenge to not just the NRC, but DOE, and EPA, and  
9 the Department of Defense, as well. I wonder, does  
10 your working group have now, or is it contemplating  
11 additional representation from maybe some other  
12 federal agencies, for example, the DOE and the  
13 Department of Defense that have a fair amount of  
14 experience with this?

15 MS. BUBAR: We had not contemplated  
16 actually adding a formal working group member from  
17 those other federal agencies. However, we did reach  
18 out to the Department of Energy. Actually, as I  
19 mentioned, we're trying to reach out to all the  
20 federal agencies. We've met with the management of  
21 EPA, DOE, OSHA, Department of Homeland Security, we're  
22 just started to establish our relationships, and have  
23 a commitment with all those agencies based on that  
24 initial contact to continue to come back, possibly on  
25 a quarterly basis, to talk about issues that we want

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1 to continue to work with them on, both technically and  
2 programmatically. So we have those avenues for having  
3 those lines of communication.

4 We hadn't thought about, or at least, I  
5 don't know, Gary, we do not have them formally  
6 represented in our working group, but I think maybe  
7 with your suggestion we'll think about maybe having  
8 them work with us in an advisory capacity, given their  
9 tremendous --

10 DR. CLARKE: Just a thought.

11 MS. BUBAR: Yes. Thank you.

12 DR. CLARKE: Yes.

13 MS. BUBAR: Yes. We actually participate  
14 in the ISCORS organization, also. In fact, Don Cool  
15 in our organization co-chairs that with EPA.

16 DR. CLARKE: Another group that has a good  
17 deal of experience, and has done some really good work  
18 in this area, is the ITRC.

19 MS. BUBAR: Yes.

20 DR. CLARKE: So just a few suggestions  
21 about potential --

22 MS. BUBAR: Yes, good ideas.

23 DR. CLARKE: -- communications with other  
24 interested and experienced parties.

25 MS. BUBAR: Thank you.

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1 DR. CLARKE: Thank you, Mike.

2 CHAIR RYAN: Okay. Ruth.

3 DR. WEINER: First of all, I want to  
4 welcome Patty, because we run into each other in  
5 different venues. And I will see whoever is at the  
6 hearing in Gallop because I'm planning to go.

7 MS. BUBAR: Good.

8 DR. WEINER: I, unfortunately, couldn't  
9 make it to the one in Albuquerque, but my husband  
10 taped it, so I heard the whole hearing.

11 MS. BUBAR: Okay.

12 DR. WEINER: I was going to suggest in  
13 your outreach to the tribes that I don't know if  
14 you've made any contact with the American Indian  
15 Science and Engineering Society. They're  
16 headquartered in Albuquerque, and they are a very  
17 excellent resource for you. They have repeated what  
18 we do, in particular, my little group at Sandia. What  
19 we do is, as volunteers, we help them judge the  
20 American Indian Science Fair. And I want to point  
21 out, this is one of the absolutely best run science  
22 fairs that I'm familiar with. And we review all of  
23 the submissions, give advice to the teachers, and so  
24 on. My assistant at the labs got an award from them  
25 last year for his work with the science teachers in

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1 the Indian schools.

2 We've also done - the American Nuclear Society has  
3 also done some outreach work with science teachers at  
4 the Indian schools, and this is a place where you  
5 could be of some assistance.

6 As far as the in situ leach question is  
7 concerned, what is the state that is on your state  
8 working group?

9 MR. COMFORT: We have two representatives,  
10 one from the --

11 DR. WEINER: Yes, you're going to have to  
12 come to the microphone.

13 (Simultaneous speech.)

14 MS. BUBAR: Gary is the head of the  
15 working group.

16 CHAIR RYAN: We're on the record, so just  
17 your name. You can sit at the table if you want, but  
18 just your name, and your affiliation.

19 MR. COMFORT: Hi. I'm Gary Comfort. I'm  
20 a Senior Project Manager in FSME in the Rulemaking  
21 Branch. I'm also the Project Manager for the ISL  
22 rule. Basically, we have one state representative  
23 from the State of Texas, who's the agreement state  
24 representative, and we have one state representative  
25 from the State of Washington who represents CRCPD.

