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**NUCLEAR REGULATORY COMMISSION**

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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OFFICE OF NUCLEAR MATERIAL SAFETY & SAFEGUARDS

WASTE CONFIDENCE DIRECTORATE

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WASTE CONFIDENCE STATUS UPDATE TELECONFERENCE

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WEDNESDAY,

FEBRUARY 20, 2013

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The meeting was convened via teleconference  
at 1:00 p.m., Sarah Lopas, Facilitator, presiding.

PRESENT:

SARAH LOPAS, Facilitator

TISON CAMPBELL, Office of General Counsel

ANDY IMBODEN, Branch Chief, Communications,  
Planning & Rulemaking Branch

KEITH MCCONNELL, Director, Waste Confidence  
Directorate

PAUL MICHALAK, Branch Chief, Environmental  
Impact Statement Branch

CARRIE STAFFORD, Deputy Director, Waste  
Confidence Directorate

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

(1:34:57 p.m.)

1  
2  
3 FACILITATOR LOPAS: Hi, everybody. Welcome  
4 to the second monthly teleconference for the Waste  
5 Confidence Directorate Environmental Review.

6 My name is Sarah Lopas, and I'm the NEPA  
7 Communications Project Manager for the Directorate. I'll  
8 be facilitating today's call.

9 You may want to have a pen and paper handy  
10 because we'll be giving you some information that you  
11 might want to jot down.

12 In the room with me here at the NRC is Keith  
13 McConnell, who's the Director of the Waste Confidence  
14 Directorate; Carrier Stafford, our Deputy Director; Andy  
15 Imboden, who's the Branch Chief of the Communications,  
16 Planning and Rulemaking Branch; Paul Michalak, Branch  
17 Chief of the Environmental Impact Statement Branch; and  
18 Tison Campbell from the Office of General Counsel.

19 Our operator today is Trier. Trier will be  
20 helping us by unmuting the individual call lines so folks  
21 can ask questions. Note that unless you're asking a  
22 question your line will be muted.

23 I'm going to start off by going over the  
24 format of today's call and some ground rules. If you were  
25 on our January 16<sup>th</sup> call welcome back, and this call will

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1 follow a similar format. There are no slides or other  
2 media material associated with this call; however, we'll  
3 be roughly adhering to the following agenda.

4 We'll begin with an introduction by Carrie  
5 Stafford, followed by Andy Imboden who will give an  
6 update on our review of scoping comments and the  
7 development of the Scoping Summary Report. Paul Michalak  
8 will then give a brief update on the development of the  
9 Draft Environmental Impact Statement, and then we'll go  
10 back to Andy for a review of future public opportunities,  
11 or public participation, future opportunities for public  
12 participation, sorry about that.

13 We expect the NRC discussion to last about  
14 10 minutes. Then we'll open the phone lines for  
15 clarifying and process questions. When we get to that  
16 question and answer period, if you'll just press \*1 on  
17 your phone and that will indicate to the operator that  
18 you'll need your line unmuted to ask a question.

19 We have a couple of notes and ground rules  
20 for the call. First, the call is scheduled to end at 2:30  
21 Eastern Time, and we're obligated to keep that schedule,  
22 so please try to limit yourself initially to one  
23 question, and try to keep that question concise. If  
24 there's time we will go back for additional questions,  
25 as needed.

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1           Secondly, this teleconference is being  
2 transcribed by a court reporter. This is so people that  
3 weren't on the call can review the transcript and see what  
4 was discussed. So, when your line is open to ask a  
5 question please start by introducing yourself and  
6 stating your affiliation, if applicable. Please speak  
7 clearly so the court reporter can get an accurate and  
8 clean transcript.

9           Third, note that although this call is being  
10 transcribed, any comments or statements you make today  
11 will not be considered as formal comments on the Waste  
12 Confidence Environmental Review.

13           And, finally, the official transcript of  
14 these teleconferences will be published, or will be  
15 publicly available in ADAMS and linked to on our Waste  
16 Confidence website within three weeks of the call. We  
17 will also be publishing a meeting summary within 30 days  
18 of the call.

19           On Tuesday, February 5<sup>th</sup> we sent an email  
20 from WCO Outreach@NRC.gov and that provided ADAMS  
21 extension numbers and links to the January 16<sup>th</sup> meeting  
22 summary and transcript. In case you missed that info,  
23 I'll give you the ADAMS numbers for those documents right  
24 now, so grab your pen. The meeting summary can be found  
25 under ML, that's M as in Mary, L as in Lynn, 13032A as

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1 in apple, 100; and the meeting transcript can be found  
2 under M as in Mary, L as in Lynn, 13029A as in apple, 238.  
3 Links to these documents are also on our public  
4 involvement page on the NRC's Waste Confidence website.

5 If you would like to be on our WC Outreach  
6 email list, just send us an email with that request to  
7 [WCO outreach@NRC.gov](mailto:WCO outreach@NRC.gov), that's [WC-O-U-T-R-E-A-C-H@NRC.gov](mailto:WC-O-U-T-R-E-A-C-H@NRC.gov).  
8 And if you have any other questions about access to  
9 information, or about the Waste Confidence Review in  
10 general, you can call me, Sarah Lopas. My direct number  
11 is (301)492-3425.

12 So, with that I'm going to hand it over to  
13 Carrie Stafford and she'll kick off the meeting.

14 MS. STAFFORD: Thanks, Sarah. Good  
15 afternoon, everyone. As Sarah mentioned, my name is  
16 Carrie Stafford and I'm the Deputy Director of the Waste  
17 Confidence Directorate.

18 Before I get started, I just wanted to thank  
19 you all for participating today and for showing an  
20 interest in the Agency's activities regarding Waste  
21 Confidence. We appreciate your participation and your  
22 input.

