Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: Portsmouth Gaseous Diffusion Plant
Public Meeting

Docket Number: (n/a)

Location: Piketon, Ohio

Date: Tuesday, June 10, 2008

Work Order No.: NRC-2231 Pages 1-4

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1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

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4 PUBLIC MEETING TO DISCUSS

5 THE RENEWAL OF THE CERTIFICATE OF COMPLIANCE FOR

6 PORTSMOUTH GASEOUS DIFFUSION PLANT

7 UNITED STATES NUCLEAR REGULATORY COMMISSION

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9 TUESDAY, JUNE 10, 2008

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11 5:30 PM - 8:30 PM

12 + + + + +

13 OSU South Centers

14 OSU Endeavor Center

15 1862 Shyville Road

16 Piketon, Ohio 45661

17

18 FACILITATOR: BRIAN SMITH

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

2 (5:33 p.m.)

3 MR. SMITH: Good evening. It's good to
4 see some familiar faces out there in the crowd. My
5 name is Brian Smith. I'm Chief of the Enrichment and
6 Conversion Branch. I work for the Nuclear Regulatory
7 Commission out of Headquarters Office in Rockville,
8 Maryland. I've been involved with enrichment plants
9 here at the Portsmouth Plant for about five years now.
10 So I've been doing public meetings here for just
11 about as long. So a lot of familiar faces from each
12 of those meetings. Good to see you come out.
13 The purpose for being here tonight is to
14 talk about the renewal of the Certificate of
15 Compliance for the Portsmouth Gaseous Diffusion Plant.
16 USEC submitted their application for renewal in April
17 of this year. And the purpose of this meeting is to
18 go over our process for renewing that application and
19 to take whatever questions or comments you may have
20 and to tell you how you might get involved in this
21 process.
22 I have several other folks from the NRC
23 with me tonight. I have my direct boss, Mike
24 Tschiltz, Director of the Fuel Facility Licensing
25 Directorate. But underneath that my branch which

1 covers all the enrichment and the conversion plants,
2 as well as all the fuel fabrication facilities here in
3 the United States. I have one of my Project Managers,
4 Tilda Liu for this plant. We have two folks from our
5 Region II Office that does the majority of our
6 inspections. Jay Henson, our Branch Chief in the
7 back. One of his Senior Inspectors, Dave Harland,
8 here at the front. We have two Security Specialists
9 from Headquarters, Ed Johannemann and Barry Wray.
10 And let's see. Did I miss anyone?
11 And Ken Clark with our Public Affairs in
12 the back.
13 MALE AUDIENCE MEMBER: We are having
14 trouble hearing you back here.
15 MR. SMITH: Can I move it closer?
16 THE REPORTER: It doesn't amplify.
17 MR. SMITH: Okay, just talk louder. The
18 microphones are for our transcription specialist.
19 I'll speak up.
20 First off in my presentation, we're
21 talking about the NRC, who we are, what we do just
22 briefly. NRC is an independent agency. I'll explain
23 that in just a minute. Responsible for ensuring
24 protection of public and worker health and safety in
25 the use of radioactive materials, as well as ensuring

1 adequate safety and security for radioactive materials
2 and sensitive information.
3 By independent I mean that essentially
4 back prior to the early 1970s, the NRC did not exist
5 and the Department of Energy did not exist, but the
6 Atomic Energy Commission did and it served both the
7 purposes of the Department of Energy today, which is
8 one of the promoters of the nuclear industry, and the
9 NRC, which is the regulator aspects. Congress
10 identified this kind of inherent conflict of interest,
11 and in the early 1970s, created both the NRC and the
12 Department of Energy.
13 So as I mentioned here, our focus is
14 solely on the protection of the public and the
15 environment. And I'm going to repeat that just a
16 couple more times over the next two slides. You'll
17 also see it on every slide up at the top which our
18 Public Affairs calls our tag line, Protecting People
19 and the Environment. That's essentially our sole
20 purpose.
21 We are not a promoter of Portsmouth or any
22 other facility. I just went over that where that's
23 more of the Department of Energy's role, as opposed to
24 the NRC. We're more the regulatory side.
25 Our mission as written in the Atomic

1 Energy Act is to regulate the nation's civilian use of
2 by-products, source, and special nuclear materials to
3 ensure adequate protection of the public health and
4 safety, to promote the common defense and security,
5 and to protect the environment. One aspect to the
6 security side, in addition to the radioactive material
7 that's on site, we also want to ensure adequate
8 protection of the sensitive technologies that are on
9 site. Part of the gaseous diffusion technology is
10 classified information. And so we want to ensure that
11 that information is adequately protected.
12 We accomplish our mission through various
13 means. The first is through the promulgation of
14 regulations and guidance on how to meet those
15 regulations. We issue licenses for companies
16 performing various activities with radioactive
17 materials. And we also follow up by doing inspections
18 to ensure -- to verify compliance with those
19 regulations.
20 If during those inspections we identify
21 non-compliances, we can take enforcement actions and
22 we do take enforcement actions which can include --
23 dose is a violation, sometimes includes civil
24 penalties and sometimes we can issue orders directing
25 the licensee to take specific actions, including to

1 stop operations.

