

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

**Title: BRIEFING BY NUCLEAR ENERGY INSTITUTE
 (NEI) ON THEIR NUCLEAR REGULATORY
 REVIEW STUDY - PUBLIC MEETING**

Location: Rockville, Maryland

Date: Wednesday, December 21, 1994

Pages: 1 - 77

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NUCLEAR REGULATORY COMMISSION

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BRIEFING BY NUCLEAR ENERGY INSTITUTE (NEI)
ON THEIR NUCLEAR REGULATORY REVIEW STUDY
PUBLIC MEETING

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Nuclear Regulatory Commission
One White Flint North
Rockville, Maryland

Wednesday, December 21, 1994

The Commission met in open session, pursuant to
notice, at 2:00 p.m., Ivan Selin, Chairman, presiding.

COMMISSIONERS PRESENT:

- IVAN SELIN, Chairman of the Commission
- KENNETH C. ROGERS, Commissioner
- E. GAIL de PLANQUE, Commissioner

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1 STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:
2
3 KAREN D. CYR, General Counsel
4 JOHN C. HOYLE, Acting Secretary
5 E. LINN DRAPER, Chairman of the Board, NEI
6 Chairman and CEO, American Electric Power Service
7 Corporation
8 PHILLIP BAYNE, President and CEO, NEI
9 JOE COLVIN, Executive VP, NEI
10 LEONARD WASS, Principal, Towers Perrin
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P R O C E E D I N G S

[2:00 p.m.]

1
2
3 CHAIRMAN SELIN: Good afternoon, ladies and
4 gentlemen.

5 The Commission has scheduled this meeting in order
6 to encourage a frank and constructive exchange primarily on
7 the broad conclusions covered in the NEI report of October
8 1994, the Towers Perrin Report. We would like to achieve a
9 common understanding of the connection between the report,
10 the data and the conclusions. The Commission and the NRC
11 staff intend to use the report and any clarifications
12 provided today are what I assume will be an ensuing dialogue
13 in order so that where warranted we can improve the
14 implementation of our regulatory policy.

15 In response to concerns stated in this report, I
16 will state categorically that the Commission welcomes
17 constructive criticism on NRC regulatory performance from
18 any source. This includes feedbacks on technical safety
19 issues. It even includes remarks or allegations about NRC
20 personnel who are not considered to be conducting themselves
21 in accordance with Commission requirements. The Commission
22 will not tolerate retribution by an NRC employee against a
23 licensee. However, first NRC management must be quickly
24 made aware of the problems as they arise to allow timely
25 review and corrective actions. NRC management actions will

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1 including making our Inspector General aware of any
2 potential NRC staff wrongdoings and that a thorough
3 investigation be conducted if necessary.

4 Responding to a second theme running through the
5 report, I wish to stress that a licensee has a
6 responsibility to disagree with the NRC staff when the
7 disagreement is based on sound technical or other safety
8 analysis. Disagreements must be discussed with successive
9 levels of NRC management so that a common understanding may
10 be reached. If necessary, licensees should take advantage
11 of NRC procedures to challenge regulatory actions which they
12 believe are inconsistent with, for instance, the backfit
13 rule.

14 For a licensee to take an unsafe action because of
15 perceived pressure from the NRC would be nothing short of an
16 unconscionable dereliction of the licensee's duties.

17 The staff continues a comprehensive analysis of
18 the conclusions and the over 600 specific issues raised in
19 the Towers Perrin Report focusing on the subset of those
20 issues that allege implementation problems with existing NRC
21 programs or that cover issues not addressed within current
22 NRC programs but which may require correction. There are
23 roughly 100 of the 600 that seem to fall into these two
24 categories.

25 Based on this continuing review, the staff is

1 developing recommendations, and I hope some insights into
2 programmatic areas where improvements may be needed. The
3 staff expects to inform the Commission of the results of
4 this review and of specific corrective actions to improve
5 the regulatory process early next year. However, it's not
6 on these specific data or specific instances that the
7 principal issue arises between the report and, if I may say
8 so, the likely difference between the views stressed in the
9 report and the Commission views.

10 The issue that we would particularly like to
11 clarify today is the bridge between legitimate concerns of
12 licensees and the broad conclusions in the report and
13 whether these conclusions do, in fact, follow from these
14 concerns of data and how they follow from these concerns of
15 data, the aim being to seek possible areas for NRC
16 improvement and to have a better understanding of what
17 motivates the universe of our licensees.

18 So, Dr. Draper, you're in the middle of the room.
19 I assume you chair the group.

20 DR. DRAPER: Thank you, Mr. Chairman, Commissioner
21 Rogers, Commissioner de Planque.

22 I am Linn Draper, Chairman and Chief Executive
23 Officer of American Electric Power Company and Chairman of
24 the Board of the Nuclear Energy Institute.

25 As you know, NEI's members include very electric

1 utility licensed to operate a nuclear plant in the United
2 States.

3 Let me begin by extending our sincere thanks on
4 behalf of all nuclear utility licensees for the opportunity
5 to meet with you this afternoon. This certainly seems like
6 an appropriate time for this meeting. In the United States
7 this is a time of introspection for critical examination of
8 our institutions. Corporations across the country are
9 reengineering themselves and the way they do business to
10 reduce cost and to improve efficiency and their competitive
11 position. In the last month's elections, the American
12 people voiced similar expectations for their government.
13 Both political parties are responding to those expectations,
14 seeking ways to make the government more effective and
15 efficient by shrinking budgets, improving processes,
16 eliminating programs and perhaps even abolishing certain
17 agencies.

18 We're here today to discuss the nuclear industry's
19 current efforts to assess the efficiency of the regulatory
20 process and to open a dialogue with the Commission on ways
21 in which we can improve the regulatory environment. As a
22 nation, we can no longer afford to be ineffective and
23 wasteful. As an industry we must find ways to improve our
24 economic performance, eliminating unnecessary wasteful
25 spending while maintaining high levels of safety and

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1 reliability. We believe the Nuclear Regulatory Commission
2 has a role, indeed a responsibility in this undertaking by
3 improving the regulatory process in ways that do not
4 compromise safety and may, in fact, improve safety.

5 We'd like to thank the Commission for consistently
6 encouraging the industry to raise concerns and to provide
7 feedback on the implementation of regulatory policy and
8 programs.

9 Today's discussion, and for that matter the
10 independent assessment by Towers Perrin, are attempts to
11 respond constructively to that encouragement. We hope that
12 this will be the first of many constructive discussions in
13 the months ahead.

14 The issues and concerns we need to discuss have
15 accumulated over a number of years. They won't be resolved
16 easily and they will certainly not be resolved in a single
17 meeting. We regard this afternoon's discussion as the
18 beginning of the process, not the end.

19 I'd like to recognize the other gentlemen at the
20 table with me and indicate how we hope to proceed this
21 afternoon.

22 To my left is Phil Bayne, NEI's President and CEO.
23 After I finish these opening remarks Mr. Bayne will give you
24 some background on why and when the industry concluded that
25 it needed an independent assessment of the regulatory

1 environment and his perceptions of the problem before us.

2 To my right is Joe Colvin, Executive Vice
3 President of NEI, who is responsible for generic technical
4 and regulatory issues, among other areas.

5 To Mr. Colvin's right is Leonard Wass, a principal
6 with the consulting firm of Towers Perrin. Mr. Wass is
7 responsible for the nuclear regulatory review study. He
8 will follow Mr. Bayne's brief comments with a presentation
9 on how his firm conducted the research and reached the
10 conclusions in its report.

11 After Mr. Wass concludes his presentation, I'll
12 make some brief concluding remarks.

13 I'd also like to recognize a number of senior
14 industry executives in the audience. I won't introduce them
15 by name, but I'm sure you recognize many of them as the
16 nuclear utility CEOs and senior nuclear officers. Many
17 nuclear utilities are represented here this afternoon.
18 Their presence attests to the importance that we as an
19 industry attach to this issue. Their present signals are
20 commitment to work with the Commission and its staff to
21 redefine the relationship between the NRC and its nuclear
22 utility licensees in order to achieve a regulatory
23 environment that, one, preserves the Commission's statutory
24 mandate to protect public health and safety; two, preserves
25 the licensee's ultimate responsibility for safe operation;

1 and three, meets certain fundamental criteria of openness,
2 clarity and consistency.

3 I know the Commission is keenly interested in the
4 extent of the industry support for the Towers Perrin Report.
5 I'll tell you candidly that not all nuclear utilities have
6 experienced every problem identified in the report and not
7 every nuclear utility subscribes to every finding and
8 conclusion in the report. But it is the case that as an
9 industry we believe the report correctly identifies the
10 existence of problems at the interface between the NRC and
11 its licensees and we believe these problems deserve serious
12 evenhanded consideration. The broad industry attendance
13 here this afternoon testifies to the strength of that
14 belief.

15 In the last analysis, we should not allow
16 ourselves to be distracted by questions about whether the
17 methodology employed by Towers Perrin is the same as others
18 might employ or whether the conclusions drawn by Towers
19 Perrin square with the conclusions others might draw. It is
20 our hope that we will all move beyond such questions and
21 avoid the temptation to focus on the details and maintain
22 our focus on the larger, more important issue. The more
23 important issue is whether the nuclear regulation process
24 can and should be made more efficient and effective. In our
25 view, the Towers Perrin Report indicates that there is

1 substantial room for improvement.

2 Before we move to the comments of Mr. Bayne and
3 Mr. Wass, I'd like to make a couple of general comments.

4 First, please understand the industry recognizes
5 the importance of a strong, competent and fair regulator.
6 Second, we want to be very clear that the scope and manner
7 of NRC regulatory activities is an NRC management function.
8 Neither NEI nor the nuclear utilities would presume to tell
9 NRC how to manage its activities. Third, we recognize that
10 the initiatives undertaken by the NRC, particularly during
11 your tenure as Chairman, Dr. Selin, in the area of
12 regulatory reform are important.

13 The NRC senior management and staff deserve credit
14 for having demonstrated a willingness reflected in
15 activities such as NRC's regulatory review group to consider
16 changes in regulations and regulatory guidance when sound
17 technical analysis shows that those requirements are either
18 duplicative or do not provide a safety benefit commensurate
19 with the cost.

20 The Commission also deserves credit for its
21 willingness to consider new approaches in the development of
22 regulations and regulatory requirements, including the use
23 of techniques like probabilistic safety assessment, to
24 identify systems and components with the highest safety
25 significance and which does deserve greater licensee and NRC

1 attention. We fear that these positive gains are deluded by
2 chronic and persistent problems at the interface between the
3 NRC and its licensees and that's the issue we hope to
4 discuss. The industry is not seeking deregulation or even
5 less regulation. We are seeking more consistent objective
6 regulation. We're seeking a process in which licensees are
7 afforded the room to manage their activities, applying their
8 resources as they deem best from a safety standpoint and
9 fulfilling the NRC safety requirements in the manner best
10 suited to their individual plants.

11 Later in the briefing we would like to offer some
12 thoughts on how we might improve the regulatory environment.
13 Before doing that, however, i'd like to introduce Phil
14 Bayne, NEI's President and CEO.