23 The purpose of today's call is to maintain  
24 an open line of communication with the public by  
25 providing you with a status update on staff's progress

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1 in developing the Draft Generic Environmental Impact  
2 Statement, Decision, and Rule.

3 I thought it would be useful to start off  
4 today by briefly outlining the NRC's mission. The NRC is  
5 an independent regulatory agency. We have three elements  
6 to our mission. The first is the protection of public  
7 health and safety. We implement that through the  
8 licensing and inspection of nuclear power plants and the  
9 users of nuclear materials. The second is to promote the  
10 common defense and security. We implement that through  
11 the issuance of proper security measures based on the  
12 existing threat within the United States. The third  
13 element is the protection of the environment. We  
14 implement that through the identification and  
15 consideration of environmental impacts in the licensing  
16 decisions that we undertake.

17 I would note that we have over 30 years of  
18 experience in regulating the safe operation of nuclear  
19 power plants and the use of nuclear materials.

20 The Directorate's mission is to develop a  
21 Generic Environmental Impact Statement and revision to  
22 the Waste Confidence Decision and Rule. In early January,  
23 we concluded a public comment period where we sought  
24 input from the public on the scope of Environmental  
25 Impact Statement. We received correspondence from

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1 approximately 700 commentors which were then broken down  
2 into 1,700 comments.

3 As you'll hear shortly, we're in the midst  
4 of developing a Scoping Summary Report that will be made  
5 public in early March. The undertaking before us will  
6 benefit from and depends on public involvement, and we  
7 strive to provide an open and transparent process  
8 throughout this effort. The next opportunity for public  
9 comment will be when the Draft Generic Environmental  
10 Impact Statement, Decision, and Rule are issued in late  
11 summer or early fall.

12 I'd also like to mention that the NRC is  
13 holding its annual Regulatory Information Conference or  
14 RIC on March 12<sup>th</sup>, 13<sup>th</sup>, and 14<sup>th</sup>. The Waste Confidence  
15 Directorate will be moderating a panel discussion on the  
16 morning of March 14<sup>th</sup> titled, "Key Insights to the Future  
17 of High-Level Waste Management." Speakers will provide  
18 perspectives on the Plan of Action for and status of the  
19 Agency's resolution of the Waste Confidence Rule remand.

20 Topics will also include the  
21 Administration's post-Blue Ribbon Commission on  
22 America's Nuclear Future, Strategy and Action Plan.  
23 We've confirmed a panel of five speakers, including  
24 representatives from the Prairie Island Indian  
25 community, the Department of Energy, the Attorney

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1 General's Office of the State of New York, the Nuclear  
2 Energy Institute, and a representative of Government  
3 Strategies, Inc., and the Decommissioning Plant  
4 Coalition.

5 Keith McConnell, the Director of the Waste  
6 Confidence Directorate, will provide a brief  
7 presentation and moderate the panel.

8 Attendance at the RIC is free and we will  
9 be providing a transcript of this particular session  
10 afterwards. An audio recording of the session will also  
11 be made available at some time in the future. Both will  
12 be posted on the NRC website.

13 I'll now turn it over to Andy Imboden, our  
14 Communications, Planning and Rulemaking Branch Chief,  
15 who will provide you with information on the status of  
16 the Scoping Summary Report.

17 MR. IMBODEN: Thank you, Carrie. My name is  
18 Andy Imboden, the Branch Chief of the Communications ,  
19 Planning, and Rulemaking Branch in the Waste Confidence  
20 Directorate. I'm going to give a brief overview of the  
21 recently completed scoping period and talk about our  
22 current activities. Some of what I'm about to say may be  
23 familiar to those of you that follow Waste Confidence  
24 closely.

25 The scoping period began on October 25<sup>th</sup>,

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1 2012, and on January 2<sup>nd</sup> of this year the scoping period  
2 closed. During the 70-day comment period, we received  
3 written comments, and in addition we held four public  
4 meetings where there was an opportunity to present  
5 scoping comments.

6 Just to talk a bit about the public meetings  
7 first, approximately 500 members of the public expressed  
8 an interest in the Waste Confidence scoping process, and  
9 for all four meetings in total 64 people presented  
10 comments.

11 On November 14<sup>th</sup>, we had an afternoon meeting  
12 in Rockville, Maryland where 45 members of the public  
13 attended in person, and 30 participated by phone. Later  
14 that day we had an evening meeting where 22 people  
15 participated by phone. Those meetings were broadcast on  
16 line and were viewed by an additional 125 people.

17 On December 5<sup>th</sup> and 6<sup>th</sup>, the Waste Confidence  
18 Directorate held webinars and we had a total of 73 people  
19 attending those webinars. The materials for those  
20 meetings including the NRC's presentations and the  
21 transcripts have all been uploaded to our website, so you  
22 could view those in the public involvement section.

23 During the scoping period, interested  
24 people and organizations submitted hundreds of written  
25 comments and many more statements were submitted orally

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1 at public meetings. These comments ranged from brief  
2 one-page submittals to lengthy letters of more than 100  
3 pages.

4 So, what is happening now? The NRC Staff and  
5 our contractor are going through the comments making sure  
6 all comments are officially captured and put on the  
7 docket, and made part of the permanent administrative  
8 record. Internally, the NRC Staff and our contractor are  
9 making sure each comment got a unique identifier number  
10 so that we can track it and make sure that they get a  
11 response.

12 Comments addressing similar areas are being  
13 grouped together and have been passed along to the folks  
14 writing those various sections of the Environmental  
15 Impact Statement so that the comments are considered as  
16 the Environmental Impact Statement is researched and  
17 written.

18 We have been working very hard these past  
19 six weeks since the scoping period closed and are nearing  
20 completion but all told there are about 1,700 individual  
21 comments.

22 You will be able to see the results of our  
23 work fairly soon. We are preparing a Scoping Summary  
24 Report to summarize what the NRC heard during the scoping  
25 process and the important issues that were raised. We are

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1 on track to publish the Scoping Summary Report by  
2 mid-March.