2 Next kind of want to go over our

3 involvement with the Portsmouth Plant. As a lot of

4 you know, the Portsmouth Plant was constructed in the

5 early 1950s and during that time was essentially run

6 by the government through contracts as overseen by the

7 Atomic Energy Commission. Over time the mission of

8 the plant kind of changed from producing weapons grade

9 uranium to fuel for nuclear power reactors, doing

10 enrichment services for some of the commercial nuclear

11 plants to the point where that's all they do now.

12 And so recognizing that, I guess the

13 Department of Energy decided to privatize the company.

14 And so Congress passed the USEC Privatization Act of

15 1992, which required various things. One of which was

16 the NRC had to develop regulations specific to the

17 gaseous diffusion plants. We did that through the

18 promulgation of 10 CFR Part 76, the specific part of

19 our regulations that deals solely with the gaseous

20 diffusion plant. A lot of our other regulations that

21 apply to our other facilities also apply to the

22 gaseous diffusion plants both here and at Paducah.

23 It also required that USEC apply for what

24 they call a Certificate of Compliance. Because it was

25 not a new facility, it could be licensed under our

1 regulations, had been existing for quite a while under
2 DOE regulations, we decided to create what we call a
3 Certificate of Compliance. And so they did apply for
4 that.
5 We reviewed that application and we issued
6 the first Certificate of Compliance in 1996. We did
7 not assume regulatory authority quite at that time,
8 but we did assume transition of regulatory authority
9 from DOE to NRC in 1997.
10 Also at that time there was a creation of
11 what was called the Compliance Plan. As I was saying,
12 the gaseous diffusion plants were supposed to be
13 meeting the requirements of the Department of Energy.
14 And so a review was done at the time of the
15 certification. It was determined that for various
16 areas they did not meet the DOE requirements. And so
17 a Compliance Plan was put together to address those
18 non-compliances, or issues, as we called them.
19 The Plan, as it says here, contained a
20 description of those areas of non-compliance, a plan
21 of action as to how to remedy those, as well as a
22 justification for continued operations in such a
23 condition. The issues addressed in the Compliance
24 Plan dealt with -- controls, fire protection, QA
25 programs, various other issues. All these issues

1 though have been dispositioned and they were all
2 completed in 2003.
3 Next. Environmental considerations. In
4 our regulations CFR 51.22(c)(19), we do have complete
5 either an Environmental Assessment or Environmental
6 Impact Statement. However, at the time of the initial
7 application review and the Compliance Plan, we did
8 perform an Environmental Assessment, which resulted in
9 a finding of no significant impact. We do not plan to
10 do an EA for this renewal. However, we do continue to
11 agree with the findings from the previous EA though.
12 Next. Little bit on the history of the
13 renewals. The first Certificate was issued for a
14 period of one year, which we then had to apply for a
15 renewal. This happened one or two times after which
16 we were able to go to a five-year Certificate. And so
17 this will be -- they're applying for a second five-
18 year period now. So the last one was issued December
19 31st, 2003, which expires this December.
20 And so based on that and our regulations
21 and what was required in the USEC Privatization Act,
22 they had to and did apply for their Certificate
23 renewal by the middle of April. So we did get that.
24 And we have by our regulations six months to review
25 that application to make a recommendation to our

1 Director of our Nuclear Materials Safety and
2 Safeguards. I'll get into that in just a minute.
3 Now to go through our renewal process.
4 We'll perform a technical review. That's underway
5 now. Toda here is one of our reviewers as well as our
6 other Project Manager. His name is Michael Raddatz.
7 He's been here in the past. You may have seen him.
8 He's actually on his way to Paducah for another issue.
9 Our technical review will take about six
10 months. And during that review if we identify any
11 deficiencies in the application, we will request
12 additional information from USEC. And we will
13 document our Safety Review, what we call a Compliance
14 Evaluation Report.
15 In previous meetings here, I talked about
16 the review that we did for the American Centrifuge
17 Plant, where we documented our review in what we call
18 a Safety Evaluation Report. Kind of the same thing
19 here. As we do our review, we'll document our
20 findings in our Compliance Evaluation Report.
21 As I mentioned before for the regulations,
22 our Director of NMSS has to make the decision on
23 whether or not to issue the renewal for the
24 Certificate. Our Compliance Evaluation Report will
25 form the basis for our recommendation to the Director.