15 CHAIRMAN SELIN: I failed to note that this
16 meeting is being broadcast to our regions, as well as many
17 people as we have here today. This is only a fraction of
18 the number that are actually watching the presentation.

19 MR. BAYNE: Yes, sir. Thank you.

20 Mr. Chairman, Commissioner Rogers, Commissioner de
21 Planque, as Linn Draper said, we appreciate this opportunity
22 to open what we hope will be a productive dialogue with the
23 Commission on ways in which we can work together to improve
24 the interface between the NRC and the industry.

25 Before I ask Mr. Wass to discuss the methodology

1 and findings of the Towers Perrin Nuclear Regulatory Review
2 Study, I'd like to take a few moments to describe to you
3 when and why the nuclear industry decided to Commission this
4 independent assessment of the regulatory process. The
5 decision to undertake this independent assessment predates
6 the creation of the Nuclear Energy Institute.

7 As you know, the Nuclear Energy Institute was
8 formally incorporated in March of this year and consolidated
9 the functions of four Washington-based associations,
10 including the Nuclear Management and Resources Council,
11 NUMARC. NUMARC was founded in 1987 and charged with
12 management of generic technical and regulatory issues. In
13 that capacity, NUMARC maintained constant contact with
14 nuclear licensees on important technical and regulatory
15 issues in order to address the generic aspects of those
16 issues. Since its founding, NUMARC had observed an increase
17 in NRC activities that appeared troublesome, especially at
18 the NRC licensee interface. One of the major concerns was
19 that certain NRC activities seemed to coapt licensees'
20 resources and command an increasing amount of licensee time
21 and resources, thereby undermining the nuclear utility line
22 management's authority and sense of responsibility for
23 nuclear power plant safety and reliability.

24 During the years leading to the formation of the
25 Nuclear Energy Institute, NUMARC noted an increase in these

1 concerns expressed by the nuclear utilities. NUMARC
2 attempted to alert the NRC of these concerns on various
3 occasions and in various ways. Mr. Colvin, who was NUMARC's
4 CEO at the time, can provide you with more detail if you
5 wish.

6 As we proceeded with the detailed planning that
7 preceded the formation of Nuclear Energy Institute, we
8 naturally attempted to identify all the issues facing the
9 new organization and assign priorities to those issues. The
10 industry's concerns about the regulatory environment ranked
11 high in that priority list. As a result of this continuing
12 industry input, Joe Colvin, then CEO of NUMARC, and myself
13 as CEO designate of NEI, in close consultation with the nine
14 nuclear CEOs committee that oversaw the formation of NEI,
15 decided it would be appropriate to commission an independent
16 assessment of the regulatory process, to validate our
17 judgment that the industry regarded the regulatory
18 environment as a priority issue. The decision to proceed
19 with this assessment was made in January of 1994 and the
20 actual work started in February of 1994.

21 Some weeks later, Mr. Colvin and I, if you'll
22 recall, Mr. Chairman, met with you and the other
23 Commissioners and with the NRC senior management to inform
24 you that we had commissioned this assessment and had
25 retained Towers Perrin to conduct the research and prepare a

1 report. Towers Perrin completed its work in October.
2 During this period we recognized the sensitivities
3 associated with this assessment and sought to preserve the
4 independence of Towers Perrin. In fact, NEI released the
5 final report to the Commission on the same day that we
6 provided copies to the industry. This was a conscious
7 decision intended to prevent any inference that the industry
8 had influenced the report. I can tell you that NEI has
9 suffered some criticism from people in the industry for not
10 having transmitted a report to the nuclear utilities before
11 releasing it to the NRC. We are reasonably certain that you
12 may have been aware of some of the problems and concerns
13 identified in the Towers Perrin Report because many of them
14 have been raised in previous assessments, including
15 regulatory impact surveys conducted by the NRC. We're
16 equally confident that you believe that the NRC had moved
17 aggressively and effectively to address these concerns.
18 Unfortunately, the Towers Perrin assessment, which reflects
19 licensee's perceptions of the regulatory process, suggests
20 that these problems may not have been fixed.

21 Mr. Chairman, Commissioners, we recognize that you
22 are keenly interested in this study, but we firmly believe
23 that our business with the Commission goes well beyond the
24 Towers Perrin Report. As I said, most of the concerns
25 reported by Towers Perrin have been documented before. We

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1 believe that specific examples cited are really just
2 symptoms of a larger systemic problem with the regulatory
3 environment. We hope that starting today we can move beyond
4 symptoms and begin to work together openly to define a
5 process for dealing with the root cause of these concerns.

6 Let me note here that I'm pleased to see that the
7 NRC has already started to examine the issues and concerns
8 raised in the Towers Perrin Report. NEI staff appreciated
9 the opportunity to meet with the NRC staff in a public
10 meeting on December 9th to discuss the Commission's approach
11 to these concerns. Our concerns about the regulatory
12 environment raise a number of policy level issues. These
13 kinds of issues are, by their very nature, difficult to
14 define. They resist quick and easy resolution. They are
15 much less easy to resolve than the relatively narrow
16 technical differences and issues on which we most frequently
17 interact.

18 Our industry and your staff have faced and worked
19 our way through difficult technical questions in the past,
20 but those kinds of questions such as what constitutes an
21 adequate level of design detail for final design approval of
22 an advanced light water reactor, for example, pale in
23 comparison to the issues it faces today. We believe that
24 the Commission and the industry must attempt to look behind
25 and beyond specific examples and concerns and attempt to

1 define root problems. If we do that, I believe we can
2 isolate several underlying policy issues that deserve
3 consideration. These policy level issues include such
4 things as inconsistency in the application of the regulatory
5 requirements and a lack of clarity of defined criteria to
6 measure what constitutes compliance with regulatory
7 requirements.

8 Problems like these combine to create an
9 environment in which NRC personnel can, if they so desire,
10 attempt to influence licensees to take actions that go
11 beyond the intent of the Commission's formal rules. Let me
12 stress that our industry generally does not have a problem
13 with formal NRC rules. They are typically straightforward.
14 They are developed through an open public process which
15 allows interested parties an opportunity to comment and
16 suggest changes for improvement. Healthy give and take is
17 the hallmark of your rulemaking process.

18 As I mentioned, the research by Towers Perrin and
19 the findings in the report you received in October should
20 not be much of a surprise. Similar concerns and perceptions
21 have been reflected in many reports and assessments over the
22 years. In this context, the Towers Perrin report is simply
23 another piece of evidence in a long continuum. Even without
24 the Towers Perrin report, there would still be legitimate
25 concerns and problems that deserve discussion. The Towers

1 Perrin Report served only to focus our attention, and
2 hopefully yours, on these concerns and problems.

3 I'd like to ask Mr. Leonard Wass from Towers
4 Perrin to give you an overview of his firm's research and
5 methodology.

6 Len?

7 MR. WASS: Thank you, Phil.

8 Good afternoon, Chairman Selin, Commissioner de
9 Planque, Commissioner Rogers.

10 I am here today to discuss the process which we
11 performed the Nuclear Regulatory Review Study and the
12 findings of our report. I will begin with a brief
13 background, then I will discuss the methodology followed by
14 a discussion of the four major themes from the report. I
15 know that you have read the report, so I will not go into
16 detail on the report findings. Rather, I will concentrate
17 on a brief overview of the methodology and summary of
18 results. I will provide you with whatever detail you ask
19 for during the question and answer session that follows my
20 presentation.

21 CHAIRMAN SELIN: Don't be so sure it will follow
22 your presentation.

23 MR. WASS: I'll remain flexible, sir.

24 CHAIRMAN SELIN: Fair enough.

25 MR. WASS: Before I do that, I think it might be

1 helpful to tell you just a bit about Towers Perrin. Towers
2 Perrin is a large international management consulting firm
3 and we employ over 5,000 employees. We operate in over 60
4 countries and have more than 60 offices in the United
5 States. Our practices represent a wide number of management
6 consulting specialties, including retirement, human
7 resources, employee benefits, compensation and my area of
8 expertise, general management. We serve a full range of
9 clients, from about eight of every ten members of the
10 Fortune 1000 list to very small companies. Our clients
11 represent virtually all major industry, government and not-
12 for-profit categories. The first is 60 years old and its
13 reputation is built upon high quality, high value added and
14 high integrity consulting work.

15 My experience is with the general management
16 sector, as I mentioned, and my experience spans the better
17 part of 22 years with the firm. I have been involved with a
18 full range of assignments in general management and have a
19 wide range of experience across many industries. I am the
20 founding partner of the Electric and Gas Utility Consulting
21 Practice and on this particular study used a team of seven
22 consultants that represented a mix of experience in the
23 nuclear industry ranging from extensive to no prior
24 experience in the industry.

25 Let me turn to the methodology at this point.

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1 This was a survey study, which I consider to be
2 one of our most basic and straightforward assignments. We
3 were asked simply to survey a small but select audience in
4 44 companies. Unlike strategic operational and analytical
5 studies, a survey is completely objective. It reports the
6 results of focused fact finding and our objective was to
7 provide a written and face to face survey of the top
8 executives in the 44 operating licensees to determine their
9 views on the relationship between the industry and the NRC.

10 Our first two tasks were to administer a written
11 questionnaire and to conduct face to face interviews. Over
12 the years, our process is ask the client to help in
13 constructing and administering these kinds of internal fact
14 finding efforts. Because the client knows its industry
15 best, this industry gets the consultants up the learning
16 curve most quickly. Client involvement also helps us assure
17 that the technical accuracy is correct and facilitates the
18 openness and candor that we need in the interview process.

19 The questions and answers for the written
20 questionnaire were formatted to ensure ease in computer
21 tabulation of the results. We also put a positive or
22 negative spin on questions to elicit a convincing response
23 from the respondents. The spin placed on a particular
24 question is not important. The ability of the survey
25 respondents to understand the questions and their

1 willingness to reveal their true feelings is really what
2 matters.

3 [Slide]

4 MR. WASS: I turn your attention slide 20-B, which
5 was question 20-B from the survey and use that as an
6 example. We asked respondents to give the level of
7 agreement or disagreement with the statement, and I'll
8 quote, "The NRC sometimes gets involved in our efforts to
9 recruit personnel from outside our utility." This question
10 has a negative spin. If you look at this slide being put up
11 now, it shows that 80 percent of the respondents disagreed
12 with that hypothesis, which is a very highly consistent
13 response which is also favorable to the NRC. There are
14 other such examples throughout that survey.

15 We also asked for help from industry
16 representatives to schedule our interviews, as is our
17 custom. We felt it was especially important in this study
18 and this was based on our experience and we recognize there
19 would be a reluctance to discuss these issues in depth and
20 with complete candor. Face to face interviews were
21 conducted concurrently with the issuance of the written
22 questionnaire. These interviews typically included the
23 chief nuclear officer and his top nuclear executives,
24 including the vice presidents, plant managers and licensing
25 managers.