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1 DR. WEINER: Thanks. Another member, Dr.  
2 Hinze, and Dr. Hamdan and I recently took a trip, met  
3 with the DOE Office of Legacy Sites in Western  
4 Colorado, and we did write a trip report, which I  
5 believe we can share with you. And we gained a great  
6 many insights, and I wanted to suggest some  
7 cooperative work. We might well work cooperatively  
8 with you. One of the things that we found on our trip  
9 was that when we made it very clear that we were not  
10 regulators, we were an advisory committee, we get a  
11 very different view from the view the regulators get,  
12 because they were much -- well, what we got from the  
13 participants with us from the people who visited was  
14 the view that they would sometimes be hesitant to  
15 share with a regulator. They know about regulation,  
16 and it was a very good trip, and we met with a great  
17 many people, saw the big Atlas pile at Moab, and a  
18 number of remediated sites. And we also ran into some  
19 very interesting research projects on groundwater  
20 remediation, so this is all very good. And I'm very  
21 happy to hear that you're taking a very proactive role  
22 with the public, and not just the Native Tribes, but  
23 with the public in the area with respect to this  
24 rulemaking. And we'd be happy to maintain contact.

25 MS. BUBAR: Thank you. Yes, thank you for

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1 that suggestion.

2 MR. MILLER: Mr. Chairman, could I proceed  
3 on a couple of things with Ruth?

4 CHAIR RYAN: Yes, surely.

5 MR. MILLER: She's got my attention on a  
6 few things here.

7 CHAIR RYAN: If it's okay, I'll just let  
8 the other members get their questions in, and --

9 MR. MILLER: However you'd like to do it.

10 CHAIR RYAN: If that's okay.

11 MR. MILLER: Okay. That would be great.

12 CHAIR RYAN: Allen.

13 VICE CHAIR CROFF: Thank you. I think  
14 first for Patty, you mentioned this Inter-Agency  
15 Working Group on Uranium and Thorium, low  
16 concentrations. Can you give me a little more  
17 context, I guess? What's the problem, or the waste,  
18 or facility that's caused all this to happen?

19 MS. BUBAR: Others may have more, but  
20 historical perspective, or maybe Gary could come back  
21 up to the table and talk a little bit about it. I can  
22 talk about how we have -- it was a group that had  
23 gotten formed several years ago, and then we got some  
24 Commission direction to put it a little bit on the  
25 back burner. And then we got recent direction to

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1 reinvigorate it, so I will actually let Gary give a  
2 little bit of the specifics. He's also the Project  
3 Manager on it.

4 VICE CHAIR CROFF: Before he does, let me  
5 clarify. I'm interested in sort of the technical  
6 problem it's trying to address.

7 MR. COMFORT: Okay.

8 VICE CHAIR CROFF: Okay.

9 MR. COMFORT: I'm Gary Comfort, again.  
10 Basically, the Inter-Agency Jurisdictional Working  
11 Group was set up in about 2000 to address what's the  
12 best way to handle low activities of Uranium. It  
13 included groups from a variety of agencies, OSHA,  
14 MSHA, DOE, EPA, Department of Labor, we had. We had  
15 Department of Transportation. Basically, the thing it  
16 was trying to handle is, because of our regulatory  
17 scheme, there's some inconsistencies in our  
18 regulations, particularly regarding source material,  
19 Uranium and Thorium. We have an exemption at .05  
20 percent that we exempt most people using the material  
21 under; yet, we may have decommissioning requirements  
22 that require a licensee to go well below that. So we  
23 were looking, is there a better way to handle it? Do  
24 we need to regulate lower quantities of material?  
25 Should we change our method?

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1           The eventual recommendation in 2003 of  
2           that group was that NRC really shouldn't regulate  
3           Uranium and Thorium that's not purposely extracted or  
4           concentrated for the use of Uranium and Thorium. And,  
5           effectively, as you're probably aware, the Energy  
6           Policy Act in 2005, we took over Radium, effectively  
7           around the same type of thing. We only actively  
8           regulate the purposeful uses of the material in  
9           medical and commercial uses. And that was the intent  
10          before that date of doing the Uranium, also, to allow  
11          you to basically run into that the naturally occurring  
12          material is generally commingled with other materials  
13          that are regulated by the EPA and states, that would  
14          allow them to continue to regulate the -- or to  
15          regulate the Uranium on top of it. And you'd also  
16          remove some dual regulation issues that you came upon.

17                   VICE CHAIR CROFF: Okay. Thanks.

18                   CHAIR RYAN: Can I ask some follow-up to  
19          that particular point? One thing that always strike  
20          me is that -- and it's maybe a self-inflicted wound in  
21          a lot of ways, is we regulate on the basis of those  
22          kind of, forgive me, but goofy criteria that .05 by  
23          weight is some magical risk. It has nothing to do  
24          with risk. In fact, I gave a lecture to the OGC folks  
25          showing them where it came from. It came from the

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1 Atomic Energy Act of '46, '46, not '54, '46. And it's  
2 -- we need to -- I urge you all in all of your  
3 programs to stop putting that gun to your foot and  
4 shooting it. We shouldn't do it that way. We should  
5 look at the risk of a particular material, and  
6 regulate the risk. And if it turns into a  
7 concentration, or it turns into some other metric,  
8 wonderful. But to start out with .05 by weight as a  
9 cutoff for anything to do with the real mission of the  
10 agency, which is to regulate the risk, it's kind of  
11 counterproductive.