3 This report will be made available on our  
4 website in ADAMS and we will email out notice through  
5 WCO outreach@NRC.gov as soon as it is available. If you  
6 need other help getting that document, please give us a  
7 call on (301)492-3425. If the Scoping Summary Report is  
8 available by our next monthly teleconference in March,  
9 I intend to discuss the Scoping Summary Report itself.

10 So, that's a summary of the scoping period.  
11 Thank you for your attention. Paul?

12 MR. MICHALAK: Thanks, Andy. My name is Paul  
13 Michalak, and I'm the Chief of the Environmental Impact  
14 Statement Branch.

15 Concerning the Draft Generic Environmental  
16 Impact Statement, our goal remains the same, to provide  
17 a high-quality work product for public review. What we're  
18 striving to produce is a clear readable document that the  
19 general public can understand.

20 Status-wise, the Draft Generic  
21 Environmental Impact Statement and Waste Confidence  
22 Decision and Rule are currently under development. We're  
23 also at the stage where we're evaluating how the internal  
24 and public scoping comments can inform our analysis.

25 Schedule-wise, we're still on schedule to

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1 release a Draft Generic Environmental Impact Statement,  
2 Decision, and Rule for public comment by the fall of 2013.  
3 Andy.

4 MR. IMBODEN: Thanks, Paul. This is Andy,  
5 again. And before we get to question and answer, I wanted  
6 to take a quick minute to share NRC's plan for  
7 participation opportunities over the rest of the  
8 project.

9 For the overall Waste Confidence project  
10 schedule there are three main phases, the scoping period  
11 followed by a Draft Environmental Impact Statement and  
12 Proposed Rule, followed by a Final Environmental Impact  
13 Statement and Rule.

14 We completed the scoping period in January.  
15 During the scoping period, the NRC invited interested  
16 people and organizations to identify issues and provide  
17 recommendations to the Agency on the development of a  
18 Generic Environmental Impact Statement to support a  
19 proposed update to the Waste Confidence Rule. The NRC's  
20 goal for conducting the scoping process was to define the  
21 scope of issues to be addressed in the analysis.

22 The next major phase is the Draft  
23 Environmental Impact Statement and Proposed Rule, and it  
24 should be available for comment in late summer or early  
25 fall of 2013. There will be an opportunity for public

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1 involvement then.

2 At that point, we'll be looking for feedback  
3 and comments on the NRC's analysis. During that time, we  
4 will receive written comments again and we'll have public  
5 meetings and webinars, and transcribe the meetings to get  
6 your comments on the record.

7 We intend to have regional meetings on the  
8 draft documents, and I intend to share details on when  
9 and where those meetings might be held well in advance.  
10 You can look forward to hearing those details in our April  
11 teleconference.

12 The final stage of the project will be the  
13 Final Environmental Impact Statement and Rule, and we  
14 estimate that will occur in August of 2014. At that time,  
15 we'll also have the comments we received on our draft and  
16 the NRC's consideration of those comments. Thank you for  
17 your consideration. Sarah?

18 FACILITATOR LOPAS: Okay. Thank you, Carrie,  
19 Andy, and Paul.

20 So, at this point we're going to go to the  
21 phone lines. I'd like to remind folks that all you need  
22 to do is press \*1 if you want to ask us a clarifying  
23 question on the information that you heard, or a question  
24 on the process, kind of what we're doing over here in the  
25 Waste Confidence Directorate, we'll do our best to answer

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1 you.

2 Try to limit yourself initially to one  
3 question, and try to keep it concise. And we will, if we  
4 get through folks, everybody has a question on round one,  
5 we'll go back to additional questions. So, go ahead and  
6 press \*1 if you have a question you would like to ask.  
7 If I don't see any names popping up what I might do is,  
8 I think I'm going to start with a question that we  
9 received from Ruth Thomas.

10 MR. MICHALAK: Is she on?

11 FACILITATOR LOPAS: Ruth is on. So, a  
12 question we heard from Ruth, she's concerned about how  
13 the NRC can do an EIS, do an Environmental Impact  
14 Statement that complies with the court's decision and the  
15 provisions of NEPA. So, Paul, if you are able to tackle  
16 that question.

17 MR. MICHALAK: I sure can. Ruth, in  
18 developing the Generic Environmental Impact Statement  
19 we're following NRC regulations and guidance, 10 Code of  
20 Federal Regulations Part 51, that's the NRC's  
21 regulations that address our National Environmental  
22 Policy Act obligations. One of the guidance documents  
23 we're using is NUREG-1748, and that is our Environmental  
24 Review guidance. Those are the two primary sources that  
25 are providing us direction in terms of developing the

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1 EIS.

2 Our Waste Confidence EIS will look similar  
3 in content and scope to other NRC EISs, or Environmental  
4 Impact Statements. Now, we also -- we have to admit that  
5 there was a remand of our 2010 Waste Confidence Rule, so  
6 this Waste Confidence EIS, a Generic Environmental  
7 Impact Statement, will have -- it will include the  
8 consequences of spent fuel fires. It will have  
9 forward-looking analysis of spent fuel pool leaks, and  
10 it will have a no repository or indefinite storage  
11 scenario as identified in the court's decision.

12 FACILITATOR LOPAZ: Okay, great. Thank you,  
13 Paul. Trier, can we open up Diane Curran's line, please.  
14 Hi, Diane, I think you're on.

15 MS. CURRAN: Hi, thank you. I have a question  
16 for Andy. Andy, you had said a little earlier that the  
17 Scoping Report will -- I think you said is going to  
18 summarize important issues raised in the comments and  
19 what the NRC heard. I was expecting it to conclude by  
20 saying this is what we're planning to do, that the NRC  
21 would report on what the scope had been -- what scope had  
22 been decided on, which would be the most helpful thing.  
23 Is that wrong?