1 We asked at each interview for balanced input. We
2 asked for both the pros and the cons of the regulatory
3 relationship and we always started with the pros. The face
4 to face questions paralleled the topics that were contained
5 in the written questionnaire, but I would stress that the
6 key to survey studies like this is the depth of questioning
7 that occurs in the face to face meeting. During these
8 interviews, we take a "peel the onion" approach to ensure
9 that the authenticity of the issue is verified to eliminate
10 hearsay and to gain an in-depth understanding of what the
11 respondent is saying.

12 CHAIRMAN SELIN: Just a second. What is hearsay?
13 You're asking people their opinions. So, you're not asking
14 them for facts or demonstration of evidence. What do you
15 mean by hearsay?

16 MR. WASS: I think I will clear that up in just a
17 second and if I don't, I would invite you to ask me that
18 again. You see, the basic driver of the study are the
19 issues that come up during the face to face interviews.
20 Accordingly, our study team follows an issue-driven
21 methodology. What we do is we verify cross check and then
22 seek validation of these issues. During this particular
23 study, for example, during the personal interview stage, our
24 study team met in person frequently to talk about the
25 issues. We interacted via telephone phone mail on a daily

1 basis talking about issues, and we distributed notes to one
2 another that brought the issues raised by the nuclear
3 executives to the forefront. By using this process, we are
4 able to validate and/or consolidate some issues and
5 eliminate still others. This was the essence of how we
6 developed conclusions based on the face to face information
7 of this type.

8 CHAIRMAN SELIN: Am I supposed to know now what
9 you mean by hearsay? I don't. Let me give you an example.

10 MR. WASS: Please.

11 CHAIRMAN SELIN: You asked the CEOs what they
12 thought of our research program. CEOs don't have a very
13 good idea what our research program is. So, one definition
14 is do they have real information. The second is are you
15 getting their own opinions as opposed to their opinions as
16 put through somebody else. If you're talking to the CEOs
17 and you ask them questions and they give you answers that
18 are more or less consistent with answers they give to other
19 correlated questions, I assume you're finding out what their
20 opinions are. But I still don't understand what you mean by
21 hearsay in this situation. What somebody else thinks the
22 CEO thinks or --

23 MR. WASS: No. What we mean by hearsay is we're
24 really looking for validation and consistency of opinions.

25 CHAIRMAN SELIN: That people really believe what

1 they say?

2 MR. WASS: And that there are other people, and a
3 sufficient number of other people, that really do believe
4 that so that we're not just reporting a very small fraction
5 of individuals --

6 CHAIRMAN SELIN: Other people in the same company
7 or that it's a pattern that goes across companies?

8 MR. WASS: It's both and it's really more the
9 latter. The pattern that goes across the licensees to make
10 sure that the themes are coming out from this and we're not
11 really reporting and acknowledging a blip or an area that
12 really is not felt throughout the industry.

13 CHAIRMAN SELIN: Okay. I mean those basically --
14 I'm trying to concentrate on the survey part, not the
15 incidence part. I find the incidence very useful. I think
16 the analysis that's going on between the NEI staff and our
17 staff is likely to be quite productive and there's even some
18 problems with the incidents because they're spread over such
19 a long amount of time. You don't have an underlying secular
20 situation, you have trends going on. But that's going to be
21 quite productive. What we're trying to do is figure out how
22 much sense to make out of the opinions of the executives.
23 So, it's very important that we understand not only what
24 you've done, but how you drew your conclusions. So, for
25 awhile I'm going to be asking you questions that are

1 probably going to seem pretty nit-picky, but I really do
2 need to understand what these statements mean when you say
3 people think this or people -- well, they don't say people
4 think, they're stated as flat statements.

5 MR. WASS: And that's fair enough, Mr. Chairman.
6 I think it's very important for you to understand that. We
7 are very, very discriminating during the face to face
8 interview stage in development of themes and development of
9 issues. This repeated interaction of the team really helps
10 us to throw out issues that turn out to be not validated,
11 not consistent across the various licensees. In this
12 particular study, the themes and the consistency during the
13 face to face interviews fell in place very, very quickly.
14 This is a study that really was not sampling a population.
15 It's not like a consumer product study where you can sample
16 2,000 people and project to 230 million people. We are
17 sampling 100 percent of the population over here. So, the
18 themes fell into place very quickly and there was a very
19 high level of consistency regarding those themes that we
20 preserved for the report.

21 CHAIRMAN SELIN: Why don't you continue.

22 MR. WASS: Okay. Let me talk for a moment in the
23 written questionnaire. The written questionnaire was an
24 important but a secondary source of information for us.
25 Most of the types of studies that we have done here rely

1 exclusively on the face to face interview survey process.
2 In this case, we conducted an additional written survey and
3 had all 44 licensees respond to it and return written
4 questionnaires and, in fact, 81 percent of all of the
5 questionnaires that we distributed were returned, which is a
6 very good rate.

7 The results of the tabulation of the
8 questionnaires, and we received those results about midway
9 through our process, validated the issues that we drew and
10 had documented for the face to face interview process. The
11 issue analysis resulted in a preliminary outline of the
12 conclusions. These conclusions fell into four major themes
13 or categories and I'll get back to these in just a moment.
14 Two of the themes were very positive and the third and the
15 fourth pointed to areas that required some attention.

16 After developing the conclusions, then and only at
17 that point did we go over our notes to provide illustrative
18 examples that lent some support to the conclusions. It was
19 also at that point which was far into the study where we did
20 a document review on the subject. We reviewed a number of
21 studies that had been conducted, including several that were
22 initiated by the Nuclear Regulatory Commission. We found
23 that most of our findings had already been uncovered in
24 earlier studies and this added further substantiation to our
25 findings.

1 Our final steps were to draft a report and have it
2 reviewed for technical accuracy by the client. Again this
3 is customary to avoid having a technical inaccuracy detract
4 from the findings of the entire report. Let me stress to
5 you, however, that we control the methodology and the
6 results, but the results of this particular study are merely
7 an organized presentation of the preponderance of opinions
8 and viewpoints of the top executives from the 44 operating
9 licensees.

10 CHAIRMAN SELIN: The trouble is they're not stated
11 that way. You have chapters 3 to 9 are simple declarative
12 sentences. One of them is a platitude and six of them I
13 disagree with and I still find the report very useful. I
14 was listening to what Mr. Bayne said. He basically was
15 saying this is a way to catch your attention. People really
16 believe this. Now, let's get on and solve the problems. I
17 think it's very important that we get on and solve problems.
18 But if we have these statements in the record and if they
19 all said the majority of the industry people believe X or
20 believe Y, you guys can believe anything you want. That's
21 your business. It's not a democracy. We don't vote on how
22 we do things. We try to find out -- in a sense you're our
23 customers. We try to find out how we appear to you and then
24 go on and do the work.

25 But it doesn't say that. It says, "The NRC has

1 been unable to address its own management programs." It
2 doesn't say the utility executive believes this. These are
3 flat declarative sentences and either you have to tell us,
4 "Well, we should have said the industry executives believe
5 this," in which case we're not going to question that very
6 much. We'll go on to what do we do about it, or you tell us
7 that as consultants you believe that these are factually
8 true statements, in which case you have to tell us how you
9 went beyond the statement of opinions by 44 people times
10 five per agency to conclusions that not only did they
11 believe these things to be true, but in your opinion they
12 are true because those are pretty strong statements and we
13 have to know if you yourself believe they're true and, if
14 so, what's the basis for that.

15 If you're agnostic as to whether they're true or
16 not, then we can go and say, whether we agree with the
17 conclusions or not, if you think there's a problem, we know
18 there are problems from our own surveys, let's figure out--
19 even though we may disagree at how serious the problem is,
20 we can agree that there are positive steps to be taken about
21 what to do about them.

22 So, if you want a short question, it's should
23 these have qualifiers in front of these things that the
24 majority of the utility executives believe X, Y and Z, or do
25 think they're true statements? If you think they're true

1 statements, maybe you can explain to us how you go beyond
2 the opinions that you surveyed and how you verify these or
3 check this against reality or did "objective analysis" as if
4 there were such a thing to come to a conclusion. Yes, you
5 do think a set of impartial people would agree. We're not
6 any more partial than executives are, we recognize. A
7 little bit more impartial, but not a lot.

8 So, that's really the question.

9 MR. WASS: Chairman Selin, I'm here today to tell
10 you that that report really reflects the preponderance of
11 viewpoints of the industry.

12 CHAIRMAN SELIN: Okay.

13 MR. WASS: We were very careful in this study to
14 attempt to remain neutral in collecting the information and
15 synthesizing it, not to express our feelings as an advocate
16 or an opponent one way or the other. We are absolutely
17 certain that the report in its entirety reflects and
18 accurately reflects the collective views of the top
19 executives and the licensees and I am here to substantiate
20 that to you and also to answer your questions in that
21 regard.

22 CHAIRMAN SELIN: I mean a fuller statement of
23 these conclusions is the consensus within the industry is
24 and then whatever the sentence is becomes just a clause
25 within that sentence? Is that how we should understand, do

1 you think?

2 MR. WASS: If that would help the clarity of it, I
3 think --

4 DR. DRAPER: I think that's absolutely right.
5 Obviously they didn't study you, they studied us and asked
6 those questions.

7 CHAIRMAN SELIN: All right. Okay. So, there
8 isn't an independent verification of validation that
9 statistically or economically or whatever it is, these are -
10 - I mean we might even had a good research program as far as
11 the reader is concerned, but the chief executives don't
12 think so.

13 MR. WASS: Don't think so, right. So, it's
14 reflecting their viewpoint.

15 Let me return to the four general themes that came
16 from the survey. I mentioned that two of the four are
17 positive and let me begin with the first. We found that the
18 nuclear energy industry has consistently met its
19 responsibility as the primary protector of the public health
20 and safety. The NRC's own performance indicators have shown
21 that the safety and reliability of U.S. nuclear power plants
22 has significantly improved over the last ten years to a very
23 high level.

24 The second major theme was that there were a
25 number of positive attributes regarding the NRC and the

1 NRC's activities. These included the effectiveness of the
2 NRC's official rules and technical specifications in
3 supporting safe plant operations, the NRC's effort to reduce
4 the regulatory burden by eliminating rules and regulations
5 that are either duplicative or do not add to nuclear power
6 safety. For example, the cost beneficial licensing action
7 effort. And also the technical competence and commitment of
8 NRC personnel to public health and safety.

9 The third central theme is an opportunity for
10 improvement that we believe needs to be addressed. In
11 particular, we found the industry is not without fault and
12 the industry has not always managed its regulatory interface
13 with the NRC effectively. For instance, we found that
14 licensees have not consistently raised their concerns with
15 the NRC, that licensees consistently have trouble sticking
16 to industry positions when they are posed by the NRC, that
17 licensee CEOs are relatively unfamiliar with the pressures
18 being placed on the plant management by NRC personnel and
19 policies and finally that the industry and the NRC have not
20 generally worked effectively and efficiently together to
21 resolve important generic issues.