12 MS. BUBAR: Yes. We tried to get a seat  
13 at your lecture, but apparently it was standing room  
14 only.

15 CHAIR RYAN: I will be happy to come to --  
16 I will offer you now, Charles, I'll come and give the  
17 lecture to any and all you want, any time.

18 MS. BUBAR: I think that may be helpful.

19 CHAIR RYAN: I'd be happy to do it. It's  
20 actually quite fun. By the way, being Chairman in the  
21 original Commission was a great job. There's a 25  
22 percent bonus in pay for being Chairman over a  
23 Commissioner, so interesting history. But I think the  
24 risk-based approach and getting away from how these  
25 fundamental definitions that were strictly strategic,

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1 strictly strategic to control what was weapons-related  
2 material into our modern thinking about risk is a  
3 really big challenge for your group, in particular,  
4 and for the agency as a whole. So I'm glad it came  
5 up, and Allen, thanks for asking that detailed  
6 question. It really is an area where I think there's  
7 an opportunity to get more to a risk-insight, than  
8 some of these artificial definitions. I think it  
9 helps with communicating the risk to the public, too.

10 MR. MILLER: Maybe we can make an  
11 arrangement to have you come up and do a technical  
12 lecture for us.

13 CHAIR RYAN: Absolutely.

14 MR. MILLER: Might get some knowledge  
15 management of this.

16 CHAIR RYAN: I get here early on Monday of  
17 the meeting week, so I'll be happy to come up Monday  
18 afternoon next time I'm here.

19 MR. MILLER: All right. I'll ask Patty to  
20 --

21 CHAIR RYAN: We'll do it.

22 MS. BUBAR: Definitely.

23 CHAIR RYAN: Thank you, Allen. I  
24 appreciate the interruption.

25 VICE CHAIR CROFF: Scott, I wanted to make

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1 sure I had a connection right. You mentioned this  
2 dose modeling evaluation. I went through the draft  
3 NRC strategic plan that's on the website and this kind  
4 of thing, and there was an item in there. It was a  
5 long paragraph, sort of describing a study that  
6 sounded like the same thing. Are those two --

7 MR. FLANDERS: No, our effort and what  
8 we're focused on is not the broader effort that you  
9 may have saw in the strategic plan. It's just an  
10 internal exercise. Again, as I said, geared toward  
11 looking at ourselves in terms of efficiency and  
12 effectiveness, in terms of how we implement our dose  
13 modeling. For example, for certain decommissioning  
14 activities, what is the right total to use to make  
15 that regulatory decision? You could use a very  
16 complex model to try to solve a pretty basic problem,  
17 or you can use the right type of tool to solve the  
18 right type of problem. Getting into some of those  
19 things, looking at how we do it, our own processes to  
20 ensure ourselves of -- internal QA/QC, in some cases  
21 we develop our own internal models for our use in  
22 terms of helping to inform our reviews, those types of  
23 things. So it's not that broader issue, it's more  
24 narrow focused. It's being led by Dr. Eid. And Dr.  
25 Eid has interfaced with the Office of Research, but in

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1 terms of gaining insights and looking at our  
2 activities, but this is not that broad.

3 VICE CHAIR CROFF: Okay. Let me follow  
4 on. Can you explain a little bit more about what that  
5 broader effort is, the one that's described in the  
6 strategic plan?

7 MR. FLANDERS: I'll let Dr. Eid respond to  
8 that.

9 DR. EID: Yes. Good afternoon, everybody.  
10 My name is Bobby Eid. I'm with the Division of Waste  
11 Manager, FSME. This exercise we are doing, it's more  
12 of self-assessment, actually, in order to evaluate how  
13 we do dose modeling, to make sure we are consistent in  
14 the way we conduct dose modeling analysis, to make  
15 sure that the process we do dose modeling is  
16 efficient, to make sure that we are using the  
17 appropriate codes and models, and the right tools for  
18 the appropriate cases. And in order to improve the  
19 efficiency, to address the issue of transferring of  
20 the experience to the younger generation, as well. So  
21 we have in mind all of this in order to improve the  
22 way we conduct dose modeling analysis, and to transfer  
23 knowledge.