24 MR. IMBODEN: No, that's correct. The report  
25 will provide this comment or that comment is in scope or

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1 out of scope, or this issue that was raised is in scope  
2 or out of scope. It'll definitely say that, so you're  
3 correct.

4 MS. CURRAN: Oh, good. Okay, thank you.

5 FACILITATOR LOPAS: Okay. Thank you, Diane.  
6 Trier, can we go to Dan Cronin, please.

7 MR. CRONIN: Hello?

8 FACILITATOR LOPAS: Hi, Dan. Go ahead.

9 MR. CRONIN: Hi. I wanted to ask a follow-up  
10 question to the January 16<sup>th</sup> teleconference, and see if  
11 any further decision, or if a decision had been made  
12 regarding non-power reactor facility license renewals.

13 FACILITATOR LOPAS: Okay. I think we're  
14 going to go to Andy for that one. Andy, do you have a  
15 status update?

16 MR. IMBODEN: Yes, I remember that question.  
17 The NRC is still deciding that issue. Thank you for  
18 bringing it up again, and keeping it in the front of our  
19 minds. When we have a final answer we will update the  
20 Waste Confidence website to say the answer on that. I  
21 think we're close to getting an answer, hopefully by the  
22 next teleconference.

23 MR. CRONIN: Okay, sounds good. Thank you.

24 FACILITATOR LOPAS: All right, thank you.  
25 All right. We have Frequently Asked Questions on our

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1 Waste Confidence website so we are going to periodically  
2 update those, so that's where you can get recent  
3 information.

4 Okay. We'd like to next go to Tom Clements.  
5 And can I remind everybody just to state your name again  
6 before you ask your question, and your affiliation, and  
7 that's for the transcriptionist, please. So, if we can  
8 open up Tom Clements' line. Hi, Tom.

9 MR. CLEMENTS: Yes, thank you. Yes, I am Tom  
10 Clements with Friends of the Earth in Columbia, South  
11 Carolina. And I have two questions, and I've been a little  
12 bit in and out of the call, so a question may be redundant.  
13 But, first, the gentleman just said that the no  
14 repository scenario will be included. What is the NRC,  
15 if you can say, what time are you looking for storage of  
16 the fuel in the event of a no repository scenario?

17 FACILITATOR LOPAS: Okay, Tom. So, that's  
18 kind of like asking a little bit about our scenarios and  
19 the time line of scenarios. Paul, can you --

20 MR. MICHALAK: Yes, I -- you know, certainly  
21 based on the scoping comments, there's been a number of  
22 comments that have addressed the no repository scenario,  
23 and we know it's an area of interest and concern. And what  
24 I can say about that now is that we're evaluating that  
25 topic as part of our analysis. It will be included as part

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1 of the court remand. How far we're going to take it out  
2 is still under development at this point.

3 FACILITATOR LOPAS: Okay, Tom, do you have  
4 a follow-up questions?

5 MR. CLEMENTS: Okay, yes. And, sorry, if you  
6 could just give a brief overview of the time line that  
7 you presented on the call. I believe you said scoping  
8 report, whatever you call it, out in mid-March, and the  
9 final EIS you're looking at 2014, I think you said. But  
10 could you summarize that and when public hearings might  
11 be held?

12 MR. IMBODEN: Yes, this is Andy Imboden. The  
13 Scoping Summary Report, we have a goal of by mid-March  
14 publication of that. The overall time line is available  
15 on our website, and the documents will be out for public  
16 comment, which will include public meetings around the  
17 country in the late summer or early fall of this year.  
18 The Final Environmental Impact Statement and Final Rule  
19 we have on schedule for August of 2014.

20 MR. CLEMENTS: Okay, just a final and a brief  
21 question follow-up. I think people gave recommendations  
22 on locations in which hearings might be held. How are you  
23 dealing with that?

24 MR. IMBODEN: Oh, yes, that's a great  
25 comment. In the Federal Register Notice which started off

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1 scoping, we explicitly asked a question. We wanted  
2 people's feedback where should these meetings be held?  
3 And we got a lot of good comments on that from various  
4 groups, and organizations, and individuals, and federal  
5 agencies even, so that's something we're going through  
6 now. We're also looking at where people making comments,  
7 where they live. So, we're going through that now, and  
8 well in advance of those meetings we'd like to put out  
9 information on where and when they're going to be. And  
10 I hope that I'll be able to talk about those details in  
11 our April teleconference.

12 FACILITATOR LOPAS: Great. Thanks, Andy.

13 Thank you, Tom. Okay, can we go to Matthew Brock, please.  
14 Matthew?

15 MR. BROCK: Yes, hi. This is Matt Brock of  
16 the Massachusetts Attorney General's office. I wanted to  
17 follow-up on Diane Curran's question. I understood the  
18 answer to that is that the Scoping Summary Report, if  
19 that's the title of it, will in fact identify what the  
20 scope of the EIS will be. Is that correct?

21 MR. IMBODEN: This is Andy. Yes, that's  
22 correct.

23 MR. BROCK: Okay.

24 MR. IMBODEN: And if anyone is interested,  
25 there's a NRC regulation in 10 CF -- the Code of Federal

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1 Regulations, Part 51, that gives the requirements of what  
2 the Scoping Summary Report will have. I believe it's  
3 51.29.

4 MR. BROCK: Will that include a response to  
5 the comments submitted on the scoping?

6 MR. IMBODEN: Yes.

7 MR. BROCK: Okay, so the specific comments  
8 will be addressed as part of that report.

9 MR. IMBODEN: At a high level, you know, at  
10 a -- similar comments are grouped together, such as we  
11 received a lot of comments on spent fuel pool leaks and  
12 that kind of thing. That's something that's going to be  
13 in scope, and to the extent that that's a response, yes.  
14 The real details, of course, will be in the Draft  
15 Environmental Impact Statement later in the year.