1 And we'll be making that hopefully by -- I think it's
2 October.
3 Next. The NRC primarily has what we call
4 licensees, as opposed to Certificate holders or
5 holders of Certificates of Compliance that possess and
6 use radioactive materials. And there is a bit of a
7 difference between the renewals of licenses and the
8 renewals of the Certificate of Compliance. Typically
9 for license renewals there is an opportunity for a
10 hearing, similar to what we went through for the
11 licensing for the American Centrifuge Plant. But in
12 this case there will be no opportunity for a hearing
13 offered.
14 As I mentioned before, there is no
15 Environmental Review. But for other license renewals
16 we typically do what we call an Environmental
17 Assessment. However, one big difference though from a
18 license renewal is that for in doing the Certificate
19 renewal we are required by the Atomic Energy Act to do
20 and perform what they call a Report to Congress. And
21 I'll touch on that in just a second.
22 As I mentioned the Atomic Energy Act
23 requires us to prepare a Report to Congress that
24 addresses the status of the health, safety,
25 environmental conditions at both of the gaseous

1 diffusion plants. The Paducah Plant is going through
2 their renewal as well now. We recently did a public
3 meeting like this there. And so our Report to
4 Congress will address both plants together.
5 The last one was issued with the last
6 renewal back in December of 2003. And we have to do a
7 new report and have it issued prior to the renewal of
8 Certificate.
9 The application that was submitted to us
10 back in April contains a large number of things,
11 actually everything on this list. And I want to go
12 through all of them. But it touches on all aspects of
13 their safety, environmental, and security programs:
14 Safety Analysis Report, Emergency Plan, their QA
15 Program, things that have to do with their -- uranium
16 management plant. So all of this is submitted and
17 reviewed.
18 Some of the things we take into
19 consideration as part of our review include the
20 enforcement history. And I'll touch on that briefly
21 in a couple of slides. Operational activities, what
22 are they doing now on site, what do they plan to do in
23 the future, any changes in the regulations since the
24 last renewal. We look back over the last five years.
25 The NRC is constantly changing its regulations. So

1 we want to look back at those to make sure that
2 they've addressed any of those most recent changes in
3 their various plans.
4 We also want to look at any requested
5 changes from their current Certificate. By that what
6 we mean is they can submit essentially their same
7 application to us that they provided to us last time,
8 kind of use as a review. If there's no changes, makes
9 it a little more simpler. But if they want to modify
10 anything that they're currently doing, do something
11 differently, we'll take a pretty close look at those
12 changes.
13 We'll also look at some of the inspection
14 findings since the last renewal, going back five
15 years. And also the results of the most recent
16 performance reviews.
17 Performance reviews, by that I mean we
18 have a process within our division of fuel cycle that
19 we call Licensee Performance Review, where we look at
20 the performance of our licensees or Certificate
21 holders over a various amount of time. And depending
22 upon the performance of the licensees those can be
23 either the standard time which is about two years or
24 it could be shorter or condensed down to within a year
25 or even less.

1 So we'll look back at those to see if
2 there's anything based on those reviews that we need
3 to address in the review. And in those reviews we
4 typically look at areas where we think they need
5 improvement. It could be from a licensing standpoint,
6 could be performance on site, safety standpoint.
7 Looking over our inspection program, we do
8 our inspections here to assess whether the Certificate
9 holder is operating safely in accordance with both
10 their regulations and its Certificate. The majority
11 of those inspections are performed by our inspectors
12 in Region II. We do have a couple types of inspectors
13 at our Headquarters Office.
14 And through our process we try to ensure
15 that their activities do not impose an undue safety
16 and safeguards risk to the public or the environment
17 or national security. And by the national security, I
18 mean the protection of the classified information that
19 we talked about before.
20 Our inspection programs are commensurate
21 with both risks and the facility performance. And by
22 that I mean from the risk aspect, we try and look at
23 the activities that are ongoing on site that we
24 consider to be the most risk significant. And we will
25 factor a lot of -- or focus a lot of our inspection

1 effort on those activities. We will look at some of
2 the lower risk activities as well. But we will spend
3 the majority of our time on the higher risk
4 activities, as well as facility performance.
5 If the licensee or Certificate holder is
6 having a lot of difficulties or identifying a lot of
7 non-compliances, we will increase our number of
8 inspections and increase our number of inspection
9 hours appropriately to address that. Our inspections
10 are done in many areas, including for example, plant
11 maintenance, health physics, rad protection,
12 engineering, fire safety -- an area that you might
13 think we might not look at but is one we do look at is
14 fire safety -- nuclear criticality safety, and
15 security of classified information.
16 To give you an idea of how much effort we
17 actually put into our inspections, this is the number
18 of hours that we spent actually performing inspections
19 on site. It's quite a bit. Two thousand eight, as
20 you can see, is still under way. We actually have an
21 inspector on site today, this week, Dave Harhand,
22 performing at both an inspection of the Gaseous
23 Diffusion Plant and the cascade.
24 Just briefly on enforcement, these
25 violations here, a total of six cover the five years

1 to date. It's a mix of what we call our escalated
2 enforcement, as well as non-escalated enforcement,
3 majority of which were the non-escalated. Escalated
4 violations are ones in which we can issue civil
5 penalties. The non-escalated ones are ones that we
6 consider more the low risk violations.
7 There has been a significant decrease from
8 the previous Certificate renewal periods. The prior
9 five years had more violations. As you can see,
10 they've significantly dropped off, probably partly due
11 to decreased operations on site, as well as a better
12 understanding of our way of doing business and
13 understanding of our regulations and guidance.
14 Next slide. A bit of a summary of our
15 renewal activities. As I mentioned, the application
16 was submitted in April of this year. Shortly
17 thereafter we issued a Federal Register Notice seeking
18 public comment on that. We've already started our
19 Technical Review and evaluation and that will continue
20 on. As I mentioned, if we have need to ask for
21 additional information, we will.
22 We have to make a recommendation to our
23 Director of Office of Nuclear Material Safety and
24 Safeguards by October of this year. We have to do a
25 Report to Congress. It has to be issued prior to

