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Planning for Management of Radioactive
Byproduct Material

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
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PUBLIC SCOPING MEETING &
WEBINAR ON FINANCIAL PLANNING FOR
MANAGEMENT OF RADIOACTIVE BYPRODUCT MATERIAL

+ + + + +

WEDNESDAY

OCTOBER 7, 2015

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ROCKVILLE, MARYLAND

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The meeting convened at the Nuclear
Regulatory Commission, One White Flint North,
Commissioners' Hearing Room, 11555 Rockville Pike,
at 1:00 p.m., George Smith, Facilitator, presiding.

PRESENT:

- GEORGE SMITH, Facilitator
- DOUG MANDEVILLE, Acting Branch Chief, Low
Level Waste Branch
- JAMES SHAFFNER, Project Manager
- RYAN WHITED, Senior Project Manager

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

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

1:02 p.m.

MR. WHITED: Okay. We're going to get started with this afternoon's public meeting and webinar.

Good afternoon, everyone. My name is Ryan Whited. I'm a senior project manager in the Low-Level Waste Branch of the Office of Nuclear Material Safety and Safeguards at NRC. I'm here at the table with Doug Mandeville, who's the acting branch chief for the Low-Level Waste Branch, and Jim Shaffner, who's the co-project manager for this effort.

I'd like to thank all of you for participating in today's public scoping meeting and webinar on financial planning for management of radioactive byproduct material.

This is an open Category 3 public meeting convened by the NRC staff to solicit feedback on the staff's ongoing scoping study to determine if financial planning requirements for decommissioning and end-of-life management for some radioactive byproduct material are necessary. Obtaining feedback from a diverse group of stakeholders is an important part of our scoping study.

In addition to today's meeting we've also

1 issued a *Federal Register* notice requesting
2 stakeholder comments, and Jim and I will discuss that
3 *Federal Register* notice, or FRN, further in a few
4 moments.

5 The purpose of today's meeting is for the
6 NRC staff to receive your comments on the byproduct
7 material financial scoping study that's underway. The
8 staff has prepared an introductory presentation to
9 provide some background and context for the scoping
10 study, and we'll start with that presentation and then
11 devote the remainder of the meeting to listening to
12 your comments.

13 So thanks again for participating in our
14 discussion this afternoon. I'd like to now turn the
15 meeting over to Mr. George Smith, who is going to
16 serve as our facilitator today.

17 FACILITATOR SMITH: Okay. Good afternoon.
18 My name is again, like he said, George Smith. I'll be
19 facilitating the meeting today.

20 First, what I'm going to do is go over
21 some of the ground rules and some of the
22 administrative-type issues before we get the meeting
23 started.

24 First, restrooms. We do have restrooms
25 outside the door. Women to your left and men to the

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1 right. There is an officer outside, so if you don't
2 know which way to go, the officer will tell you.

3 Now, if you're not an NRC employee, you
4 don't have access, unescorted access to the building,
5 you are allowed to access this area outside of the
6 room, but if you go into any other of the NRC
7 security-controlled areas, you're going to need to be
8 escorted. The security guard should stop you before
9 you get to those areas.

10 If there is an emergency evacuation,
11 there's a door back here, exit. Just follow the NRC
12 employees. They'll be going towards Citadel Avenue.
13 You'll see everyone amassing in the back there on
14 Citadel Avenue.

15 Now, if you're not going to stay with us
16 if we evacuate, please let me know so I can take your
17 name down so I can account for you. And if you're on
18 escort, I can let security know, hey, you're accounted
19 for, you're not in the building.

20 The meeting is transcribed. Josh is over
21 here. He's transcribing the meeting. So there are a
22 couple of things I like to go over as far as the
23 transcription. We have both stakeholders here of
24 course in the room, and we have some on the line who
25 are partaking through webinar. We're going to have

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1 those individuals to come on the line to provide
2 feedback. So, we ask that because the meeting's being
3 transcribed and we want to get feedback from all the
4 stakeholders, we ask that you hold the -- some of the
5 conversations down, the sidebar conversations down to
6 a minimum.