16 MR. BROCK: All right, thank you.

17 FACILITATOR LOPAS: Okay. Can we go to Oleg  
18 Povetko, I apologize if I am butchering that. Hi.

19 MR. POVETKO: Oh, hi.

20 FACILITATOR LOPAS: Can you state your name  
21 and your affiliation, please?

22 MR. POVETKO: Oleg Povetko, U.S.  
23 Environmental Protection Agency. Yes, someone just  
24 mentioned presentation, in introductory presentation  
25 that the contractor will -- your NRC contractor will be

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1 going through the comments. And can specify who is your  
2 contractor, and what experience does that contractor  
3 have in EIS preparation?

4 FACILITATOR LOPAS: Okay. Keith, do you want  
5 to handle that one?

6 MR. McCONNELL: This is Keith McConnell. The  
7 contractor that's helping us out is the Center for  
8 Nuclear Waste Regulatory Analyses based in San Antonio,  
9 Texas. It's affiliated with the Southwest Research  
10 Institute. The Center has helped us out in Environmental  
11 Impact Statements with related -- with uranium recovery  
12 activities. They've also been involved earlier in the  
13 process related to Waste Confidence in the earlier longer  
14 term effort. They're an independent organization that  
15 supports the NRC in a number of ways, in a number of  
16 program areas.

17 FACILITATOR LOPAZ: Okay. Is that good,  
18 Oleg?

19 MR. POVETKO: So, you mention uranium  
20 recovery EIS, these are generic areas. Is that correct?

21 MR. McCONNELL: They helped us with the  
22 Generic Environmental Impact Statement, and they've done  
23 some work on some of the supplemental Environmental  
24 Impact Statements for specific sites.

25 FACILITATOR LOPAS: Okay, thank you.

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1 MR. POVETKO: Also for Supplemental EIS.

2 Yes, thank you.

3 FACILITATOR LOPAS: Okay. Can we go to Louis  
4 Zeller, please. Lou?

5 MR. ZELLER: Hello, my name is Lou Zeller,  
6 and I'm with the -- I'm Executive Director of the Blue  
7 Ridge Environmental Defense League. I have a question I  
8 guess more about the process. I'm more familiar with NEPA  
9 and the Environmental Impact Statement process of the  
10 Nuclear Regulatory Commission but, of course, this one  
11 is a little bit different than the average one. And my  
12 question is, do -- if there is new information since the  
13 close of the scoping period outlined earlier and before  
14 the summary is issued, I understand there would be  
15 opportunities for comments later on after the draft, but  
16 you know sometimes we view the draft as more or less the  
17 train has already started to leave the station. And if  
18 there is significant information which we learn of, who  
19 would we send it to, and would that be acceptable to the  
20 Waste Confidence Directorate? How would it be used?

21 FACILITATOR LOPAS: Okay, Lou. So, let me see  
22 if I am getting this right. So, information -- new  
23 information from when we close scoping and then up to the  
24 point where we publish the draft, kind of that period.  
25 If you have information that you think is important and

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1 you'd want to submit, how do we handle that, how do we  
2 get that? Is that what you're asking?

3 MR. ZELLER: Thank you.

4 FACILITATOR LOPAS: Okay.

5 MR. McCONNELL: Yes, this is Keith  
6 McConnell. You can submit any information you want at any  
7 time, but what we would prefer is that you, if you have  
8 additional information that you want to provide to us,  
9 that you do it when the draft goes out for public comment.  
10 That is the simplest and most effective way to provide  
11 information to us.

12 We're trying to maintain our schedule in  
13 terms of the Scoping Summary Report, so we don't expect  
14 to do any more comment consideration for the Scoping  
15 Summary Report at this point time. So, the message is to  
16 provide any additional comments on the Draft EIS when  
17 they go out.

18 FACILITATOR LOPAS: Is that good, Lou?

19 MR. ZELLER: Well, I guess I'll take it.

20 FACILITATOR LOPAS: Okay. All right, can we  
21 go to Jim Williams, please.

22 MR. WILLIAMS: Yes, this is Jim, and I'm with  
23 the Western Interstate Energy Board. And I'm wondering  
24 whether your Scoping Summary Report or something else  
25 that's produced in this process has a map so to speak of

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1 how the topics and different potential conclusions in the  
2 report map to NRC regulatory decisions regarding  
3 existing reactors, new reactors, ISFSIs, offsite storage  
4 facilities, all that.

5 FACILITATOR LOPAS: Okay. I'm not sure we're  
6 following the question. Are you asking how the Waste  
7 Confidence Rule maps to those different licensing  
8 actions, or how the comments that we received?

9 MR. WILLIAMS: Not necessarily the -- no,  
10 not the comments, how the rule -- I mean, as I understand  
11 it, what you're doing is conducting a big analysis of a  
12 bunch of, you know, issues that hadn't been previously  
13 raised in the Waste Confidence decisions.

14 FACILITATOR LOPAS: Okay.

15 MR. WILLIAMS: I'm looking to how your  
16 process, however it sorts out, a conceptual notion of how  
17 it -- this process flows to decisions --

18 FACILITATOR LOPAS: Other licensing  
19 actions.

20 MR. WILLIAMS: On licensing actions.

21 FACILITATOR LOPAS: That's a good question.  
22 I think Paul Michalak is going to answer.

23 MR. MICHALAK: Jim, this is Paul Michalak.  
24 Like I said earlier, we're striving to produce a clear  
25 readable document that people will understand. And I

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1 think your point is well taken, that anyone who picks up  
2 this EIS should see, or Environmental Impact Statement  
3 should see how it fits into the regulatory -- how this  
4 document is going to be used, how it fits into our  
5 regulatory process.