24 VICE CHAIR CROFF: What about the effort  
25 mentioned in the strategic plan, what is that?

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1 DR. EID: I'm not exactly aware of --

2 MR. FLANDERS: Allen, I was unfamiliar  
3 with that broader --

4 DR. EID: -- of this familiar, so --

5 MR. FLANDERS: I can't speak to it at this  
6 time, but I can look into it and try to get back to  
7 you.

8 VICE CHAIR CROFF: Okay. I wish we had  
9 that paragraph in front of me, and I don't.

10 MR. FLANDERS: Yes. I think I recall what  
11 you're referring to. I just am not familiar with the  
12 details of that broader effort.

13 VICE CHAIR CROFF: I mean, I'm wildly  
14 paraphrasing, but in an evaluation of how low-level  
15 waste performance assessment is done. That's sort of  
16 what I read into it, but --

17 MR. FLANDERS: I look into that, and see  
18 if there's any --

19 VICE CHAIR CROFF: Yes.

20 MR. FLANDERS: I'll get back to you.

21 VICE CHAIR CROFF: Let me go into -- okay.  
22 I can't let you go without talking about WIR just a  
23 little bit and Savannah River. The last I remember,  
24 and it's been several months, Savannah River submitted  
25 a draft waste determination for a couple of their

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1 tanks. I can never remember the numbers, and I've not  
2 heard much of anything about that since that time. Is  
3 it still being reviewed by the NRC? I haven't seen a  
4 TER come out.

5 MR. FLANDERS: Currently, we are not  
6 reviewing that. They've actually sent us a letter  
7 asking us to hold-off on continuing a review of that  
8 activity while we continue to work with them on some  
9 more generic issues around WIR activities in terms of  
10 performance assessment issues. I think we talked in  
11 the past about seven or eight issues that we had  
12 identified as important to facilitate future  
13 interactions, so a lot of the processes would be more  
14 efficient and effective. For example, how you approach  
15 concentration averaging, how do you look at issues  
16 such as point of compliance. And we've been  
17 interfacing with DOE over the last year or so on those  
18 particular issues. And their thought is to hold off  
19 on resuming a review on tanks 18 and 19 until we've  
20 made more progress on those activities. And then  
21 based on the progress that we make on these more  
22 generic technical issues, they would then look at how,  
23 or if they want to modify their waste determination  
24 for those tanks 18 and 19, and then resume the review.  
25 So at this point, we're not actively reviewing that

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1 specific waste determination. We're continuing to work  
2 with them on some of these broader generic issues in  
3 terms of approaches and philosophies, in terms of how  
4 you go about doing performance assessment, and  
5 demonstrating compliance with the performance  
6 objectives.

7 VICE CHAIR CROFF: Will we, the Committee,  
8 hear anything about the generic issues in the  
9 foreseeable future?

10 MR. FLANDERS: Let me take that back. And  
11 I think there may be an opportunity for us to talk to  
12 you about that. We're still actively working with DOE  
13 on some of those, but I think we could find the time  
14 to discuss some of those. Certainly, you'll hear  
15 about some of them when we come down to talk to you  
16 next month about the guidance document, for example,  
17 concentration averaging is one of those. You'll hear  
18 some of the things we've done in terms of how we've  
19 modified the guidance document for that. And in the  
20 future as we resolve some of these issues, we would  
21 further update the guidance document.

22 One of the things you'll hear when we come  
23 to talk to you is that the document is called draft  
24 final document for interim use, recognizing that as we  
25 resolve these generic technical issues, we're going to

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1 further revise it. So we recognized before that there  
2 was a need to continue to look at this document, and  
3 to continue to update it, because what we didn't want  
4 to do is to wait until we completely finished  
5 resolving all the generic technical issues before we  
6 revised the original draft. We thought that there was  
7 enough comments, and enough issues that we could  
8 address now, and essentially have an interim-type  
9 document, if you will. And then further revise it  
10 after we complete these generic technical issues. So  
11 as we complete those and revise the document further,  
12 there'll be opportunities for us to come and talk to  
13 you about it at that time.

14 VICE CHAIR CROFF: Okay. Back on the  
15 previous subject. Antonio was able to find the right  
16 page. This is that out of the strategic plan,  
17 "Decommissioning and Low-Level Waste Management Dose  
18 Modeling and Performance Assessment Approaches  
19 Review." That's the title. "Expected to be completed  
20 next near, complete a comprehensive technical review  
21 and critical evaluation of the Division of Waste  
22 Management and Environmental Protection current  
23 approach and methodologies used to conduct dose  
24 modeling analysis for decommissioning and low-level  
25 waste."