1 publishing of the Director's decision. And what we do
2 here is we prepare the Report to Congress, as well as
3 our preparation of our Compliance Evaluation Reports,
4 submit it to our Director.
5 I guess if he agrees, he'll then forward
6 the Report to Congress to our Commission and our
7 Commissioners will review the Report to Congress. And
8 once they are satisfied with that report, we will then
9 issue the Certificate, as well as sending the report
10 down to Congress.
11 Then we'll follow that up with a Federal
12 Register Notice, announcing that the decision has been
13 made. And we hope to do that by December of this
14 year. We hope to complete this entire process by the
15 end of the year.
16 We have an open licensing process. And by
17 that I mean the documents that are submitted to us,
18 those that can be made available, will be made
19 publicly available in what we call our ADAMS Document
20 System. It's available through our website and there
21 will be a web address in two slides or three slides.
22 So you can find where those are.
23 You also have several opportunities to
24 provide input into our decision. Following my
25 presentation here, we'll take comments that you have.

1 The meeting is being transcribed, so we will have a
2 good record of what your comments were. If any of you
3 have questions, we'll try and answer those questions
4 tonight.
5 Responding to the Federal Register Notice
6 is another way of providing comments to us. And as I
7 mentioned before, there will be a Federal Register
8 Notice once the renewal decision has been issued,
9 allowing a 30-day opportunity to request a review of
10 the Director's decision by the Commission. So I
11 guess, kind of in lieu of a hearing, the Director's
12 decision in essence can be appealed to the Commission
13 for their review based on somebody requesting that.
14 Next, next slide. This pretty much does
15 it for my presentation. Two points of contact here
16 are myself and one of my other Project Managers,
17 Michael Raddatz. You have our e-mail addresses there.
18 As I mentioned before, this is the website address
19 for our ADAMS System. And when you get to the ADAMS
20 System, if you put in -- call it the renewal number,
21 the specific document number for the renewal
22 application, that will take you directly to that. And
23 also there's a link there, if you want to call it
24 that, for our Federal Register Notice for the renewal.
25 You can do searches in our ADAMS System to

1 find additional documents related to the GDPs or any
2 of our licensees. There's many, many documents
3 contained in there. It's in essence our public
4 document room. Where in the past we had actual
5 libraries around the country that had all of our
6 documents, or many of our documents, but now we've
7 kind of replaced a lot of those with our ADAMS System
8 available through the Internet.
9 And with that we'll take whatever
10 questions or comments you may have. I do ask though
11 for our transcriber here that if you do have a
12 question before you ask your question state your name
13 and please state it as loudly and clearly as you can.
14 We have various microphones if you want. But we'll
15 ask him if he can hear you clearly or not.
16 Yes, Geoffrey.
17 MR. SEA: Geoffrey Sea. The schedule is a
18 little confusing. It says the Technical Review will
19 take six months. That brings us to December.
20 MR. SMITH: The application was submitted
21 -- we're two months into it now.
22 MR. SEA: The Technical Review will take -
23 -
24 MR. SMITH: About four months from now so
25 we can complete our Compliance Evaluation Report. And

1 we'll hopefully have the Report to Congress prepared
2 shortly thereafter so we can send it to our Director
3 and then on to the Commission.
4 MR. SEA: Among the considerations you
5 take -- I know for a license you consider the
6 financial capabilities of the applicant. Is any part
7 of financing -- considered as part of the --
8 MR. SMITH: I know there's a specific
9 requirement for the centrifuge Enrichment plants for
10 those. But for these facilities, I'm not aware of a
11 specific requirement. That may be something I need to
12 go back and look into. I'll need to check on that
13 basically.
14 MR. SEA: Can you update us on how USEC's
15 changing financial situation which has been rather
16 dramatic is reflected in your --
17 MR. SMITH: Yes, we look at financial
18 qualifications for the American Centrifuge Plant from
19 the aspect of do they have the financial
20 qualifications to adequately build a plant from a
21 safety perspective. And we have a specific license
22 condition that addresses this issue. That basically
23 states before they start the next phase of
24 construction they will provide to us a listing of what
25 the activities they plan to perform during that phase

1 and the funding they have available to do that.
2 They did that for their first phase of
3 construction and they define what they mean by phase.
4 And the first one was the remainder of calendar year
5 2007. They've since submitted to us the activities
6 that they plan to submit for their Phase 2, which I
7 believe was the calendar year 2008. And we recently
8 issued our acceptance of the Phase 2 construction
9 activities and the amount of funds they have set aside
10 to complete those activities.
11 MR. SEA: Now they also released a ruling
12 that that information is being withheld from
13 disclosure; is that right?
14 MR. SMITH: If it's related to business
15 proprietary information and if they provide an
16 adequate justification for that, we will do that. We
17 will withhold it. But I can tell you now --
18 MR. SEA: The ruling that I've seen seems
19 to apply to all of that information.
20 MR. SMITH: Actually each time they make a
21 submittal to us, they have to provide that
22 justification for withholding that information. And
23 we review it each time.
24 MR. SEA: So how can the public gauge -- I
25 mean the news about USEC's financial problems has been