22 The fourth and final theme was also an opportunity
23 for improvement and pointed to a number of persistent
24 problems with the regulatory process that need to be
25 addressed by the NRC and the industry. Much of the report

1 is devoted to explaining these areas and they were
2 categorized into seven findings. Before I highlight these
3 findings, I recognize that you may not agree with some or
4 all of them. We are hopeful that following this meeting and
5 subsequent discussions between yourselves and the industry
6 that the NRC will accept the validity of our findings.

7 CHAIRMAN SELIN: Meaning that that is what the
8 industry as a whole --

9 MR. WASS: Yes, sir, exactly. We are confident
10 that these findings synthesize the perspectives and also the
11 depth of feeling of the senior executives in the companies
12 that you regulate.

13 [Slide]

14 MR. WASS: The seven findings under the fourth and
15 final theme are shown in two slides that are being put up
16 now. I know that you have read through them, so I will not
17 take your time to go over them once again. The seven
18 findings cover issues which are deeply felt by those whom
19 you regulate and they cover items such as the philosophy and
20 approach to regulation, interface issues, the use of clear
21 regulatory criteria, consistency in regulation, openness and
22 effectiveness of communication between licensees, the NRC
23 and the public, perceived management and cultural issues
24 within the NRC, and implications for the future.

25 I acknowledge that the report does not portray

1 these findings in a positive light, but it does capture the
2 intensity of feelings held by the top licensee executives
3 whom you regulate. It is clear to me that the number and
4 gravity of issues warrants a closer look by all parties.

5 I thank you for the opportunity to present this to
6 you today and would welcome your questions.

7 CHAIRMAN SELIN: Well, before I turn to my
8 colleagues, for myself I would rather use -- I mean you
9 basically answered my principal question and rather than
10 spend a lot of time on the statements, once they are, we
11 believe the industry believes X, then I'm not so concerned
12 about what you believe or -- I mean I'm concerned what the
13 industry believes, but they can state them any way possible.
14 I'm not interested in going through the questions and doing
15 an analysis whether it was a fair question or a leading
16 question. That's your business. You communicate with your
17 licensees.

18 I'm very interested, once we have you at the
19 table, about what you think we ought to be doing to improve
20 these spaces because even those statements that are up
21 there, if they were written in less inflammatory language, I
22 would agree with them. I certainly agree with that
23 inconsistent of subjective regulation and significant --
24 that's the platitude, in case you're interested.

25 And in the other areas, we have plenty of room to

1 improve. You've heard me say those speeches. Every one of
2 these points with quite a different nuance has been in one
3 of my speeches, one of Commissioner Rogers' speeches, one of
4 Commissioner de Planque's speeches. So, I'm prepared to
5 sort of take that as a given, make some allowance for
6 hyperbole given the various dynamics of what goes on, and
7 ask you probably, Dr. Draper primarily as the Chairman of
8 NEI, but all of you, in some detail what do you think would
9 be the most productive way to solve some of these problems?
10 But before I do that, I need to turn to my colleagues and
11 ask them if they want to ask some methodological questions
12 or shall we just go on with this?

13 COMMISSIONER ROGERS: No, not as far as the method
14 is concerned. I think when all is said and done the impact
15 of the report is in the findings, at least as far as the
16 public is concerned, and these are rather sweeping. They
17 have a sweeping character. Let's put it that way. I don't
18 know that they're conclusions. They are what you found
19 people believe.

20 So, I don't have any questions about the
21 methodology, although I do find the report quite troubling
22 in the sense that since I've been on the NRC, and it's not
23 because I've been on the NRC, but that's the time frame in
24 which I can speak, of seven plus years or so, I have seen
25 enormous changes in how this agency is led, the direction

1 from the top, and I really believe fundamental changes in
2 how the staff, in fact, is carrying out regulation. There
3 have been many, many activities that represent a profound
4 change from the past and I don't detect any sense of that in
5 the report.

6 Now, NRC is not looking for a pat on the back, but
7 I think what we're trying to see is when there is a
8 perception of a problem, is that in full recognition of the
9 entire picture or is it coming about that there is no
10 perception of change in what has happened? If there's no
11 perception over the last seven years of how NRC has
12 operated, I think it's going to be very hard to see any
13 change in the next seven years in how NRC is operated, quite
14 frankly, because I think you have seen as big changes in how
15 this agency regulates as you'll ever see. That's an
16 opinion, but I think that's something you ought to take into
17 account. We've been on a trajectory of openness, of a
18 recognition that regulation can do damage as well as good
19 and we're trying to find a constructive way to continue to
20 move ahead in this. If the results of the activities thus
21 far are not perceived, I find it difficult to believe that
22 any significant changes in the next few years are going to
23 be perceived either. That isn't to say we shouldn't pursue
24 them. We most certainly should. But I'm somewhat
25 disappointed that out of the full collection of CEOs in this

1 country, that there doesn't seem to be any reflection in
2 this report of changes that have, in fact, taken place and
3 where there are directions that should be encouraged.

4 Our job in regulation should be to encourage the
5 sound and discourage the unsound. The same with you versus
6 us. You should encourage us in those ways that you think
7 are the right ways to go and stand up for those and oppose
8 those specifics where you feel we're not on the right track.

9 My problem with this Towers Perrin Report is it
10 doesn't seem to reflect any of that kind of view. It is
11 quite a negative report, I would say, and I find it very
12 troubling if the majority of the CEOs in the nuclear
13 industry in the United States actually believe that the
14 NRC's current regulatory approach, that's the trajectory
15 that we're on right now, represents a serious threat to
16 America's nuclear generating capability. If you folks
17 really believe that, I think we've got a very, very serious
18 problem because I don't believe it.

19 DR. DRAPER: Commissioner Rogers, I think that if
20 you asked the 44 CEOs involved to list good things that have
21 occurred at the NRC over the last several years and things
22 that they think are still troublesome, you would have
23 lengthy lists on both sides. This study attempted to focus
24 on the issues that surround the interface between the
25 Commission and the licensee in doing its daily business and

1 it was clear that there were things that were on people's
2 minds that caused a lot of concern. That's, I think, the
3 conclusions that were assembled when Towers Perrin people
4 did their interviewing, looked at those issues that they
5 thought were troublesome and Mr. Wass and his colleagues
6 have attempted to compile those in a way that will at least
7 identify some of the things that we ought to look at.

8 I don't think that you should conclude that the
9 CEOs of nuclear utilities think our relationship is
10 hopeless. We value the opportunity to have this sort of
11 conversation and, in fact, recognize that you have
12 consistently said that you know things aren't perfect and
13 that they can be improved and you have time and again
14 encouraged us, in my words not yours, to put up or shut up.
15 This is a way to discuss some of the issues that we think
16 are the lively issues.

17 CHAIRMAN SELIN: We should look the bright side.
18 I think you've proved beyond a doubt there is, what do you
19 call it, a pervasive air of intimidation?

20 MR. BAYNE: Fear of retribution.

21 CHAIRMAN SELIN: Yes. I think you've proved
22 beyond a shadow of a doubt there isn't any such thing.
23 Other words you wouldn't have produced such a report.

24 MR. BAYNE: One of the things I'd like to say is I
25 got ready for today's meeting, I went back to look at what

1 the Commission staff has done in these areas and I was truly
2 amazed at how much effort has gone into some of these
3 things, one of them being a procedure to elicit comment from
4 licensees. But when you elicit comments from licensees, I
5 think the quote was, "they're a bunch of happy campers."
6 But when the licensees are given the protection of
7 anonymity, you get a different story. So, I would say that
8 probably there is a fear of retribution.

9 CHAIRMAN SELIN: But I think not pervasive.
10 Commissioner de Planque?

11 COMMISSIONER de PLANQUE: Well, I would like to
12 ask you a question about the process a little bit and it's
13 sort of a second order effect compared to what the Chairman
14 was raising about whether or not the conclusions represent
15 the opinion of the licensees as opposed to sorted out facts.
16 I think we've clarified that one very well.

17 In your description, you said that some of the
18 questions deliberately had a spin to elicit a certain
19 response. I think those of us who are only casually related
20 with the techniques of methodologies of surveys might
21 appreciate a little more explanation of that and what it
22 tells us in terms of how to interpret the report. Maybe a
23 one minute tutorial on why you would do that and what it
24 means to us when we look at the results, because clearly I
25 think when our staff has poured over this they've seen that

1 sort of thing and said, "Oh, my goodness, there's a bias in
2 this question and that doesn't seem fair."

3 So, maybe you could explain that technique to us
4 just a little.

5 MR. WASS: Yes, certainly. Many questionnaires
6 produce what we tend to call, in our firm anyway, vanilla
7 type questions and they elicit vanilla-type responses.
8 They'll have a very neutral statement and then ask the
9 respondent to rate something on a scale of one to ten. You
10 typically invite a response of five. So then at the end of
11 the study you look at that survey and it's of very little
12 value because you have reaped what you've sown in the
13 vanilla questions.

14 So, in order to really capture the true feelings
15 and the true intensity and attitudes of your survey
16 population, we'd like to put some spins on the question and
17 it really doesn't matter in our experience whether you put a
18 positive or negative spin on it. You could say, "This
19 organization, the NRC, does this particular activity very
20 well," or you could say it does it very poorly. What really
21 matters is whether or not the audience that is reading that
22 question is intelligent enough to understand it, and
23 secondly whether the audience truly answers honestly.

24 One way of determining that is if in some
25 instances you get a very high consistency of response and

1 there were many, many issues in here out of the written
2 questionnaire that wound up with very high consistency of
3 response. Two-thirds of the population were grouped. We're
4 very careful, however, to try to put a balance to it. In
5 fact, I did a little tally thinking about that here in the
6 last couple of days. We had some questions that had a
7 negative spin where it was a little negative spin toward the
8 NRC and we noticed in our findings that there were a number
9 of answers that refuted that negative spin in favor of the
10 NRC. They were questions 13-C, 20-B and 7-A, C, E and D
11 were of that category.

12 We also had other questions that had a very
13 positive spin toward the NRC, you know, the NRC did this
14 very, very well, and there were a host -- and I have a list
15 of them, a host of other questions that put that on. When
16 you look though in the very end of that second document that
17 really focused on the questionnaire, it typically, despite
18 the fact that there may be a spin on the question, the
19 respondents were generally asked whether they strongly
20 disagreed or strongly agreed and also the level of agreement
21 or disagreement. So, they really weren't being pushed into
22 one answer or another. They were really being pushed to
23 answer honestly and the way they truly felt. They had the
24 opportunity and, in fact, there were a number of questions
25 that I've mentioned where they are grouped one way or the

1 other. So, I think because the written survey supported so
2 well what people were telling us in person and then later
3 because we reviewed some of these other studies that had
4 similar findings, we came away with saying this is a very,
5 very conclusive and objective study and it is well
6 substantiated.

7 Does that answer your question on the methodology?

8 COMMISSIONER de PLANQUE: Yes, thank you.

9 CHAIRMAN SELIN: Let's get on. First of all, one
10 thing that struck me about this study was how little
11 regionality there were in those answers. I really found
12 that very interesting, that with the exception of one or two
13 important, but only one or two questions, the regional
14 differences were very small, and there were some other
15 things.