6 Now, I don't think we were thinking about  
7 a figure, but that's an interesting concept. And I have  
8 to think about how we visually represent that, but I was  
9 always considering that we would have a written  
10 description of how Waste Confidence, particularly the  
11 EIS and the Decision and Rule fits into our regulatory  
12 process.

13 MR. WILLIAMS: Yes, I'm not necessarily  
14 asking for a figure, although a figure could make it a  
15 heck of a lot clearer, possibly. But our comments were  
16 basically to this point that we're discussing now. How  
17 does this all flow to decisions, our comments back in  
18 January? And I haven't been back to the process since,  
19 but I'm interested to know if the Scoping Summary Report  
20 will make it clearer than it seemed to be back in January.

21 MR. IMBODEN: Jim, this is Andy Imboden, if  
22 I could add a little bit. The Scoping Summary Report is  
23 focused on the comments we received in scoping. And I  
24 think what you're asking for is going to be laid out in  
25 a later document.

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1 MR. MICHALAK: Right. I'm sorry, Andy.

2 MR. IMBODEN: No, go ahead.

3 MR. MICHALAK: When I was speaking, Jim, I  
4 was talk -- this is Paul Michalak. I was speaking about  
5 the Generic Environmental Impact Statement, that that  
6 document would address your concerns.

7 MR. WILLIAMS: Okay. Yes, not this upcoming  
8 thing.

9 MR. MICHALAK: No. Well, it'll be in there,  
10 but --

11 MR. WILLIAMS: Yes.

12 MR. MICHALAK: -- the bottom line will be  
13 the environmental -- the Generic Environmental Impact  
14 Statement.

15 MR. WILLIAMS: Okay.

16 FACILITATOR LOPAS: Okay. Thank you, Jim.  
17 Can we go to Anthony Roisman, please.

18 MR. ROISMAN: Hi, this is Tony Roisman.

19 FACILITATOR LOPAS: Oh, hi, Tony.

20 MR. ROISMAN: Hi. I had a question for you  
21 about the status of the Waste Confidence Regulation  
22 51.23. And what I wanted to know is what is the NRC's  
23 position on whether there is currently a valid Rule  
24 51.23, all aspects of it? And, if so, which version does  
25 the NRC believe is the valid one, the one that would be

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1 being enforced?

2 MR. CAMPBELL: Mr. Roisman, this is Tison  
3 Campbell with the Office of the General Counsel. The  
4 Commission's position is that the Court of Appeals for  
5 the D.C. Circuit vacated the Waste Confidence Rule, and  
6 the Commission is not taking licensing actions based upon  
7 that rule until a new regulation is in place.

8 MR. ROISMAN: Can I just follow-up? I  
9 understood that, but conceivably someone could file  
10 under say 2.206 with regard to a plant that doesn't have  
11 a current licensing action going on requesting relief  
12 based upon the assumption that there is no 51.23 rule that  
13 bars consideration of the waste issues as they relate to  
14 an existing plant. And I'm trying to find out is it the  
15 Commission's position that there is some version of 51.23  
16 which is valid and would be applied if such a petition  
17 were filed. And, if so, which version of 51.23 does the  
18 Commission is in place?

19 MR. CAMPBELL: Well, I'm not in a position  
20 to speak about any speculative 2.206 petition we could  
21 receive in the future. That would be a site-specific  
22 issue that we would evaluate at the time we received it.

23 FACILITATOR LOPAS: Okay. Thank you, Tison.  
24 Is that okay, Tony? Thank you. Can we go to Diane Curran  
25 again, please.

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1 MS. CURRAN: Hi, this is Diane Curran. I  
2 wonder what is the amount of time that NRC is going to  
3 provide for comment on the Draft EIS?

4 FACILITATOR LOPAS: Okay. So, how long is the  
5 DEIS comment period going to be? Andy.

6 MR. IMBODEN: Hi, Diane, this is Andy. I  
7 don't have an answer for that yet. You know, that will  
8 be something that will be -- the comment period will be  
9 clearly indicated when the Draft Environmental Impact  
10 Statement and Proposed Rule are put out for public  
11 comment, but I don't have an answer right now.

12 MS. CURRAN: Do you have a time range? I can't  
13 remember what the time that's supposed to elapse between  
14 the Draft and the Final EIS, have you got a time range  
15 in there?

16 MR. IMBODEN: Off the top of my head, I  
17 believe there's a regulation that says the comment period  
18 is 45 days.

19 MS. CURRAN: Okay.

20 MR. IMBODEN: But I don't want to say that  
21 we're putting it out for 45 days. I just know that that's  
22 the minimum, but I don't have the real answer.

23 MS. CURRAN: Okay, thanks.

24 FACILITATOR LOPAS: We're going to have a  
25 follow-up.

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1 MR. IMBODEN: Oh, pardon me, Diane, if you're  
2 still on. Somebody just passed me a note that the minimum  
3 time frame in between Draft and Final is 75 days.

4 MS. CURRAN: Okay.

5 MR. IMBODEN: And, again, that's the  
6 minimum, that's not our plan or what we're doing. We don't  
7 know what that is exactly yet.

8 MS. CURRAN: Okay, thanks.

9 FACILITATOR LOPAS: Okay. Can we hear from  
10 John Sipos, please.

11 MR. SIPOS: Hi, this is John Sipos. Can you  
12 hear me?

13 FACILITATOR LOPAS: We can. Go ahead.

14 MR. SIPOS: Thank you very much. John Sipos  
15 for the State of New York. I'd like to ask the Directorate  
16 a question about documents that the NRC Staff or the NRC  
17 Commissioners have reviewed or are reviewing as part of  
18 the rulemaking and Environmental Impact Statement  
19 preparation. And, specifically, on behalf of the State,  
20 which does have a special role in the federal system, the  
21 State is interested in obtaining access to documents from  
22 other federal agencies, federal laboratories, and  
23 federal contractors that NRC is reviewing. And by way of  
24 example, it would include but not be limited to documents  
25 from the United States Department of Energy, Sandia

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1 National Laboratories, Pacific Northwest National  
2 Laboratories, and other laboratories and contractors,  
3 such as has been reviewed in the past. And I know in -- or  
4 at least I understand in the Yucca proceeding, there was  
5 something along the lines of a library that was created  
6 where a state or a participant could go to view documents  
7 on line. Does the Directorate have any plans to make those  
8 documents available to New York State or other states?