1 really spectacular in the press. And yet at the same
2 time we had that over here and we have NRC's
3 continuing certifications that everything is hunky-
4 dory. Then we have NRC's decisions that its view of
5 USEC's finances is confidential and withheld from
6 public disclosure.
7 I can't see the reasoning of that whole
8 problem. How is the public supposed to get a sense of
9 the actual basis which you are determining that USEC
10 is financially capable of continuing to carry out
11 various responsibilities. From our perspective how
12 are we supposed to do that?
13 MR. SMITH: Part of our review for the ACP
14 when we issued the first license, when we issued the
15 license for that in our Safety Evaluation Report, I
16 believe a lot of that was public or some of it was
17 public. This most recent review --
18 MR. SEA: Well, all that's changed since
19 USEC submitted that -- prices went five time higher
20 than what it had been.
21 MR. SMITH: Right. We looked at the
22 amount of funds that they have available, currently
23 available, for this year to do the construction work
24 on the American Centrifuge Plant. And they were able
25 to satisfactorily demonstrate to us that they have the

1 financial capabilities to do that.

2 MR. SEA: And that --

3 MR. SMITH: It just went out like a week

4 or two ago.

5 MR. SEA: And how much of that is public

6 information?

7 MR. SMITH: Probably not much.

8 MR. SEA: Okay. So my question is -- the

9 news USEC is -- whatever word you would like to use.

10 You have now made the decision that this new

11 information is almost entirely withheld from public

12 disclosure. How are we, the public, supposed to --

13 how do you square that --

14 MR. SMITH: If certain information is

15 considered to be business proprietary and a request is

16 made for us to withhold it and we agree with that

17 request, we will withhold it.

18 MR. SEA: So if USEC is in the tank, then

19 it's withheld. But when they're doing well, then it's

20 public.

21 MR. SMITH: I can go back and look at our

22 approval letter and we can redact it and issue that

23 publicly. We can do that. Certain information made

24 public -- oh, well, with certain information withheld

25 obviously.

1 MR. SCHULZ: The other thing I could note
2 here -- this is Mike Schulz -- is that we do have a
3 standard review plan that has specific criteria that
4 we need to gauge the submittal against. And you can
5 get some type of indication of the bar that must be
6 met during the conduct of the review for the financial
7 qualifications in order for us to make our
8 determination.
9 MR. SMITH: Anyone else have a question?
10 Comment?
11 Vina.
12 MS. COLLEY: I'd like to know do you have
13 a --
14 MR. SMITH: Can you stand up maybe and
15 speak a little louder? I'm sorry.
16 MS. COLLEY: I understand that you have a
17 list of community residents that you inform if you
18 have a problem at the Plant. And do you have the same
19 list of community residents that you inform that you
20 were going to have this meeting?
21 MR. SMITH: We did not literally inform
22 any specific residents about this meeting other than
23 by providing an announcement in, I think, two or three
24 newspapers for the last week, week and a half. We
25 don't have a specific list. We had a list of several

1 members of the public for the ACP. We don't have a
2 specific list for the GDP itself.
3 MS. COLLEY: How do you notify the people
4 when there's a problem at the plant?
5 MR. SMITH: Well, what do you mean by a
6 problem at the plant? An emergency situation or just
7 a violation?
8 MS. COLLEY: Have you ever notified of a
9 problem that they need to turn off their air
10 conditioners or evacuate their homes or shut the
11 windows? If you don't have their names, how are you
12 going to get this information out?
13 MR. SMITH: Those are issues that are
14 addressed in the Emergency Plan for the Gaseous
15 Diffusion Plant, as well as for the American
16 Centrifuge Plant. And those are the decisions that
17 will be made through coordination between the licensee
18 here and the state and the local responders at that
19 time.
20 MS. COLLEY: Are you going to wait until
21 we have a disaster?
22 MR. SMITH: No.
23 MS. COLLEY: -- notify these people.
24 Cause I've called several people today around here and
25 they don't even know about this meeting. The only way

1 that I found out about the meeting is I take the
2 paper. I was not notified by the NRC that this
3 meeting was going on.
4 MR. SMITH: Okay, we'll try and do better
5 next time. We'll look at various distribution lists
6 for our licensee at the site and try and make specific
7 notifications for you.
8 MR. TSCHILTZ: One of the things I'll note
9 is one of the reasons why we go the avenue of
10 advertising in the paper is it's a broader outreach to
11 the community, all members, not just the people on the
12 mailing list. So with that in mind the paper provides
13 a mechanism for achieving that.
14 MS. COLLEY: But if you have a list of
15 people that you're going to evacuate, you should have
16 their address and you should send them notification
17 that you're having this meeting.
18 MR. SMITH: You've got a question?
19 MALE AUDIENCE MEMBER: Just a quick
20 question. What happens if the Certificate renewal
21 fails?
22 MR. SMITH: If it fails, they would be
23 required to -- if they were a licensee and we did not
24 renew their license, they would have to go into
25 decommissioning. And decommissioning requires -- they