16 I think you should accept three things as given
17 and then within these three things -- and here I'm speaking
18 for myself, but there's a lot of Commission history on it.
19 We really would like to solicit your views on what best ways
20 are to proceed in a number of these questions. The first is
21 the NRC is not going to stop making overall assessments.
22 It's true that if you're going to objective assessments you
23 can do an objective assessment on maintenance or
24 engineering, stuff that's hard to do an objective assessment
25 on safety, sensitivity, safety culture. But some plants

1 have trouble over and over again and you can't just be
2 random, and others don't. So, we've got to try to continue
3 to assess the licensees, not just their maintenance function
4 or the engineering function. Otherwise we're back in pre-
5 TMI where you see all these pieces but since they're
6 different you don't blow the whistle. That's not going to
7 happen, I don't think.

8 The second is we're not going to resort to a pass
9 or fail as if there were only one reactor. The only
10 question is should that reactor be closed down or not. It's
11 clear the American public does not only expect that a
12 specific plant be safe but that there not be any dangerous
13 accidents. So, one needs excellent performance, which is
14 another way to say a large margin of safety at each reactor
15 so that overall the chances of a serious accident are very,
16 very low. We can argue about whether there should be a good
17 performers' list and how it should be promoted. Argue might
18 not even be the best word. We might even be able to think
19 together on that, but we're not going to back to saying,
20 "That plant is not bad enough to close down," and that's the
21 only thing we tell you about it, again a la pre more like
22 Davis-Besse.

23 The third is we're a public agency and we're going
24 to tell the public a whole lot of things, some of which will
25 be embarrassing and some of which won't. Of all the things

1 I disagree with, and this is a very tough measure to prove,
2 I think I disagree most with the statement about we're not
3 on the program, we're causing a lot of damage. I would look
4 at your own report of May 1994 where public opinion is more
5 favorable than it's been for years for nuclear stuff. Now,
6 I'm not saying we're responsible for that, but we certainly
7 -- if we're trying to kill public support for nuclear, we
8 haven't done a very good job of it by your own report.

9 So, we're going to continue to be a public agency.
10 Maybe there's better ways to communicate with the public,
11 but we're not going to have closed meetings where we tell
12 you what we really think but we don't share that with the
13 general public.

14 MR. BAYNE: That's not what we'd like. We like
15 the fact that you've brought openness to the process.

16 CHAIRMAN SELIN: Right. So, why don't we go into
17 some of these things? I would like to talk to you -- the
18 part that really struck home was the cooperative or lack of
19 cooperative from me. I would like to ask you if we don't
20 use generic letters and bulletins and things like that, how
21 should we communicate with the industry on broad safety
22 issues where you don't want us to just come out with a draft
23 rule, you want some communication and it can't all be done
24 face to face. There are things like some of these Thermo-
25 Lag issues or some of these other issues where we are

1 concerned, we want to get this concern out and communicate.

2 I know it's fairly general, but what would you
3 suggest as a broad framework for what I think we would all
4 agree are required communications that go beyond the
5 regulations?

6 DR. DRAPER: You know, one of the things that
7 struck me in thinking about what do we really want was how
8 to look back at the principles of good regulation that you
9 folks have articulated and I think we're 100 percent in
10 concert with those principles. Our concern is that those
11 aren't consistently applied and embraced throughout the
12 organization and the further we get from this table the more
13 difficult it is for our people and your people, it seems, to
14 understand what we're all about. How we solve that issue,
15 I'm not sure, but I certainly don't know all the pressures
16 that people in my plant are under from your folks and I
17 suspect you don't know the pressures that are being applied.
18 That's really what we're talking about, how we can be sure
19 that there is a complete understanding throughout our
20 organization of what we ought to be doing and throughout
21 your organization of what your desires and wishes are. If
22 we could focus on any one thing, in my view that would be
23 it, how we can communicate throughout our organization so
24 that there is consistency, openness and it's publicly known
25 to everybody what the rules of the game are.

1 CHAIRMAN SELIN: Okay. That's a fine generic
2 objective and I'm interested in that, but there's some
3 mechanics to go with this and we need to understand the
4 mechanics.

5 DR. DRAPER: And I don't know how you do that in
6 your place. What we are trying to do in our place is to
7 tell people that we really do want to do those things that
8 are important to safety. When there are suggestions made,
9 they ought to be carefully evaluated. They shouldn't be
10 blindly followed and we will do that. We would hope that on
11 your side if that is done in a professional and thorough
12 way, that it would be accepted in exactly that way.

13 CHAIRMAN SELIN: Well, let me tell you what we are
14 doing to try to make that more likely. Maybe you'll respond
15 to this. Number one, your favorite topic, the SALP program.
16 They're down to 4 from 7 criteria. They're criteria which
17 are generally felt to be sort of of equal weight, so that if
18 the individual numbers are right and you can generalize from
19 those, you'd get a more accurate answer than was true in the
20 past.

21 There's a lot more across-the-board discussion
22 from region to region and certainly from senior personnel to
23 senior personnel. We, on the one hand, have made it clear
24 what we expect our inspectors to do and, the second, we
25 don't allow any one person, even a resident inspector who

1 knows the plant better than anybody else, to have the kind
2 of influences that they've had on these in the past.

3 I believe that because the more senior people are
4 more involved in the evaluations that the -- if I take what
5 you say as literally true, Dr. Draper, that the further up
6 you go the less people are likely to intimidate someone who
7 wants to talk to them, we are trying to decouple sort of
8 caprice or unsubstantiated activities into the SALP scores.

9 Tied in with that, we're moving towards a
10 procedure that -- and one of the many things I agree with in
11 the report is we certainly haven't delivered the correlation
12 between our assessment of licensee performance and the
13 amount of resources that go there, but that's where it's
14 very important to put times on the schedules. The trend is
15 clearly in the right direction. But we're moving to
16 procedure where the SALP is done, it's not revisited. The
17 only thing that would lead to a real change in resource
18 allocation between one SALP review and the next is a set of
19 events that would indicate that something has gone awry in
20 the interim.

21 MR. BAYNE: May I please?

22 CHAIRMAN SELIN: Mr. Bayne?

23 MR. BAYNE: If you look at the objective
24 performance indicators that the NRC uses, it shows a marked
25 improvement across the board.

1 CHAIRMAN SELIN: Absolutely.

2 MR. BAYNE: As a matter of fact, it shows that the
3 gap between the bottom quartile and the top quartile is
4 actually decreasing over time. But if you look at the
5 outreach SALP scores, the average SALP scores today are
6 almost identical to what the average SALP scores were in
7 1986 and '87, which would lead you to believe that there
8 isn't any improvement in the process. We ought to look at
9 that. I think it's worth looking at and I'd be happy to
10 share our analysis with that.

11 CHAIRMAN SELIN: I don't want to belabor the
12 point, but there are about three points I'd like to make.
13 First is that there's a pretty good correlation over time
14 between SALP scores and performance indicators. Now, the
15 performance indicators are very scarce. You wouldn't want
16 some plant to get 20 percent more inspection because it
17 happened to have two scrams in a year instead of one scram.
18 But if you look at it by universe, they're pretty good. So,
19 it gives us the feeling that overall that both are fairly
20 good indicators. You start with the performance indicators
21 and you check the SALP scores. We try with the SALP scores
22 to see if we agree with the performance indicators. We come
23 to the same conclusion.

24 The second is absolutely related. There's
25 absolutely no question that performance is improving.

1 The second point I would like to make is that you
2 can't use that to measure differences because as people get
3 the good scores, it's just harder to get over the last ten
4 or 20 percent. So, as performance is getting better, it's
5 hard to measure the spread.

6 But the third point, and this I guess I would ask
7 you to take on faith because it's hard to show, is we are
8 not ratcheting up expected performance. I've said over and
9 over again that we don't expect the best plants, the Summers
10 and Diablo Canyons who are on the good performers' list, to
11 get much better. They can't get much better. They're
12 pretty close to their potential. So, when we find an
13 improvement, we don't go and ratchet it back and say -- what
14 we're trying to do is put pressure on the industry to bring
15 up the poor performers so that the gap between the top
16 people and the bottom people on this list. We're not trying
17 to raise the tide and raise all the boats, we're trying to
18 reduce the draft on those that are -- well, I won't get
19 carried away with the Navy metaphor. But the ones that are
20 too close to sinking are the ones that we're concerned
21 about.

22 MR. BAYNE: Some of the people at this table
23 understand the Navy thing.

24 CHAIRMAN SELIN: But that's a good thing to look
25 at and we would like to look at it. What I'm more

1 interested in looking at is making sure that we do what
2 we're supposed to do, which is take a look at not just the
3 evaluations and how we communicate with them, but are we
4 improving on following up on the inspection programs and the
5 other resource-sensitive programs.

6 In fact, the thing I really would like to ask you,
7 you're under a lot of pressure. I don't really agree with
8 the way you've expressed these views and things, but I'm a
9 little more philosophical than I was a month or two ago
10 about this point now that I've had a chance to think about
11 this. And your CEOs are under a terrific amount of
12 pressure. Some may be from us, some from the environment,
13 you know the economic environment, et cetera. It's
14 understandable that there would be this kind of sentiment,
15 maybe even this kind of frustration. But if you really had,
16 say, three or four or five things that you would like us to
17 do differently, what would they be? What would be the
18 highest on your list?

19 I appreciate Dr. Draper's point, but in the more
20 operational statements, what would you really like to see as
21 realistically --

22 MR. BAYNE: I would like to see more consistency
23 across the organization.

24 CHAIRMAN SELIN: Okay. It paraphrase W.C. Fields,
25 compared to what?

1 MR. BAYNE: Well, consistency in how you implement
2 your regulations. I think it's a very difficult thing to do
3 and again I go back to the fact that you developed a program
4 in 1989 to try to improve consistency by training your field
5 personnel.

6 CHAIRMAN SELIN: Do you mean from region to region
7 or from --

8 MR. BAYNE: From region to region, from plant to
9 plant.

10 CHAIRMAN SELIN: Not from regulation to
11 regulation?

12 MR. BAYNE: Having served as a plant manager at
13 one time, I can tell you that one of the most disturbing
14 things is to be satisfying one of the NRC field personnel,
15 only to have that personnel get changed out, which you have
16 to do, and then to find a new person come in and tell you
17 that, "We don't think you're doing this right," and you've
18 been doing it right for somebody for five years that
19 represents the NRC and then somebody else comes in and tells
20 you you're not doing it right, and then you have to go spend
21 a lot of money to satisfy a new person. I think as long as
22 the field personnel had the ability to change what the
23 regulation means to them --

24 CHAIRMAN SELIN: On the run.

25 MR. BAYNE: -- on the run, it's going to be very

1 difficult. It's very similar to me to what happens when
2 you're running a business with large geographically diverse
3 plants and you have labor contract. If you don't have all
4 your people dealing with that labor contract in a consistent
5 manner, you run into a lot of trouble and frequently lose
6 every arbitration case you ever come up against. There are
7 people who will come in and help you solve that problem and
8 I would imagine there are people that would help the NRC
9 solve a consistency problem.