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1 DR. EID: Yes. I think this one we did not  
2 talk in detail about, our objective for this analysis,  
3 because we are trying to conduct it in two phases.  
4 Phase one, we tried to look at decommissioning  
5 activities, and how we did conduct decommissioning in  
6 order to demonstrate compliance with the license  
7 termination, those criteria. And we look at what the  
8 licensee submitted, and how the staff tried to do to  
9 repeat what the analysis for the compliant, for  
10 demonstration with the dose criteria. And to see how  
11 can we improve the process. And we did for lots of  
12 sites, where there's lots of decommissioning sites  
13 based on this, so we're looking at how we can improve  
14 the process, what kind of course we are using. That's  
15 part one. And this is for something that we are  
16 already doing. I hope you are not confused between  
17 these two.

18 Now for low-level waste we are trying  
19 also, we are doing some kind of dose analysis, some  
20 kind of analysis. For example, in the future we are  
21 looking at different cases, for example, disposal of  
22 depleted Uranium. Okay? There could be dose analysis  
23 for that. And some cases we do dose analysis for  
24 environmental impact statements for Uranium recovery.  
25 So we're planning also to look at ways, and means, and

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1 methods, and codes, and tools, and how can we be  
2 efficient in conducting the dose modeling analysis  
3 whenever it comes to try to comply with certain  
4 criteria in our rules and regulations. I hope it is  
5 clear that there are two parts. One part is for  
6 decommissioning that we already conducted, and the  
7 other part, when we try to review and conduct those  
8 analysis for waste management activities.

9 VICE CHAIR CROFF: But neither of t hose  
10 is the self-assessment you mentioned.

11 DR. EID: No, it is the self-assessment --  
12 okay. The self-assessment -- okay, the first part.  
13 The first part, the licensees submit those analysis.  
14 Okay? And then we try to review it. When we review  
15 it, we use codes and models to run it ourselves.  
16 Okay? And we see if the licensee, indeed, complied  
17 with the criteria or not. So we are doing dose  
18 modeling analysis, and so we want to see how we are  
19 conducting that in order to review what the licensees  
20 submit to us. This is all self-assessment.

21 CHAIR RYAN: But, if I may, I mean, the  
22 licensee submits a package with calculations and  
23 results.

24 DR. EID: Right.

25 CHAIR RYAN: And rather than just accept

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1 those calculations and results, and check their  
2 arithmetic, you're doing an independent analysis,  
3 perhaps with different codes and analysis techniques  
4 to see if their analysis and results are robust.

5 DR. EID: Exactly.

6 CHAIR RYAN: Is that a fair way to say it?

7 DR. EID: Exactly.

8 CHAIR RYAN: And I think what you're  
9 working on is what are the in-house tools to examine  
10 the applicant's calculations.

11 DR. EID: That's well said.

12 CHAIR RYAN: Fair enough?

13 DR. EID: Yes.

14 CHAIR RYAN: Okay. Does that help?

15 VICE CHAIR CROFF: Not entirely. I'm  
16 trying to find out whether there's one exercise, or  
17 two exercises.

18 MR. FLANDERS: Allen, as I look at this,  
19 let me try to clarify. There are essentially two  
20 exercises, the first of which we're talking right  
21 here, feeds into this larger exercise, now that I look  
22 at the words here. It feeds into this larger  
23 exercise, so right now, this first piece that we're  
24 going to come and talk to you about that Bobby is  
25 looking at as parts of decommissioning is our internal

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1 look. And then, of course, it's going to turn into a  
2 broader perspective, and a broader look that this  
3 first initial piece that Bobby is working on will fit  
4 into. When we come to talk to you, we'll explain the  
5 relationship between the two, and make sure that  
6 you're clear on it, so you can follow it.

7 VICE CHAIR CROFF: Okay.

8 MR. FLANDERS: But the answer to your  
9 question is, is what we're talking about here this  
10 broader? No, but it feeds into the broader issue.

11 VICE CHAIR CROFF: Okay. Thanks.

12 CHAIR RYAN: At least we got a good  
13 question. Professor Hinze.

14 DR. HINZE: Thank you, Dr. Ryan. Scott,  
15 you seem to be popular this afternoon. I think I can  
16 speak for the Committee in that we're very pleased to  
17 see you have the West Valley erosion issue where we  
18 could have an interface. This is an area in which  
19 landscape evolution and erosion modeling has  
20 proceeded, and has progressed greatly in the last half  
21 decade or so, and so there are real opportunities to  
22 try to remove some of the uncertainties in this area.  
23 And I'm wondering, we have a work in place on this  
24 issue, and I'm wondering what your time frame is on  
25 this? And could you speak a little bit more about

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1 what you're trying to accomplish.

2 MR. FLANDERS: Okay. Let me take it in  
3 two pieces, first as relates to West Valley. And  
4 then, as I mentioned earlier, looking at more in the  
5 broader sense.