1 would have to stop operations when they go into
2 decommissioning activities.
3 MR. ?: So what does that mean for a shut-
4 down facility?
5 MR. SMITH: It means that the activity
6 that they're doing now will stop. They would --
7 MR. ?: I think the follow-up to that --
8 many aspects of -- but in this particular case again
9 where there's fundamentally no -- action going on at
10 the site. Because the real -- action would be
11 eventually at the ACP. And I know that in effect
12 there's two USECs. The USEC that has the GDP, which
13 is -- the USEC that operates the ACP. The possibility
14 of failure, what does that do to the impact -- or what
15 impact does it have on their ability to work Because
16 you had mentioned decommissioning. I'm sure that
17 there's a ton of things that they'd like to get done
18 before the D&D activities begin.
19 MR. SMITH: If we do not renew their
20 Certificate, they would have to stop their operation,
21 like I explained. What impact that has on employment,
22 that's up to USEC. I mean obviously people may lose
23 their jobs. But that's a decision for us to make down
24 the road.
25 MR. TSCHILTZ: Again that would have to be

1 basis for not renewing the Certificate. And based
2 upon whatever that issue was, the Certificate holder
3 would have an opportunity to provide another submittal
4 to address those concerns or to address the issues
5 that were raised and found unacceptable. So there'd
6 be another opportunity; it just wouldn't be one final
7 decision necessarily.
8 MR. SMITH: Yes, Geoffrey?
9 MR. SEA: Let's talk about this basis. In
10 the last two or three years, we've had three rather
11 extraordinary developments here. One is last winter -
12 - winter before last --- sorry -- we had the announced
13 missing or theft of a radium source on site. At least
14 in the papers it said that the Department of Defense
15 came in to initiate a major investigation of what
16 happened to that radium. There was never a report or
17 any word to the public on what the result of the DoD
18 investigation was of what happened to that radium.
19 Before that we had the Department of
20 Energy Inspector General's Office issue a report
21 saying that USEC was illegally and improperly
22 deferring its clean-up costs related to the ACP site
23 to the Department of Energy. And so they were as of
24 then -- and now it's a much bigger figure because the
25 problem was not corrected -- $17 million of costs

1 illegally deferred from USEC to the Department of
2 Energy.
3 We then had more recently this past winter
4 a consultant's report to the ATSDR, which has studied
5 health and safety at Piketon, which concluded that
6 there was evidence of systematic fraud by USEC in
7 worker dosimetry at the Piketon Plant. So that's a
8 pretty interesting record from three different
9 investigative agencies.
10 Now are you going to be reviewing all
11 these? And it seems like on the basis that all these
12 investigative agencies, IG's Offices and independent
13 consultants and the Department of Defense, etc., have
14 all been stymied at figuring out what's going on here
15 with USEC.
16 How is NRC going to resolve this issue
17 when in fact the remediation, the only one available
18 as David points out, is to withhold certification for
19 a shut-down facility that would then require who to
20 come in and clean up the mess that USEC has left
21 behind? USEC would have to clean up its own mess.
22 But you'd be determining that they're incapable of
23 doing that. So what is this really about?
24 MR. SMITH: Let's start with the radium
25 source. That was a activity that is not licensed by

1 the NRC. So it is outside of our purview. The second
2 item having to do with --
3 MR. SEA: Doesn't that go to USEC's
4 capability to manage the site whether it's licensed
5 for activity or not?
6 MR. SMITH: I don't know which entity on
7 site was responsible for the radium source.
8 MR. SCHULZ: They were ultimately
9 responsible as one of their contractors was I believe
10 -- as I understand.
11 MR. SMITH: That's outside of our purview.
12 MR. SEA: Let's be correct about that. We
13 don't know because there was never a determination
14 made as to when that radium went missing.
15 MR. SMITH: Radium is --
16 MR. SEA: So it is improper to assume that
17 it went missing when it was under some contractor's
18 care and not another contractor.
19 MR. SMITH: All right, we've got a --
20 radium is a naturally occurring isotope, one that is
21 not regulated by the NRC.
22 MR. SEA: No, no, no, you're wrong.
23 MR. SMITH: At least at that time.
24 MR. SEA: No, you're wrong. This was a
25 radium calibration source.

1 MR. SMITH: I understand.

2 MR. SEA: Not natural radium.

3 MR. SMITH: It may have been a sealed
4 source of radium, but it is not licensed by the NRC.
5 It was not covered under their Certificate of
6 Compliance, okay?

7 The next item had to do with -- I not
8 really sure. You said clean-up costs of $17 million?
9 That sounds more like of an issue, a contracting
10 issue, between DOE and USEC, something contractually
11 related, something else that's beyond our purview.

12 The next one I am kind of interested in,
13 the fraud in dosimetry, unless it pertains to
14 dosimetry records prior to us taking over oversight of
15 the GDP.