10 CHAIRMAN SELIN: Okay. We'll talk about that.
11 I'm very sensitive to that. I think it's the most important
12 point given that we're so disperse. It's the hardest thing.
13 I will also tell you an internal study that I had done since
14 this report, and that was change in the notice of violations
15 as we change senior residents. Only about five out of 44
16 sites had more than a 15 percent change from one to the
17 other, and at least two of those you would recognize as
18 having had a secular change in performance over that period.
19 So, that's not a terrific measure, but it's not as wildly
20 oscillating as you might have expected. But I think that's
21 a good point.

22 DR. DRAPER: But you could draw a different
23 conclusion from that, which would be that as the change was
24 made the utility did whatever it was the new guy thought he
25 ought to do so as not to get a violation.

1 CHAIRMAN SELIN: I see. Okay. You'd be surprised
2 at how large the different in numbers from utility to
3 utility was, but the pattern -- maybe they just came in and
4 said, "This is a bad place. It will be a bad place under
5 me." But that's one, that's a good point.

6 The second one? You want to pick on another?

7 MR. COLVIN: Mr. Chairman, could I add just a
8 comment on the consistency issue? I think the other
9 expectation is -- or the expectation is a clear
10 understanding of what standards are outlined that need to be
11 met and those standards consistent over time for the same
12 issue or the application of that issue and in not changing
13 from either region to region, headquarters to region
14 differences or being individual inspectors, that there's a
15 clear standard articulated, "This is what the expectation is
16 with respect to either this generic letter, this bulletin,
17 this regulation or whatever the regulatory process is."

18 So, we need to look at that consistency or
19 subjectivity from I think a very broad perspective to try to
20 get those standards in place so that the licensee can have a
21 reasonable expectation to meet those. And if they disagree,
22 then those can be raised on a sound technical basis, as you
23 indicated.

24 CHAIRMAN SELIN: Let me just point out, there are
25 two different ways of interpreting what you just said. One

1 is I don't think, and I certainly hope NRC will never get
2 down to all we enforce is our regulations because the
3 regulations -- you know the difference between our approach
4 and, say, EPA's to us. The regulations are the floor. We
5 expect everybody to meet the regulations with plenty to
6 spare, not the other way around. We would not try to write
7 a regulation which would capture good management, good
8 safety culture, et cetera. But if you're talking about on a
9 particular issue communicating to the whole country what we
10 do expect on Thermo-Lag or on boiling water level
11 measurements or what have you, you could give a lot of help
12 to us if you could suggest how we might --

13 MR. COLVIN: I think that is the principal focus
14 of my comments, Mr. Chairman. For example, the Commission
15 took a very direct and positive action several years ago in
16 the area of generic letters and bulletins to put those out
17 for public comment to allow the public and the industry to
18 participate in that discussion process prior to issuance
19 when there was a substantive generic letter that needed
20 action by the industry or a large part of the industry.

21 I think that the reflection, for example, in the
22 Towers Perrin study and the feedback that we've received is
23 not with that aspect of that, but rather at its
24 implementation point at the specific licensee with what are
25 the expectations between this inspector or this evaluator

1 from plant to plant and region to region. So, it's more in
2 that focus, using that as an example that we're talking
3 about.

4 CHAIRMAN SELIN: Could I just make a little plug
5 for a program that I believe in and not many of you folks
6 seem to believe in? It's standardized tech specs. To the
7 degree that there weren't so many arbitrary differences from
8 one plant to another, it would be a lot easier to enforce
9 consistency if we weren't inspecting against all these crazy
10 tech spec variations. I believe that the benefit of
11 standardized tech specs go far beyond the plant by plant
12 calculation of how much it would cost and how much we save,
13 and whatever else you can do to help us have a more uniform
14 license against which to inspect, as well as inspection
15 procedures for a given license.

16 Do you want to continue on that or would you like
17 to go on to some other topics that you think would be most
18 helpful? What else would you like to see realistically if
19 you were in our shoes as opposed to -- well, just if you
20 were in our shoes.

21 DR. DRAPER: I guess we've touched on the idea of
22 consistency from region to region and between headquarters
23 and region. We've talked about the openness and to try to
24 develop an environment in which there is not hesitancy to
25 speak for fear of retribution and that is an important issue

1 to us. We really do believe that our people are hesitant to
2 speak frankly because of a fear of retribution. How that is
3 solved, I don't know, but I do know that it is a serious
4 matter. We can encourage our people not to be timid. We
5 would hope that you would encourage your people not to exact
6 the retribution that people are concerned about.

7 CHAIRMAN SELIN: Don't get off that. How about
8 some specific suggestions within that overall context?
9 You're all managers. We claim to be managers. If you were
10 in our shoes, what -- clearly from a declaratory place there
11 isn't much more that we can do than we're already doing.
12 So, what kind of managerial steps would you think we should
13 be doing?

14 MR. COLVIN: Mr. Chairman, one thing that we don't
15 see, and we've asked questions and it may be in place, but
16 it was at least not evident, was a clear Commission policy
17 statement or some other articulation at least in writing of
18 your expectations of your inspectors in the field with
19 respect to that issue. We did look at that as a result of
20 the feedback from Towers Perrin. Obviously in your opening
21 statement you made a very clear statement of the
22 Commission's policy in that regard, but that's not something
23 that I believe is seen certainly from the licensee's
24 perspective and I can't judge the perspective of how that is
25 seen by your individual inspectors in the various regions.

1 That's something that perhaps is certainly an idea that
2 might be of benefit to the Commission.

3 CHAIRMAN SELIN: Mr. Bayne, do you want to add
4 anything to that?

5 MR. BAYNE: Well, I was thinking we all have had
6 to -- in the case of whistleblowers, we've had to develop
7 procedures to try to protect them so that they would come
8 forward because it's to the benefit of everybody to have
9 someone come forward. Perhaps you need some sort of
10 protection along those lines for people who are willing to
11 step forward and say things that they think you don't want
12 to hear.

13 CHAIRMAN SELIN: We do have a pretty aggressive
14 independent IG, but maybe we don't advertise as much of the
15 availability of the services to people.

16 MR. BAYNE: And as I say, you've developed a
17 procedure and asked for feedback, but you don't get the
18 feedback and when you get it it's kind, as Len Wass said,
19 it's kind of vanilla. So, obviously something is not
20 working and I think maybe we ought to sit down and just
21 batter it around like a brainstorming session some of the
22 time.

23 MR. COLVIN: Mr. Chairman, on that, I just might
24 add that we recognize that looking at the regulations and
25 the processes that you have implemented many avenues for the

1 licensees to appeal. That includes issues such as use of
2 the 50.109, the Backfit Rule, either plant-specific or
3 generic, the use of orders, appeal processes and so on. I
4 think we really ought to analyze why aren't those used. In
5 our analysis, in fact, there have been very few plant-
6 specific backfits used and yet I can tell you that the
7 report reflects, and from my experience many examples have
8 been -- we've received many examples from individual
9 licensees where they believed there was an issue but they
10 did not take the steps to use those processes that were
11 provided. I think that's the issue that we really ought to
12 focus on as it regards this issue of perceived retribution.

13 COMMISSIONER de PLANQUE: It seems to me the
14 problem of inconsistency and the problem of fear of
15 retaliation are very, very difficult ones and you've faced
16 them within your own organizations and we face it within our
17 organization. We can have policies galore, and I don't
18 think there's any problem in having the policies. But a lot
19 of times it's an implementation problem down at the lower
20 level and it seems to me that a lot of the problems can get
21 blown out of proportion when the formal mechanisms are used
22 and it seems that that may be inhibiting the use of those
23 formal mechanisms.

24 I would suggest that all of us need to sit down
25 and figure out some very practical solutions to how you

1 resolve a difference of opinion at a very low level without
2 having to engage in extremely formal process that then
3 becomes extremely costly and gets people at opposite ends of
4 the polls and arguing unnecessarily. I don't know what that
5 solution is, but it seems to me there might be something in
6 a very practical vein, maybe an ombudsman who listens to
7 both sides and sorts it out. I don't know exactly what the
8 specifics is. But I think the problem may be solved a
9 little more quickly if we try to think of how to address it
10 at a much lower level.

11 DR. DRAPER: I think that's a great suggestion and
12 we certainly stand ready to participate in that, both the
13 people at this table, but perhaps more importantly we have a
14 group within the Nuclear Energy Institute that is a
15 Strategic Issues Advisory Committee that's comprised of the
16 chief nuclear officers of all the companies who really have
17 the hands-on experience and the knowledge. George Hairston
18 from the Southern Company chairs that crowd. They stand
19 ready to work with your staff to deal with that and other
20 issues, as a matter of fact.

21 COMMISSIONER ROGERS: If I could just say on this
22 retribution issue, it's been a very difficult one for me to
23 try to get a hold of because I'm very concerned about. I've
24 always been concerned about it. It seems to me that's a
25 kind of response. A retributive response from NRC is

1 absolutely the wrong thing for an agency such as ours to
2 practice and yet it's so difficult to find evidence of a
3 situation where this really occurred. To some extent, you
4 know, one is shadow boxing here. I'm not saying it never
5 occurs, but there's this fear of it occurring. It's sort of
6 -- you know, it's like the nuclear deterrent threat in a
7 certain sense, that nobody wants to get too close to
8 actually testing it. I wonder if that isn't really the
9 wrong approach here.

10 It's always been my observation the more public
11 you go with some things the more protected you are. I think
12 that's exactly what the whistleblowers have found, that by
13 going very public with their concerns, they are protected.
14 It becomes very evident if there is some kind of retributive
15 action taken.

16 So, trying to get these things out on the table in
17 a public way with some documentation I think is your best
18 protection against retribution because then it is very clear
19 when something happened and when an issue was brought up and
20 then when something else happened and whether there's some
21 connection between those two. So, I think it's important to
22 take the first step in going public and bringing out an
23 issue in a professional way where there is a disagreement
24 and a feeling that NRC is asking for something that really
25 is just not right and then pursuing it.

1 DR. DRAPER: I understand your point and it's a
2 perfectly valid point. I think that a difficulty is that
3 when challenging the judgment of a professional disagreement
4 of opinion, the fact is that the public and others who would
5 render the ultimate judgment on who is right will have a
6 great tendency to say that the person who is arguing on
7 behalf of, so to speak, more safety is clearly right. The
8 utility is only arguing against this because it costs them
9 money and the consequence of doing it is only to save money
10 and maybe jeopardize safety. That's a very difficult
11 position to argue in the typical whistleblower take it to
12 the village square and see who's right.

13 COMMISSIONER ROGERS: Well, but it's the question
14 of retribution that we're talking about now. Not whether
15 you're right or wrong, but whether NRC has taken some kind
16 of punitive action for having raised that issue.

17 DR. DRAPER: Well, sure. You did it because we
18 wouldn't comply with what we thought was a dumb issue and
19 you had to do it. I'm stating a negative. You had to do it
20 because we were insensitive to public safety.