6 DR. HINZE: Sure.

7 MR. FLANDERS: As relates to West Valley,  
8 currently, the issues that we're dealing with around  
9 erosion, we're interfacing in the quarantine process  
10 as a part of the development of the draft  
11 environmental impact statement, as a cooperative  
12 agency. We're a cooperative agency working on that.  
13 And that the cooperative agencies have formed a  
14 quarantine, and they're looking at various issues in  
15 order to facilitate completing the draft environmental  
16 impact statement that DOE and myself are the co-leads  
17 on, and issue that. And this is one particular issue  
18 that they're looking at in terms of how do they  
19 address erosion in that draft environmental impact  
20 statement. And those interactions are pretty much  
21 confined to that core team of cooperating agencies,  
22 because in the cooperating agencies phase you're  
23 dealing with a lot of pre-decisional-type information,  
24 that will eventually come out in draft for public  
25 comment. So we're working on that piece.

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1           In that activity and interface, we're  
2 bringing some of our experts into that process,  
3 involved in that core team process. For example, Dr.  
4 Esh is involved in that core team process. Ted  
5 Johnson, who is a retired expert in cover designs is  
6 also involved in that. Robert Johnson are the key  
7 folks from our group that are involved in that, as  
8 well. What they bring to that process is a great deal  
9 of experience. And in the dialogue there, there's  
10 also a number of issues that come up that are unique  
11 to West Valley, and that we look at from an experience  
12 standpoint to generate and further develop our  
13 guidance. So what we would like to do, and where we  
14 see the benefit in the interface with the Committee is  
15 to, as a part of our, if you will, management  
16 knowledge transfer, we're trying to develop best  
17 practices, identify key technical issues, guidance for  
18 staff in future issues that we might see emerging.  
19 And some of that we're getting from West Valley, some  
20 of that we're bringing to the West Valley process.  
21 And what we'd like to do is come to talk to the  
22 Committee about that broader repository, if you will,  
23 of knowledge as it relates to deal with erosion-type  
24 issues. So we kind of see it as two pieces, one is  
25 the West Valley piece, where we're interfacing as a

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1 part of the core team process, for giving knowledge,  
2 and we're gaining knowledge in the sense of what  
3 unique issues that can develop there from broader  
4 activities so we can capture that, and feed that into  
5 a larger guidance document, which we would like to  
6 then interface with the Committee on, in terms of  
7 Lessons Learned, and how we apply those for future  
8 activity, erosion activities, as well. So that's kind  
9 of a two-step process. And we saw the benefit, as  
10 opposed to just talking solely about West Valley, but  
11 to talk about some of the larger Lessons Learned that  
12 we've had, and how we're trying to develop that, and  
13 capture that guidance, and get some insights from you  
14 as to potential issues, or things that we ensure that  
15 we cover and address.

16 DR. HINZE: I think the staff will be very  
17 interested in speaking with you, and we can decide how  
18 best to do this. It's something of interest to us, as  
19 well.

20 Janet, I would like to hear your voice  
21 again. It's been a long time. Janet, irradiated  
22 gemstones tweaked my interest a bit. It seems to me  
23 that this is a very small element, if you will, of the  
24 entire program, but a fascinating one. And, perhaps,  
25 a rather difficult one. I can envision that there are

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1 some real problems in licensing on this. And I'm  
2 wondering if you could expand a bit, because, as I  
3 understand it, the agency has not been involved in  
4 this in recent years. Could you expand on some of the  
5 problems? And I'm wondering if any of this is going  
6 to lead towards any new reg guides? Is that in the  
7 works?

8 MS. SCHLUETER: I don't know as though it  
9 will result in new reg guides. It could. There's  
10 actually two that my staff have dusted off that exist,  
11 that provide some technical bases for determining  
12 whether or not the concentrations that we're seeing  
13 should be released, or held until they can hit the  
14 exempt concentration levels that are allowed by Part  
15 30. We certainly are trying to do our best to make  
16 sure that we're surveying a wide enough spectrum and  
17 sample of what we believe is out there to be  
18 representative. And then you're talking about --

19 DR. HINZE: That must be very difficult.

20 MS. SCHLUETER: -- dose modeling and  
21 assumptions, and we don't want to be too conservative,  
22 but we don't want to be criticized of being lax, and  
23 just letting the gemstones go, so that everybody has  
24 a happy Christmas, because that's what the retailers  
25 in the industry are saying. Hey, you've crushed our

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1 season this year because you've identified the  
2 inventory as potentially not meeting exempt  
3 concentration, so we need to work with you to  
4 officially determine is there inventory now that can  
5 be released that, for one thing, has been held a long  
6 time. Because so many times when they are irradiated  
7 overseas, by the time that they actually are sent to  
8 a large distributor for cutting, mounting, and further  
9 distribution, weeks and months go by, and so in many  
10 cases by the time that the inventories are even  
11 distributed to the retailers, the dose rates off of  
12 the stones are extremely low. But at this point,  
13 we're still collecting enough information to see the  
14 inventory that they currently have in stock now that  
15 they'd like to see us give them permission to release,  
16 does it pose any radiation safety issues for the  
17 public?