9 FACILITATOR LOPAS: Okay. So, John, it  
10 sounds like you want to know what kind of references the  
11 NRC is going to be using for -- in developing the Draft  
12 EIS, and how you'll be able to access those references  
13 once we publish it. So, Paul or Keith, either of you want  
14 to --

15 MR. McCONNELL: Yes, this is Keith  
16 McConnell. I think you made that request of us at the  
17 public meeting, and what we're doing now is as we prepare  
18 both the Scoping Summary Report and the Draft Generic  
19 Environmental Impact Statement, we're seeing how best  
20 that we can make those documents available to the extent  
21 we can without creating some sort of separate file. But  
22 we may try to put it on our website, but all of that is  
23 under consideration. We do understand the concern, and  
24 we're going to try to address it.

25 MR. SIPOS: Okay. Keith, could I ask a

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1 follow-up question?

2 FACILITATOR LOPAS: Sure.

3 MR. SIPOS: Keith, you mentioned that the  
4 Southwest Research Institute, I believe, is assisting,  
5 and I believe you also said that they were an independent  
6 group. Are they in any way affiliated with the federal  
7 government, or are they complete standalone sort of  
8 third-party contractor with no federal government  
9 connections?

10 MR. McCONNELL: It's the Center for Nuclear  
11 Waste Regulatory Analyses, which is affiliated with  
12 Southwest Research Institute, and they're what's called  
13 a federally funded research and development organization  
14 which makes them an independent contractor, but they do  
15 work for both the NRC, as well as other -- SWRI has worked  
16 for NRC as well as other organizations, including private  
17 entities.

18 MR. SIPOS: Okay, thank you.

19 FACILITATOR LOPAS: Okay. I think what I'm  
20 going to do now is I'm going to go ahead and go with a  
21 second question that was submitted by Ruth Thomas. Ruth  
22 had a question regarding a statement that Paul Michalak  
23 made during our December 5<sup>th</sup>, 2012 webinar. Paul was  
24 responding to a question from Lou Zeller, actually, about  
25 how the NRC was going to complete a generic analysis of

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1 Waste Confidence within a two-year period. And,  
2 specifically, Ruth wanted to know what Paul meant when  
3 he used the term "bounding analysis," and what he meant  
4 by bounding. And also, she had a question about what Paul  
5 was talking about when he talk about risk as it relates  
6 to our analysis of spent fuel pool fires.

7 MR. MICHALAK: Okay. Ruth, this is Paul  
8 Michalak. Let me start with the bounding question. We're  
9 developing a Generic Environmental Impact Statement. Our  
10 objective is to develop and document an analysis of spent  
11 fuel pool storage beyond the licensed life of a reactor  
12 that applies to the entire commercial fleet. In other  
13 words, we want our analysis as robust as we can make it,  
14 that it bounds the commercial fleet. That's our  
15 objective. That's what I mean by bounding.

16 Let's move over to risk. Risk has two  
17 components, probability and consequence. Actually,  
18 probability times consequence equals risk, so when I'm  
19 referring to risk, I mean the probability of an event  
20 times the consequence of that event.

21 FACILITATOR LOPAS: Okay? Great, thank you,  
22 Paul. Let's go again to, let's see, we have not heard from  
23 Ellen Thomas yet. Ellen, can we open up Ellen's line,  
24 please. Hi, Ellen.

25 MS. THOMAS: Hi, yes. Ellen Thomas. I still

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1 don't understand the question about bounding. It's a word  
2 that doesn't seem to make any sense to me in your context.

3 MR. MICHALAK: Can I give you -- this is Paul  
4 Michalak. Can I give you an example?

5 MS. THOMAS: Please.

6 MR. MICHALAK: Okay. How about water use? We  
7 know the current water use for the commercial reactor  
8 fleet, and we know it's pretty large because they use that  
9 water to boil and produce electricity. During our Waste  
10 Confidence period, we know that the reactor will no  
11 longer be operating, so the site's water use will be  
12 significantly less. We believe we can come up with the  
13 water use number that applies to the -- it bounds the  
14 fleet that applies to the entire fleet in the Waste  
15 Confidence period. That's what I mean, Ellen, by  
16 bounding.

17 FACILITATOR LOPAS: Okay, great. Thank you,  
18 Paul. Let's go to Oleg, again, Oleg Povetko. Hi, Oleg.

19 MR. POVETKO: Oh, hi. I have a question about  
20 on Southwest Research Institute as a private,  
21 independent entity. Can you comment on how do you  
22 evaluate whether they have any conflict of interest in  
23 this work that they undertook? And whether this conflict  
24 -- some disclaimer will be part of this Draft EIS?

25 MR. McCONNELL: This is Keith McConnell. I

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1 believe that's outside the scope of this conference call.  
2 We're focused on the development of the EIS and Rule.  
3 There are procedures that the NRC uses, and that the  
4 federal government in general uses to assure there are  
5 -- that our contractors are free of conflict.

6 FACILITATOR LOPAS: Thank you. Thank you,  
7 Keith. Okay, we're going to go to Anthony -- Tony  
8 Roisman, again. Tony?