21 COMMISSIONER ROGERS: Well, yes.

22 CHAIRMAN SELIN: You've made a sort of a second
23 point. In making this point, what you've pointed out is
24 it's not so easy even for you to figure out how to make the
25 argument let alone for us to avoid retribution or to give

1 people more authority than an objective situation would call
2 for. So, in addition to trying to make sure that we have
3 more consistency of management and control, although I would
4 suggest that we also concentrate on having a regulatory
5 process where the opportunities for such freelancing would
6 be fewer and there are a whole lot of things that could be
7 done. The tech specs is just one of them. The second is to
8 take more advantage of the many opportunities we've tried to
9 open for people to come in and say, "Here are things,"
10 whether they're commitments or other obligations that we
11 think are causing us to waste money and have no process.

12 The third is to be more aggressive on your side in
13 applying the probabilistic approaches. We're never going to
14 be a purely probabilistic regulatory agency, if the more we
15 get to do sort of agreed probabilistic analyses for major
16 areas, the more you can come to us and say, "Look, loss of
17 offsite power, fire, shutdown operations, these are major
18 areas. All of this time and effort that's spent on these
19 other areas, they don't amount to a hill of beans by your
20 our own agreed calculations. Can we agree to just sort of
21 lay off these until there's a major push and concentrate on
22 the fueling?"

23 What I'm really saying is I really am listening to
24 what you have to say and a lot of what you have to say has
25 to do with inconsistency, regulating beyond safety

1 considerations. I mean you didn't say that, you said
2 regulating beyond regulation. I can't accept that, but
3 regulating beyond safety considerations, steps that we're
4 taking which at the margin are uncalled for and the
5 inability to come up with a process that would satisfy
6 these. Insofar as we can make the world in which we
7 regulate a little more uniform, the opportunities for these
8 excursions or for all these one-of-a-kind steps would go
9 down.

10 As you pointed out in your own remarks, it's very
11 tough. We believe this, but it's very tough to set up a
12 process where as a practical matter people are told to use
13 their imagination, that they're the front line of safety,
14 they haven't got the guts to make a decision, but make sure
15 that it's all predictable and not random. But if we have a
16 more uniform set of expectations, which means agreed
17 probabilistic calculations, fewer changes from plant to
18 plant that aren't based on some clear safety or technical
19 differences, et cetera, the opportunities for these are --

20 DR. DRAPER: That makes sense to me.

21 CHAIRMAN SELIN: You know, we've been trying to do
22 that. We've been trying to make the SALP a higher level
23 process. We've been trying to use more diagnostic team
24 evaluations, not after a plant is has been troubled. If you
25 want to get away from the system only approaches and I would

1 suggest that taking a more proactive but positive view on
2 our advice and inspection program as opposed to after the
3 fact, how do we make sure that the current program was
4 managed better or in addition to that, might be productive.

5 You folks are the ones who are on the line.
6 You're the ones who are able to -- I mean you'd have to
7 convince us that you're not really trying to slip one over
8 on us.

9 DR. DRAPER: We wouldn't do that.

10 CHAIRMAN SELIN: But there are ways to standardize
11 and regularize these processes and use PRAs to put some
12 weight on what's a major safety concern and what's less a
13 concern that could lead to a more uniform and therefore a
14 more replicable and therefore more manageable process.

15 What about your statements about you'd like to see
16 a more cooperative attitude? What do you have in mind?
17 I've got a dozen examples of cooperative attitudes where not
18 all have worked out because NEI lost its nerve at the end
19 and said, "You're asking us to sort of rate one company's
20 amendments compared to another one or one's safety problem
21 to another one. We don't have the authority to do that."
22 Clearly, you're an advocate of agency and we're a regulatory
23 agency, so there are limits. But where do you think we
24 could, as a practical matter, be more cooperative than we've
25 been lately?

1 DR. DRAPER: Let me speak and I think others will
2 have ideas too.

3 I don't think that we have an uncooperative
4 relationship with people at this table. I do believe that
5 in our plants and elsewhere the relationship is not as
6 harmonious as it ought to be. Again, it's attitudinal.
7 It's like all the other things we've been talking about
8 today. It's difficult to measure, it's difficult to prove,
9 it's difficult to quantify, but it's plain that we don't
10 have the same sort of cooperative "let's get the problem
11 solved, whatever it is," in our plants that we should have.

12 CHAIRMAN SELIN: I believe there's a lot of truth
13 to that but there's a fundamental non-replicable essentially
14 arbitrary judgment that has to be made and we've tried not
15 to make this too publicly. That is is this a plant that has
16 to -- you know, not the plant, but the people that run this
17 plant, do they have to be hit over the head with a 2x4 to
18 get their attention or are they people who are trying to
19 work the problem and we need to work it together?

20 Now, we don't have a list of insensitive plant
21 managements. We have performance lists, not attitude lists.
22 But without naming names, you know there are some plants
23 where too much cooperation is not a favor. You don't give
24 extra alcohol to somebody who's got a drinking problem.
25 You've got to catch their attention until they say, "You're

1 right, we really do have a problem."

2 And then there are others where, you know, maybe
3 their performance does justify a lot more cooperation. How
4 do we make that basic judgment at different plants?

5 MR. BAYNE: I don't have an answer to that one, to
6 tell you the truth, but I think one of the things that
7 concerns me is if there is one person in the field that has
8 the opportunity or the ability through the processes to
9 force his will on a licensee, then that's one too many and
10 we ought to try to find a way to eliminate that.

11 I'm not trying to pick examples out of that study,
12 because obviously some of them you don't agree with, but
13 there was one of them that struck my interest early on and
14 that was when a manager was told you either do this or you
15 get a lesser SALP score. And if you would put that in
16 perspective, what does a lesser SALP score --

17 CHAIRMAN SELIN: That's an absolutely outrageous
18 thing for anybody to say.

19 MR. BAYNE: I know, but I'm just saying if it
20 occurred --

21 CHAIRMAN SELIN: I want you to know that no one
22 disagrees with you in that, Mr. Bayne.

23 MR. BAYNE: But the cost to the licensee is
24 incredible to get a lesser SALP score and so that is a
25 potent weapon, and so if it only happens once it's too many

1 times is what I'm --

2 COMMISSIONER ROGERS: Well, I would agree with
3 that.

4 CHAIRMAN SELIN: Absolutely.

5 MR. BAYNE: And so we need to look at that and how
6 can we avoid that is where I think we could do some fruitful
7 work.

8 CHAIRMAN SELIN: I have a slightly empty feeling
9 at the end of this particular topic. I don't feel that I
10 see what we should be doing --

11 MR. BAYNE: I think that -- might I make a
12 suggestion?

13 CHAIRMAN SELIN: Yes.

14 MR. BAYNE: I would like to come with Joe Colvin
15 and sit down and talk with you and see how we can open a
16 dialogue that utilizes the Chief Nuclear Officers
17 organization that we have at NEI to do an open dialogue and
18 open meetings for ways to improve this situation.

19 CHAIRMAN SELIN: Okay.

20 MR. COLVIN: Mr. Chairman, let me add just a
21 comment on the issue of cooperation. I think there's a --
22 that the issue of cooperation, we see, as Linn Draper
23 indicated, tremendous cooperation on generic issues.

24 I think what the report reflects is the view from
25 the field and from the individual interactions that take

1 place. When you get into discussions of communications,
2 those tend to be focused on fairly narrow issues at that
3 interface and at the interface at the plant site with
4 individual inspectors and the individual licensee personnel.

5 And I think in the communications area, just using
6 the example that Mr. Bayne used, without getting into that,
7 there is a lot of subtle pressure on the licensee and the
8 licensee's people to do what that inspector desires.

9 The inspector may say, "I think you ought to take
10 a look at this."

11 "Certainly, we'll look at it."

12 "Well, I think you ought to implement it."

13 It goes back and forth through that problem. Now,
14 that communication and that cooperation in the end becomes a
15 management decision, in many ways a business decision for
16 the individual utility to make. That may be a good idea.
17 Should I implement that or not, and at what cost? What does
18 it cost me doing whatever cost benefit or implementation
19 cost issue?

20 And also, if they disagree, a cost of how much
21 effort and management resources and diversion will it take
22 to escalate that up through management? I think in many
23 ways that is a business decision that the utilities have to
24 make on a day to day basis and made at many levels. I think
25 that effects in many ways this feeling of cooperation that

1 exists at that interface, as different from the type of
2 cooperation that we have here.

3 CHAIRMAN SELIN: That's a very telling point. I
4 mean, you've really made a very clear distinction between
5 sort of case by case as opposed to generic.

6 Okay. We'll need to think some about that.

7 What we're trying to do is on the one hand really
8 give our inspectors more authority, not less, but within a
9 narrower range to say that we're going to be relying on
10 management teams, team inspections for these pseudo
11 diagnostic evaluations where we try to look at all the
12 information before we get into a problem, not afterwards.
13 Too many times have we found there was a problem, we did a
14 DT and we found we knew all the pieces. Neither the
15 management nor we had put them together, and I hope you will
16 help us by encouraging your members to try to make your
17 plants, both physically and especially from a regulatory
18 point of view, a little less capriciously different one from
19 another than they are now.

20 I think that's about as far as I want to go on
21 that topic.

22 Do you have any closing remarks?

23 COMMISSIONER ROGERS: Well, yes. On the report
24 findings, I'd like to go back to one that deals with a
25 statement that "NRC's action in the public arena are

1 counter-productive to sound regulation and the public
2 trust." I'm trying to understand what kinds of actions are
3 we taking here that produce that perception.

4 I know that there are problems with our
5 enforcement policy and our enforcement practices in that in
6 many ways they seem to run counter to human psychology. If
7 you want to reinforce a positive action, you give a
8 reinforcement to that rather than a negative response, and
9 enforcement at NRC has been a very difficult area for us to
10 deal with. We've done a recent study on enforcement. We've
11 made some changes. I'm not sure that anybody is totally
12 happy with it. It is a problem area and if you're talking
13 about enforcement I do understand what you're talking about
14 there.

15 But are you talking about other things besides
16 enforcement when you're talking about action in the public
17 arena? What does that mean? We're trying to be more open.
18 We're trying to give the public a clearer perception of what
19 we do and what the concerns are. We in fact have in the
20 public arena stated that the performance of the industry has
21 been improving.

22 What are the actions in the public arena that NRC
23 is pursuing that are counter-productive to sound regulation
24 and the public trust? That's serious stuff. That's serious
25 stuff. We have to know what it is that you're thinking

1 about there and I haven't been able to see it really in the
2 report.

3 MR. WASS: Commissioner Rogers, let me find the
4 chapter on that, please. That particular chapter, number 6,
5 I think had a couple of themes that it raised.

6 The first theme talked about the NRC, perhaps
7 unknowingly, projecting a picture of the nuclear industry to
8 the general public that is sometimes inaccurate, incomplete
9 or misleading. There are a number of examples in the
10 report. I have a list of those, if you're interested, and
11 it compares in that section one of your principles of good
12 regulation to actually what's happening. There are
13 examples.

14 And, by the way, there were fairly strong feelings
15 on this. I'm reporting what the industry felt in this
16 regard, if you look at question 22, and I think we have a
17 slide on question 22.