18 DR. HINZE: Well, if you see any way that  
19 this Committee might be of assistance with this, and  
20 holding any workshops, or bringing in some people that  
21 have some particular expertise in this, that is  
22 outside the Commission, I think we'd very much like to  
23 know. Thank you very much.

24 MS. SCHLUETER: Thank you.

25 CHAIR RYAN: Hey, questions. Charles, you

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1 wanted to follow-up.

2 MR. MILLER: Yes, if I could.

3 CHAIR RYAN: Please.

4 MR. MILLER: Ruth, you had mentioned about  
5 the American Indian Science and Engineering Society.

6 DR. WEINER: Yes.

7 MR. MILLER: Okay. A couple of issues  
8 there. Is that -- first of all, is there a point of  
9 contact there you could recommend, that maybe Patty  
10 could pursue?

11 DR. WEINER: Yes, I can certainly give you  
12 -- they're headquartered in Albuquerque, and I can  
13 find the name of the current Executive Director.

14 MR. MILLER: That would be great.

15 DR. WEINER: Sure. I can just email it to  
16 you, and to Patty.

17 MR. MILLER: Great. That would be  
18 wonderful.

19 DR. WEINER: That would be fine.

20 MR. MILLER: In that line, would that be  
21 an organization that might provide some opportunity to  
22 aim us in the direction for recruiting purposes?

23 DR. WEINER: I think very definitely.

24 MR. MILLER: Okay.

25 DR. WEINER: The two foci of the group

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1 are, first of all, science education through teacher  
2 workshops, and the science fair. And the second one  
3 is placing people in technical positions. They also  
4 give a large number of scholarships to potential  
5 engineering students, and they would simply be  
6 delighted to work with you to find placements for some  
7 of their people.

8 MR. MILLER: Great.

9 DR. WEINER: They are very anxious to do  
10 this. They, being located in a state where there are  
11 two national laboratories, they work very assiduously  
12 to have people hired by those national labs, and  
13 they'd welcome that.

14 MR. MILLER: Okay. Do they represent a  
15 broad spectrum of tribes, or are they primarily the  
16 ones located in New Mexico/Arizona area. Do you know?

17 DR. WEINER: No, they represent all of the  
18 tribes in the United States.

19 MR. MILLER: Okay. Great.

20 DR. WEINER: We get, for the science fair,  
21 we have applicants from schools all over the country.  
22 And as it happened, the science fair about three years  
23 ago, the big one that the kids could get into was in  
24 Albuquerque, but I believe last year it was in  
25 Orlando. And it's been all over the place, so they

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1 are a national organization.

2 MR. MILLER: Thank you. Any help you can  
3 give us on that front, would be appreciated.

4 The other question was, if we could  
5 dialogue a minute on this, you talked about in your  
6 travels, you could get to talk to folks who may tell  
7 you things that they won't tell a regulator. How do  
8 you take that information as an advisory committee,  
9 and be able to dialogue with the regulator side of the  
10 house in such a way that that information can be  
11 useful to us with regard to helping us inform what we  
12 do in a better way, but yet, not violate their views  
13 so that they feel that what they tell you isn't passed  
14 on it a way that will somehow cause harm to them, if  
15 I'm making myself clear.

16 DR. WEINER: I don't want to over-  
17 emphasize this dichotomy here. I mean, it isn't as if  
18 they said well, come over and we'll take you aside,  
19 and we'll really unload on you. But we have a trip  
20 report which is very detailed, and we put in it quite  
21 openly all of the information that we get. I think it  
22 is more a case that there are things that they're  
23 hesitant to tell you, but don't mind if you hear it.  
24 It's not that they -- it's not a question of  
25 concealment. It's a question of being one-on-one with

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1 the regulator, and perhaps the regulator will make the  
2 wrong interpretation, or take this wrong.

3 One of the things that we found, by the  
4 way, was there is no notion that they're over-  
5 regulated. In fact, one of the things that came out  
6 of the meeting that we had with the DOE, Office of  
7 Legacy Management, and two states were there, and two  
8 tribes were there, and they said it's okay to have  
9 more than one regulator, as long as they are working  
10 cooperatively. And this is the kind of thing that you  
11 all, as regulators, might not hear directly. I think  
12 that's more the sense in which we interacted with  
13 them. Because the other field trip that we took to  
14 Chadron, Nebraska, we were there at the same time with  
15 the regulators, and we also noticed that there was a  
16 very cooperative relationship between the regulator.  
17 There was no sense of confrontation, or anything like  
18 that. So I don't want to over-emphasize this. It just  
19 simply struck me that saying well, we're not here to  
20 regulate, we're just here to learn.