16 Do you know much on this report on
17 dosimetry? Do you know if it's related to current
18 records, or is it back from the `70s or `80s or `60s?

19 MR. SEA: Well, ATSDR -- are you familiar
20 with the ATSDR program here at Piketon?

21 MR. SMITH: No.

22 MR. SEA: They came in to do an
23 epidemiological study, I believe originally around
24 1990, that time period. EPA folks would know. But
25 they have done periodic updates of their original

1 report.

2 And this finding was in the most recent --

3 it was hired out to a private consultant to do the

4 update of their report. It relates to a continuing

5 problem relating to charges brought by one of the

6 Unions on site as well as some individual workers that

7 dosimetry data was being systematically fraudulently

8 changed or altered by USEC.

9 MR. SMITH: Okay.

10 MR. SEA: My understanding is that they

11 reviewed this information periodically when they did

12 their, as you do, periodic updates. And the situation

13 continued to be --

14 MR. SMITH: If you could just tell me how

15 to get access to this report, we will take a look at

16 it.

17 MR. SEA: It's online. I can give you the

18 website.

19 MR. SMITH: Please do.

20 MR. SEA: But in relationship to all three

21 of these, the issue is USEC's pattern of either

22 fraudulent activity or non-compliance or negligence in

23 losing radioactive materials. For you to say that's

24 out of our purview --

25 MR. SMITH: We understand your issue.

1 Like I said, we'll at least take the dosimetry report
2 into consideration. If you'll provide me the link to
3 that, we'll take a look at it.
4 MR. SEA: Thank you.
5 MR. SMITH: Anyone else have any -- Vina,
6 another question?
7 MS. COLLEY: I'm really interested in the
8 radium. I've had two scientists. One was a Siberian
9 scientist from Russia, who came here and he checked
10 the -- and found radium 226 leaking from the plant.
11 It came right from the plant. Then -- came from --
12 Columbia River who investigated the fish in the
13 Columbia River, came to finish the report. He also
14 found radium 226 in the fish. The company swore up
15 and down there's no radium out there.
16 William Murphy sent me a letter backing up
17 what my two scientists found. The EPA sent a letter
18 backing up the same thing except they changed their
19 numbers around. And unless you're a scientist, you
20 wouldn't have known that it was radium 226. Then the
21 company swore up and down that that radium -- a month
22 or two later after the -- the radium is missing.
23 I have that report if you'd like to look
24 it over. I also have the EPA's report and I also have
25 Murphy's report.

1 MR. SMITH: Again this is not -- we'll
2 take a look at it.
3 MS. COLLEY: Are you telling me --
4 MR. HARTLAND: Vina, we're talking about
5 the same incident. I think we investigated that and
6 determined that that was from naturally occurring.
7 MS. COLLEY: I've got the documents.
8 MR. HARTLAND: We're talking about the
9 same incident.
10 (Indistinguishable male audience member)
11 MR. SCHULZ: I believe that was the
12 conclusion that we came to.
13 MS. COLLEY: That was the conclusion that
14 you came to, but I have William Murphy's report and I
15 have the EPA report and I have my two scientists'
16 reports. If you'd like to look that over, I'll make
17 you a copy.
18 MR. SMITH: If you can you electronically
19 e-mail that to us, please do.
20 Any other questions or comments?
21 UNION REP: My comment would be I think it
22 would be important to have independent regulatory
23 oversight given the history of the facility. I think
24 there is confusion between Department of Energy orders
25 and the Centrifuge Plant and the GDP. I do think it's

1 very important to have independent oversight. Without
2 that there is a little concern obviously in the past,
3 or in defense days, when defense purposes were more
4 important than perhaps safety regulations. It's
5 important to maintain independent regulatory oversight
6 and the safety reasons which is why we have the
7 Certificate -- important process for the public safety
8 health, as well as the workforce --
9 MR. SMITH: Any other questions?
10 Vina.
11 MS. COLLEY: I'd like to know what sites
12 are responsible for the waste. I know we're
13 downblending Russian warhead stuff here. And I don't
14 know how much waste is going to come from that and
15 where this waste is going.
16 MR. SMITH: Yeah, there's still cylinders
17 out there.
18 MS. COLLEY: I thought there were. I --
19 MR. SMITH: The Russian material is
20 downblended in Russia and brought here in the form of
21 UF6.
22 MS. COLLEY: So who's responsible for that
23 waste?
24 MR. SMITH: There is no waste associated
25 with that. There is no waste associated it with the

1 downblending of the Russian warheads.

2 MS. COLLEY: You're downblending Russia's

3 --

4 MR. SMITH: It's being done in Russia.

5 MS. COLLEY: They're downblending it here?

6 MS. SMITH: No, there's no downblending

7 being done here.

8 MS. COLLEY: Well, it said in the paper --

9 MR. SMITH: No.

10 MS. COLLEY: It said it in the paper.

11 MR. SMITH: No, we did recently approve an

12 amendment for the Gaseous Diffusion Plant to remove

13 some what we call deposits from the cascade. The

14 cascades are shut down.