7 Also, we ask that you, if you can at this
8 time, put your phones on courtesy mode. That's either
9 vibrate or silent. Now, we do understand that if you
10 have to make a phone call, you can just go outside and
11 take the phone call or make a phone call. It's okay.
12 If you have to use the restroom or you have to leave
13 the room, it's okay.

14 Also, we're asking that you limit your
15 feedback that you provide the staff to no more than 10
16 minutes. And what we're trying to achieve is to make
17 sure all of the stakeholders have an opportunity to
18 provide feedback for the staff. And if we have more
19 time at the end, we'll definitely open up the floor to
20 make sure everyone has an opportunity to provide their
21 feedback.

22 Again, this meeting is to solicit your
23 feedback for byproduct financial scoping, so there may
24 some obvious questions that you may have, and the
25 staff will answer those questions. Or if I hear

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1 something that probably should be answered at this
2 point, I'll point to you guys and say, hey, do you
3 have an answer for that question? But if it's a long
4 answer to a question that can't be answered in a short
5 period of time, then we may ask that you provide
6 feedback at the end of the meeting or you can email
7 the staff, and the staff will provide that
8 information, the email information, or you can contact
9 the staff at the end of the meeting today.

10 We do have a sign-in sheet at the front of
11 the door. Please sign in. It's voluntary. You don't
12 have to, but we'd like to know who's attending the
13 meetings so we can provide you feedback if there's any
14 other information with the byproduct financial
15 scoping. So it's a great vehicle for us to contact
16 you.

17 Also, we would like to continuously
18 improve our efforts to reach out to stakeholders and
19 to get feedback, so we ask that you provide -- we have
20 feedback forms also up front, so if you could provide
21 feedback at the end of the meeting of our public forum
22 and how we're soliciting feedback from the
23 stakeholders. Also, those who are not here in the
24 room, you could email the staff and the staff will
25 provide that information where you can provide the

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1 feedback.

2 If you have any kind of presentation or
3 any document that you would like to provide to the
4 staff, just to let you know, like this meeting is
5 being transcribed and recorded, so it will be publicly
6 available. Your notes or document that you provide to
7 the staff will also be placed in ADAMS along with the
8 transcription of this meeting to be publicly available
9 also. Just want to provide that information for you.

10 You guys were talking. Was there
11 something else you wanted to add or --

12 MR. WHITED: I would just add, George, I
13 did upload for the folks on the webinar -- yesterday
14 I uploaded the *Federal Register* notice that we're
15 going to be talking about, the feedback forms and the
16 agenda.

17 FACILITATOR SMITH: Okay.

18 MR. WHITED: So there should be a way for
19 those folks to get that uploaded material through the
20 webinar.

21 FACILITATOR SMITH: Okay. Great. Great.
22 So, that's all I have at this time. And just to let
23 you know, again, if you've given your feedback of if
24 your feedback is going long or there's a back and
25 forth, I'll probably stop in, because when I stop the

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1 back and forth, because my job is to make sure that
2 you can meet your objective, which is to provide
3 feedback for the staff. So, just to give you a little
4 heads up on that. So, I'm going to try my best to
5 make sure you meet your objective.

6 So, that's all I have. I'll turn the
7 meeting over to Jim, and you could provide your
8 presentation.

9 MR. SHAFFNER: Okay. Hi, my name is Jim
10 Shaffner. As Ryan pointed out earlier, I am the co-
11 project manager on this project and I'll be doing the
12 first part of our kind of summary presentation and
13 then turning it over to Ryan.

14 Next slide, please. The purpose of this
15 meeting again is to provide you all a brief background
16 on NRC's byproduct material financial scoping study,
17 it discuss our *Federal Register* notice in brief and to
18 discuss the schedule for next steps, but of primary
19 importance, and the bulk in the meeting, is for us to
20 listen to you and gather your comments on this topic,
21 because it is a scoping study and the important thing
22 is to get as broad of a stakeholder perspective as we
23 possibly can.