9 MR. ROISMAN: Yes, thank you. You mentioned  
10 in the early comments when the NRC was giving its  
11 introductory remarks that there are essentially two  
12 things going on here, a Generic Impact Statement is being  
13 prepared, and a Proposed Rule is being prepared, as well.  
14 When we submit comments to -- let's say the scoping  
15 comments that were submitted in December and early  
16 January, are those considered to be part of the record  
17 of both the Environmental Impact Statement process and  
18 the Rulemaking, or do we need to separately identify and  
19 say this information is intended to be relevant to both  
20 of those pieces of what you're doing to make sure they're  
21 in the record properly.

22 MR. IMBODEN: Okay, yes, that's a good  
23 question. This is Andy Imboden. We were planning on  
24 considering the comments for both. There's no need for  
25 persons to identify, you know, that this comment is just

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1 on the rule, or this comment is just on the Environmental  
2 Impact Statement.

3 MR. ROISMAN: Great. Thank you very much.

4 MR. IMBODEN: And we've established one  
5 docket, you know, for the whole project, so everything  
6 is going to be in that one place.

7 MR. ROISMAN: Okay. So, just a follow-up so  
8 I'm clear about that. So, anything that gets submitted,  
9 even if it was ostensibly only addressing what the rule  
10 should look like as opposed to some specific aspect of  
11 the EIS, NRC is going to treat that as part of the record  
12 of decision for purposes of the impact statement.

13 MR. IMBODEN: That's our intention, yes.

14 MR. ROISMAN: Okay, perfect. Thank you. That  
15 makes life much easier for us. Thanks.

16 FACILITATOR LOPAS: Thank you, Tony. And,  
17 you know, to reiterate, when the Draft EIS does go out  
18 for comment we will try to be very clear on how folks can  
19 comment and what they're commenting on, so more  
20 information to come when we get ready to publish the  
21 draft. You will get bombarded with information.

22 We have Ruth on the line, Ruth Thomas. So,  
23 Ruth, we've got your two questions. Do you want to  
24 follow-up?

25 MS. THOMAS: Yes. I wanted to ask some

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1 questions about when you have the hearings on the Draft  
2 Generic, where do -- you're going to have comments on  
3 those, and then as follow-up to that what opportunities  
4 are there for organizations to intervene?

5 FACILITATOR LOPAS: Okay. So, Ruth -- okay.  
6 So, you understand, obviously, that you can submit  
7 comments on the draft, but you're asking how do the  
8 organizations then submit formal sort of -- how do they  
9 formally intervene? Is that what you're asking?

10 MS. THOMAS: Yes, so that there's an  
11 adjudicatory hearing, and the court mentions as a --

12 FACILITATOR LOPAS: Okay.

13 MS. THOMAS: That this type of proceeding is  
14 one of the options.

15 FACILITATOR LOPAS: Okay. I think we're  
16 going to have Tison answer that question.

17 MR. CAMPBELL: Ruth, this is Tison Campbell  
18 with the Office of the General Counsel. There will be  
19 opportunities for public comment on the Draft EIS and the  
20 Proposed Rule but we are not planning to hold formal  
21 adjudicatory hearings, which is what the NRC normally  
22 does for site-specific licensing actions.

23 MS. THOMAS: Well, I have a follow-up  
24 question. That means that the public interest groups and  
25 those concerned have no opportunity to have

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1 adjudicatory-type proceedings because they're  
2 eliminated from doing it on the site-specific because the  
3 Nuclear Regulatory Commission would say well, you can't  
4 do that because we've already resolved that issue on a  
5 generic level, so it applies to every nuclear reactor in  
6 the country.

7 MR. CAMPBELL: That's only with respect to  
8 the limited scope of the issues that we're looking at in  
9 Waste Confidence, and our regulations are set up so that  
10 if you can identify a site-specific consideration, you  
11 can request a waiver from the Licensing Board that would  
12 allow you to bring up those issues as part of an  
13 adjudicatory hearing for a site-specific license.

14 MS. THOMAS: Is that that Petition 2  
15 something or other?

16 MR. CAMPBELL: No, that's a different  
17 section of our regulations that's specific to an  
18 adjudicatory hearing. It's Section 2 --

19 MS. THOMAS: But that sounds very -- not a  
20 very satisfactory answer if you're a public interest  
21 organization because, basically, what's being done by  
22 using the Waste Confidence Rule and the Generic  
23 Environmental Impact Statement along with it is that it's  
24 trying to correct and overcome a mistake that was made  
25 in every single reactor, or at least the ones from the

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1 time that NEPA was put into effect, and it's trying to  
2 correct that by -- which isn't correcting it.

3 FACILITATOR LOPAS: Okay, Ruth. So, it  
4 sounds like Tison did answer your question. There is a  
5 manner that this could -- there are issues -- I'm sorry,  
6 I'm paraphrasing incorrectly, Tison, but --

7 MR. CAMPBELL: Yes. I mean, there is a  
8 procedure in place if you believe that a rule does not  
9 apply to a specific site to raise questions along those  
10 lines in a site-specific licensing hearing.

11 FACILITATOR LOPAS: Okay. Thank you, Ruth.  
12 That was a good question. Okay, we've only got a couple  
13 of minutes left. I'm going to do a last call for  
14 questions. Press \*1 for any final questions. It's 2:25.  
15 Last call. Okay, and I think we're going to conclude it.  
16 So, I'm going to send it back to Carrie Stafford to close  
17 out our call.

18 MS. STAFFORD: Well, thank you, everyone,  
19 for joining us today and participating. And, as always,  
20 we really appreciate hearing from you, and doing our best  
21 to respond to your questions. We will have another call  
22 in March, on March 20<sup>th</sup>, I believe, and there should be  
23 some information forthcoming through the WC Outreach  
24 email, and also on our website on the public NRC website.  
25 So, thank you very much.

**NEAL R. GROSS**

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FACILITATOR LOPAS: Okay, thank you.

(Whereupon, the proceedings went off the  
record at 2:26:03 p.m.)

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