15 MS. COLLEY: Is anything from Russia --

16 MR. SMITH: No, there is -- there are

17 certain high enriched deposits that are within the

18 cascade that we recently gave them approval to start

19 removing. That high enriched uranium is then

20 downblended to come out at around five percent.

21 MS. COLLEY: You're saying you're not

22 downblending anything from Russia?

23 MR. SMITH: That is correct. There's

24 nothing being downblended from Russia.

25 I'm sorry.

1 MR. ?: You've indicated there are
2 deposits -- so that it averages out to something that
3 is within the license and that usually falls around
4 five percent.
5 MR. SMITH: Yes, that's correct.
6 MS. COLLEY: And you're not buying
7 anything that comes from Russia that's downblended?
8 MR. SMITH: It's already downblended when
9 it gets here.
10 MS. COLLEY: Already downblended when it
11 gets here?
12 MR. SMITH: Yes, ma'am.
13 MS. COLLEY: So what are we getting here
14 from Russia?
15 MR. SMITH: We're getting already enriched
16 uranium that can be delivered to customers.
17 MR. ?: It's delivered to Paducah by the
18 way. They don't come here any more.
19 MR. SMITH: I was informed that those
20 cylinders from Russia go to Paducah and not to
21 Portsmouth. There's nothing having to do with Russia
22 here.
23 Any questions?
24 Yes, sir.
25 MR. BLACKBURN: Hi, my name is Lee

1 Blackburn. I'd like to follow up on a comment that
2 Mr. Sea made pertaining to the radium. How is that
3 outside your purview?
4 MR. SCHULZ: The source belongs to the
5 DOE.
6 MR. BLACKBURN: Are you not responsible
7 for, as it says here, protection of public and worker
8 health and safety in use of radioactive materials?
9 MR. SMITH: Yes, but the Atomic Energy Act
10 specifies within it more specifically what types of
11 material we are responsible for. Most recently it was
12 amended to include some discreet sources of naturally
13 occurring material. And radium is a naturally
14 occurring material.
15 MR. HARTLAND: Right, we've got split
16 jurisdiction at the site. Some areas fall under DOE's
17 jurisdiction. In this case this source DOE --
18 MR. BLACKBURN: I can certainly
19 understand. But it sounds like you're basically
20 saying, well, you know, if it disappeared, we don't
21 want to have anything to do with it and we'll push it
22 over to DOE.
23 MR. SMITH: No, what David is saying is --
24 MR. BLACKBURN: If DOE was here, would
25 they be saying, well, that's NRC's responsibility?

1 MR. SEA: If I can interject, I think I
2 can clarify this. NRC does not have jurisdiction over
3 other federal agencies. It's a loophole in the law.
4 Because that source belongs to DOE, it was not a
5 licensee material source. Therefore, technically
6 Brian is right and it wasn't under NRC jurisdiction.
7 However, what we are asking is for you to
8 consider that incident as part of USEC's record in
9 handling or negligent handling of materials on site.
10 And in that regard you can consider it that way even
11 though that it's material --
12 MR. SCHULZ: Mr. Sea, as we understand it,
13 USEC was not responsible for losing the source.
14 MR. SEA: However, that, that --
15 MR. SCHULZ: It was a DOE --
16 MR. SEA: That statement was made but
17 since no report was issued identifying how the
18 material was lost, we don't know if that statement is
19 accurate or not.
20 MR. SCHULZ: You'll have to take that up
21 with DOE. There's nothing we can do about it.
22 MR. SEA: We don't know. Assertions were
23 made that it didn't belong to U --
24 MR. SMITH: We've talked about it enough.
25 We understand --

1 MR. SCHULZ: We do need to remind
2 everybody that this is being transcribed so follow the
3 advice of giving your name before you make a statement
4 so it can be properly transcribed.
5 MR. SMITH: Any other questions, comments?
6 MS. COLLEY: Can the NRC issue a criminal
7 act. A criminal act was done here --
8 MR. SMITH: If there is a non-compliance
9 or a violation identified if we believe there is some
10 aspect of willfulness associated with it, we have a
11 group called our Office of Investigations. And we
12 will engage them to come to do an investigation.
13 If they determine that there was
14 willfulness involved, somebody deliberately violated
15 the regulations, we will refer that to the Department
16 of Justice. And it's up to them whether or not they
17 want to take the case and prosecute.
18 MS. COLLEY: I'd like to talk to them
19 about it. They violated our rights when -- they knew
20 it since 1954 and they never told the workers till
21 1999, when I found documents -- so if there is a
22 criminal act here -- I can show them plenty of
23 criminal records.
24 MR. SMITH: Well, that's associated with
25 activities prior to NRC taking oversight of USEC.

1 That's more of a DOE issue.

2 Any other questions?

3 Okay, I guess with that we'll close the

4 meeting. Thank you all for attending. You have our

5 point of contacts up here, e-mail addresses. Feel

6 free to send us an e-mail if you have any questions.

7 We'll be around for a few minutes to answer any other

8 questions if you have any.

9 Thank you.

10 (Whereupon, this meeting was concluded at

11 6:26 p.m.)

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