18 Do we have a slide, please, on question number 22?

19 [Slide]

20 MR. WASS: In this question we made the statement
21 that some public statements made by NRC officials have
22 either reflected unfairly on utilities, inhibited trust,
23 reduced public confidence, or, on the other end, resolved
24 issues faster or highlighted important issues.

25 [Slide]

1 MR. WASS: And as the next slide will show, the
2 survey respondents showed that about 83 percent of the
3 respondents felt that it was inhibiting public confidence,
4 it was inhibiting trust. None of the respondents --

5 CHAIRMAN SELIN: Reduced, reduced, reduced. Only
6 a few thought we actually inhibited public confidence. The
7 public is pretty tough. You've got to give them credit for
8 resilience.

9 MR. WASS: Right. Right. The --

10 CHAIRMAN SELIN: We tried, but, you know, we just
11 didn't succeed.

12 MR. WASS: Right. The examples that were raised,
13 and we also looked for some examples -- we didn't look
14 extensively in this area, I'll acknowledge that, but there
15 were a number of press clippings and so forth -- the
16 objection was in some instances, you know, talking tough
17 without a thorough review, talking, you know, ahead of time
18 about a plant's problems without a thorough review and
19 therefore conveying the impression to the general public.

20 And the licensees acknowledged that perhaps the
21 NRC occasionally is misquoted. What I think they're asking
22 for is a much --

23 CHAIRMAN SELIN: But not that often. That's not
24 where the problem lies.

25 MR. WASS: -- a policy and a process that's very

1 careful, that is very temperate in the remarks, very
2 thorough, very honest, because they felt very strongly that
3 the general public not only had a need but it has a right to
4 understand what nuclear power is doing. And the licensees
5 told us that in general they're very proud of what they're
6 doing, with your help, and that they would like the public
7 to know the true status of the safety of these plants, and
8 that is where the industry is coming in these.

9 The other theme in that chapter was a series of
10 examples that talked about a single event that was then
11 discussed multiple times over and over again in the press
12 with enough time separation and also enough vagueness that
13 the general public did not realize that it was a single
14 event that was being scrutinized over time and it came
15 across as having the appearance of a number of different
16 isolated events, thereby conveying an impression to the
17 public that this or that plant has multiple unrelated
18 problems.

19 So what the industry was asking for and
20 acknowledging here was much more careful attention to that
21 and also attention by all levels of the NRC, because they
22 told us that it seemed that any level of the NRC was free to
23 deal with the media, with the press, but not all levels, as
24 we all recognize, are really qualified and competent to do
25 that.

1 CHAIRMAN SELIN: First of all, that was nice of
2 you, but most of those quotes were from the Chairman, not
3 from the inspectors, I noticed, so you can't blame it on the
4 lower levels. On the other hand, you ought to look at all
5 the quotes that we get that start, "Even the normally pro-
6 nuclear NRC..." X, Y, and Z.

7 I think we do a pretty good job with the public
8 statements. I just don't think executives are used to
9 having their management criticized in public and as we move
10 away from just looking at engineering and training and, you
11 know, sort of beating up on the lower level folks and say
12 this is a management problem, you're going to get more
13 sensitivity to that. There may be good ways to soften that
14 at the edges, but I think that's an intrinsic problem.

15 Let me say more generally we have a great deal
16 of -- I think even sympathy is the right word for the
17 situation that chief executives, utility managers, nuclear
18 and non-nuclear, but especially high capital cost utilities
19 find themselves in. We have tried as hard as we can in our
20 general statements to recognize the improvement in safety to
21 make it clear that the responsibility for both improvement
22 and lack of improvement is primarily the utilities'. We're
23 just the cream on top of the coffee, not that it's the
24 operators' responsibility, that overall there have been
25 improvements. We've told our guys over and over -- you

1 know, the definition of a gentleman, I guess it's a gentle
2 person, is somebody that never causes offense inadvertently.

3 Well, we would like to follow the same policy with
4 cost. There are things we have to do that we ought to do
5 because it's required or we think it's required for safety.
6 We don't expect that you and we will agree on how far we
7 should go beyond the regulations and the excellence.
8 There's an old Greek saying that says when the gods want to
9 punish somebody, they first make them a little crazy and
10 then they give them their wishes. You do not want us to
11 regulate entirely by the book, I guarantee you, because we
12 would have a much more prescriptive book than we have today.

13 So, the question is within the concept of a shared
14 approach to safety and a shared devotion to excellence, how
15 can we avoid costing you money and aggravation where we
16 don't have a reasonable safety basis for doing that. There
17 are things we have sympathized with and have tried to push
18 these products to reduce unnecessary cost induced by
19 regulation. At the same time, there are things we're
20 looking for that we didn't look for a few years ago because
21 of the possibility of reacting in a short-sighted way to the
22 financial pressures.

23 You guys are in a very tough position and we don't
24 wish to make it any tougher than it has to be. We've tried
25 to react positively, get beyond what I consider to be truly

1 provocative statements of some of these points and see
2 what's beyond that. We know there's real pain there and
3 whether it's our fault or not is sort of irrelevant. We've
4 tried to work with you on where the pain is, but we're not
5 going to move away from excellence, we're not going to move
6 away from calling them as we see them and we're not going to
7 move away from looking at the total management picture and
8 just trying to look at the individual stovepipes along the
9 way. If you can accept those three points, I think we can
10 accept many of them feelings as being both accurate and
11 understandable and see what we can do to work against them.

12 DR. DRAPER: As we said at the outset, we don't
13 expect less regulation. We do hope that in working with you
14 and your staff that we can deal with some of these problems
15 where the regulation is non-uniform or there are
16 inconsistencies and where things aren't done in as good a
17 way as they should. We appreciate the opportunity to have
18 this kind of a meeting with you and expect to continue to
19 have this sort of thing if you're willing --

20 CHAIRMAN SELIN: We are.

21 DR. DRAPER: -- and to have our staff talk to your
22 folks.

23 CHAIRMAN SELIN: I should just add one other
24 thing. I think we've made the mistake sometimes of putting
25 more weight on the industry organizations than is fair.

1 Some of these things we just have to work directly with the
2 licensees. As Mr. Colvin has pointed out, I hadn't really
3 focused on this, that many of the problems are really
4 licensee or plant-specific and we just have to work
5 individually on those situations.

6 COMMISSIONER ROGERS: Could I say something?

7 CHAIRMAN SELIN: Of course.

8 COMMISSIONER ROGERS: On that, I think the point
9 that you made, Joe, that the Chairman has just addressed,
10 that many of these problems are really between NRC and a
11 particular utility, not generically, and NEI and NUMARC
12 before it has tried to deal more with generic issues. I
13 wonder if you might not be able to play a role though more
14 specifically with individual licensees. Commissioner de
15 Planque raised this possibility of an ombudsman or something
16 of that sort. We all know that if there's a worry that
17 somebody is being singled out in some way and it's only
18 their problem that they're trying to deal with the NRC, they
19 may feel that they just have to give in or they just have to
20 try to placate the NRC.

21 But it seems to me that maybe within your own
22 organization structure you might have a mechanism to assist
23 them in dealing with their own specific problem with NRC and
24 to act as an honest broker in such a case. That may give
25 them the feeling that they're not just on their own doing

1 battle with the big old NRC. I think there are various ways
2 that we might go at that particular difficulty. I know many
3 times I've said to small utilities that have come in to see
4 us how much influence have we made on how you actually do
5 your budgeting, where you put your resources and to say,
6 well, it has had an effect and a fairly big effect in some
7 cases and they're very reluctant to challenge us. Yet I
8 think that those things probably could be worked out with
9 more discussion.

10 So, I would simply say that I'd like very much to
11 continue this kind of a dialogue. I think it has to have a
12 public element to it so that it's open because we have to
13 operate that way. It might be very nice for you folks to
14 drop in on us individually and tell us how it really is and
15 that's fine, but ultimately we have to be able to tell the
16 world how we're dealing with these issues. We want to
17 alleviate an unnecessary problem and I think we just have to
18 keep working at it.

19 But I would say that it's time for a more creative
20 approach to some of these problems rather than simply saying
21 that this is a problem that doesn't ever seem to go away. I
22 think we've got to recognize that we have to find a way to
23 make some of these problems go away and we really want to do
24 that.

25 We thank you very much for coming.

1 COMMISSIONER de PLANQUE: I would just sort of
2 reiterate what I said before. I think it's easy to come up
3 with the simple list of seven problems and we all understand
4 them in the generic sense, but I think we really do have to
5 get down to the practical part of it, what is the heart of
6 the problem and what practical solution can we together
7 develop to solve the problem at that level.

8 DR. DRAPER: Thank you.

9 [Whereupon, at 3:46 p.m., the above-entitled
10 matter was concluded.]

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CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: BRIEFING BY NUCLEAR ENERGY INSTITUTE
(NEI) ON THEIR NUCLEAR REGULATORY
REVIEW STUDY - PUBLIC MEETING

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: Wednesday, December 21, 1994

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company

Transcriber: Carol Lynch

Reporter: Peter Lynch

**Nuclear Energy Institute Presentation
to the
U.S. Nuclear Regulatory Commission**

December 21, 1994

Attendees:

Dr. E. Linn Draper, Chairman and Chief Executive Officer, American Electric Power Service Corporation and Chairman of the Board, Nuclear Energy Institute

Mr. Phillip Bayne, President and Chief Executive Officer, Nuclear Energy Institute

Mr. Joe F. Colvin, Executive Vice President, Nuclear Energy Institute

Mr. Leonard Wass, Principal, Towers Perrin

Outline of Presentation:

I. Introduction and Opening Remarks (Draper)

II. Background of Industry Decision to Perform Review (Bayne)

III. *Nuclear Regulatory Review Study* - Methodology and Findings/Conclusions (Wass)

IV. Summary and Closing Remarks (Draper)

NUCLEAR REGULATORY REVIEW STUDY

December 21, 1994

Len Wass

NUCLEAR REGULATORY REVIEW STUDY

- Background
- Methodology
- Summary Results

STUDY METHODOLOGY

- Written survey of all nuclear licensees
- Focus-group interviews with senior nuclear executives at all 44 licensees
- Review of additional background material

CENTRAL THEMES

- The nuclear industry has met its responsibility as the primary protector of public health and safety
- There are a number of positive attributes regarding the NRC and its activities
- The industry is not without fault
- The study uncovered a large number of chronic and persistent problems with the NRC's regulatory process

MAIN REPORT FINDINGS

- Actual NRC regulatory practices conflict with its publicly stated approach
- Inconsistent and subjective regulation has significant undesirable consequences
- The NRC does not exercise adequate management control and oversight of itself
- The NRC's action in the public arena are counter-productive to sound regulation and the public trust

Continued . . .

MAIN REPORT FINDINGS (CONTINUED)

- Recent NRC practices add little improvement to the safety margin of nuclear power plants
- The NRC has been unable to address its own management problems
- The NRC's current regulatory approach represents a serious threat to America's nuclear generating capability