21 CHAIR RYAN: Ruth, I think there's an  
22 element there, too, that's common in other things that  
23 I've done, and everybody else has done, too, and  
24 that's early and often. Go early, without anything to  
25 determine, or answer, or decide, just go and listen.

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1 I mean, when we ask the staff to come down, what's our  
2 request? Come as early as you can. The earlier we  
3 hear it, the better we can prepare, and digest, write  
4 letters, and be effective in what we do, so I think  
5 that's maybe part of the thing that Ruth's talking  
6 about, is go early, go often, and go before there's a  
7 needed decision.

8 MS. BUBAR: And, actually, what I was  
9 thinking of as you were talking about this, is Legacy  
10 Management got formed because of the mistakes that  
11 were made, and that's we had to have a clean-up  
12 program. So their perspective on what they might not  
13 have to do if we would cause something to happen  
14 during an operational stage would be very helpful,  
15 because their scope might be different if mistakes  
16 weren't made.

17 DR. WEINER: We are very happy to share  
18 with you all, and, of course, we will be writing  
19 another letter, other letters to the Commission, and  
20 you get that information back.

21 MS. BUBAR: Sure.

22 DR. WEINER: And we put any attachments on  
23 it. Our trip reports are open for anybody, and this  
24 one was very detailed. And if you don't have a happy,  
25 we'll get -- we'll take care of that.

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1 MR. MILLER: Thank you.

2 DR. WEINER: In fact, I'd be happy to come  
3 -- Dr. Hinze and I would be happy to come and talk to  
4 you at greater length about our travels.

5 MR. MILLER: Good.

6 DR. WEINER: As I said, I'll probably see  
7 you all --

8 CHAIR RYAN: We have to be careful,  
9 because I think we have to do that in this forum.

10 DR. WEINER: Oh, no. We -- as long as we  
11 have a staff member there.

12 CHAIR RYAN: No, as long as we do it in  
13 the public.

14 DR. WEINER: Well, yes.

15 CHAIR RYAN: Exchanging information, we  
16 need to do that --

17 DR. WEINER: In the public forum.

18 CHAIR RYAN: -- in the context of our  
19 charter.

20 DR. WEINER: Surely. So we'd do this in  
21 a public forum. We went as a subcommittee, also. It  
22 was not the full committee. The full committee, we  
23 would have had a public meeting, but we went simply as  
24 a fact finding, mostly to inform ourselves.

25 CHAIR RYAN: Just for everybody

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1 information and benefit, when a subcommittee does  
2 gather information, they make a report to the full  
3 committee in a public session, so that's how the  
4 information is made public.

5 DR. WEINER: And, as a matter of fact, we  
6 just did that.

7 CHAIR RYAN: Anything else?

8 MR. MILLER: Thank you. I appreciate the  
9 discussion.

10 CHAIR RYAN: You know, I've got to  
11 summarize by saying you've really got a lot of  
12 hardworking folks that have done an awful lot to pull  
13 an organization from the four corners of the NRC earth  
14 into one organization, and really get as much done and  
15 as much organized as you have. There's a lot of  
16 talented folks, and they're doing good work, and we  
17 really appreciate interacting with you as we learn our  
18 scope on materials, and see how you're addressing all  
19 those issues. So thanks very much for a real  
20 informative briefing, we all enjoyed it.

21 MR. MILLER: Thank you very much.

22 MS. BUBAR: If only we had youthful  
23 exuberance, we'd be there. Right?

24 (Laughter.)

25 CHAIR RYAN: Thank you all very much.

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1 MR. MILLER: All right.

2 MS. BUBAR: Thank you.

3 CHAIR RYAN: With that, I'm going to  
4 suggest we take a 15-minute break. I believe this is  
5 our last item for the record today, so we'll close the  
6 record at this point for the day. Thank you very  
7 much.

8 (Whereupon, the proceedings went off the  
9 record at 3:06 p.m.)

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CERTIFICATE

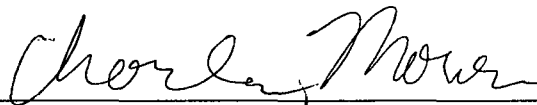
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Name of Proceeding: Advisory Committee on  
Nuclear Waste & Materials  
182<sup>nd</sup> Meeting

Docket Number: n/a

Location: Rockville, MD

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