24 Next slide, please. The threshold for
25 unsealed byproduct material in Part 30 is seven orders

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1 of magnitude lower than for radioactive sealed
2 sources. Obviously this is something that has been
3 known for a long time. It's not something that
4 perhaps we paid a whole of attention to until recent
5 circumstances dealing with concerns with possible uses
6 of sealed sources malevolently. Licensees have a
7 responsibility regardless of the financial planning
8 requirements. They have the responsibility to provide
9 for end-of-life management, however, the
10 responsibility is not really identified. I guess what
11 I'm trying to say, it could be quite a challenge to
12 some licensees given the burdens for storage,
13 transportation and disposal that are involved.

14 Next slide, please. The issue I guess,
15 really it's been around for decades, but it was
16 identified by GAO and others back in the 1980s,
17 however, I'd like to pick up the thread about a decade
18 ago with the Radiation Source Protection and Security
19 Task Force. I think most of you are familiar, but for
20 those of you who aren't, the task force was created by
21 the Energy Policy Act in 2005, and the task force is
22 to report to the President and Congress every four
23 years regarding the status of 10 crucial aspects of
24 source security, one of which is end-of-life
25 management.

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1 The task force itself is comprised of 14
2 federal agencies and chaired by the NRC. Some of the
3 agencies include the Department of Energy,
4 Environmental Protection Agency, FBI, Department of
5 Transportation, and there are several others. To get
6 the state perspective, the Organization of Agreement
7 States also participates.

8 Financial planning was identified as an
9 important aspect of end-of-life management in their
10 first report back in August of 2006. It resulted in
11 a interagency working group that I'll get to in a
12 minute and that resulted in some articulation on the
13 topic in the 2010 report, which was probably
14 prematurely dispositive of the issue. It was
15 recognized in that report that it's an extremely
16 difficult task to associate a dollar cost with major
17 aspects of ends-of-life management of byproduct
18 material, particularly sources.

19 Circumstances changed somewhat between
20 2010 and 2014. Some things occurred like the opening
21 of a new disposal site and some changes in
22 transportation cask availability that would make cost
23 estimates somewhat more tenable. So the issue was
24 revisited in the 2010 task force report. So the
25 impetus for this scoping study is in large part

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1 informed by the task force report and related
2 documents.

3 Next slide, please. Early NRC follow up
4 with regard to this issue was an effort in, or
5 recognition in 2007 in a low-level waste strategic
6 assessment that had identified byproduct financial
7 scoping as a high priority. Unfortunately, resource
8 limitations precluded us getting it into -- for the
9 low-level waste group specifically to get into the
10 issue at that time. However, there was a 2010
11 interagency -- actually it was an interagency working
12 group that convened in December of 2008 that was
13 tasked to report on the topic, but it was broadened
14 somewhat to include Category 1, 2 and 3 radioactive
15 sealed sources.

16 The group met for a period of about a
17 year-and-a-half and came up with a summary report in
18 March of 2010 which contains a lot of good information
19 and it's just recently been made public, however, some
20 of the high-level recommendations of that working
21 group effort were included in the 2010 task force
22 report.

23 Next slide, please. Which brings us to
24 last year. The current effort of this byproduct
25 financial scoping study arose from a Commission, NRC,

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1 Nuclear Regulatory Commission briefing on radioactive
2 waste issues in September of last year, just a little
3 over a year ago. The presentation cited again that
4 2014 task force report which had just come out a month
5 before, and also a report by the Low-Level Waste Forum
6 Working Group on management of disused sources, which
7 had been finalized in March of 2014. We discuss that
8 report in some detail in the FRN. And bottom line, it
9 was somewhat critical of NRC's program for regulating
10 aspects of categories of sealed sources, including
11 financial planning.

12 Also, the presentation to the Commission
13 cited the task force report recommendation, which
14 again suggested the need for NRC to consider advising
15 its licensees with regard to financial planning for
16 Cat 1 and Cat 2 sources. The Commission was I guess
17 compelled by what the staff had to say, and so they;
18 I'm paraphrasing a little bit, in their staff
19 requirements memo said complete the scoping study,
20 report the results to us and let us know what we
21 should be doing going forward.

22 Next slide, please. Initially the staff
23 had proposed to do this in relatively short order.
24 We're going to put together a SECY paper with the
25 results of the scoping study based on the information

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1 that we had readily available and put in a paper to
2 the Commission by April of this year. And we are
3 going to accomplish that through an internal working
4 group that consisted of headquarters staff, regional
5 staff and an OAS representative. And that process got
6 started toward the end of 2014.

7 But we were also in the process of doing
8 the senior management alignment process for the SECY
9 paper. And that time it became clear that we really
10 didn't have all the information to do a fully informed
11 SECY paper on the topic, that we really needed to
12 reach out to a broader spectrum of stakeholders and
13 get their opinions on the topic. And so we requested
14 and were granted an extra year to do that, and
15 obviously this meeting is part of that.

16 Next slide, please. So throughout the
17 spring and summer of this year we've been trying to
18 spread the word by attending stakeholder meetings,
19 making topical presentations at groups such as OAS,
20 CRCPD, Health Physics Society and others. And we're
21 trying to remain agnostic on the issue as to both
22 whether there is a problem that is rightly addressed
23 by financial planning and also whether the best
24 solution or a good solution is through additional
25 financial planning. And that's where you all come in.

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1 We've read the reports that we'll allude to here
2 today, know what stakeholders such as the Low-Level
3 Waste Forum and the task force have to say, but we
4 want to hear from you folks.

5 So we're hoping that in the process of
6 formulating any comments or opinions you might have
7 had a chance to look at the 2010 interagency working
8 group report that I alluded to. The Low-Level Waste,
9 Disuse Source Working Group report and any one of the
10 three Radiation Source Protection and Security Task
11 Force reports.

12 We see the need to consider relevant
13 activities in the United States, since as I alluded to
14 the opening of the waste control specialist site,
15 which gives a little more latitude as far as disposal.
16 Initiatives by the Global Threat Reduction Initiative
17 Program, their Off-Site Source Recovery Program and
18 how some of what they're doing might be transitioned
19 into a private transaction rather than having
20 government involved. Also, work that CRCPD is doing
21 in this regard, some transportation challenges, and
22 some of the work that NRC is doing that impacts this,
23 most notably the recently completed branch technical
24 position on concentration averaging, which may allow
25 a greater number of -- higher activity sources to be

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1 disposed of as Class B or C low-level waste. Also,
2 the Department of Energy efforts with regard to Class
3 C because many of the sources are considered greater
4 than Class C waste. And also, NRC's work that's
5 continuing on Part 61.

6 And then finally, before I turn it over to
7 Ryan, we recognize that there are some international
8 activities that related to this. There are some
9 reports by international agencies on this topic that
10 are relevant and we expect that some of you may have
11 greater insight into some of those activities than we
12 do. And we're hoping that you'll help inform the
13 process by bringing those into play.

14 Now, I'd like to turn it over to Ryan to
15 further frame the issue.

16 MR. WHITED: Next slide, please. Thank
17 you, Jim.

18 So in addition to the reports and the
19 other domestic and international developments that Jim
20 discussed, the staff identified some specific topical
21 areas in its *Federal Register* notice that we'd like
22 stakeholders to consider in preparing their comments.

23 I don't have time to go into each of these
24 areas in depth today, and so I'd refer you to the FRN
25 for additional details, but I would like to provide

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1 just a quick overview of what the staff requested in
2 each of these eight areas.

3 The first area refers to pathways such as
4 reuse and recycling which may be available for some
5 sources. Financial planning for these pathways may be
6 different from those associated with disposal. And
7 so, in the FRN the staff asked how these alternate
8 pathways should be considered in establishing any
9 potential new financial planning requirements.

10 The second area recognizes that
11 establishing appropriate and equitable funding
12 requirements for the disposition of certain sources
13 may be challenging. For example, it may be difficult
14 to estimate costs associated with interim storage,
15 conditioning, packaging, transportation and disposal,
16 both now and in the future. And consequently, a
17 financial surety requirement established today may or
18 may not be adequate several years from now when a
19 source reaches the end of its service life. In the
20 FRN the staff asked for feedback on the primary
21 considerations in establishing and imposing
22 appropriate and equitable financial planning
23 requirements.

24 The third area notes that NRC does not
25 currently require licensees to declare licensed

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1 sources as disused, although they are encouraged to do
2 so. In the FRN the staff asked whether licensees
3 should be required to specifically declare disused
4 sources. And if so, how long after a source is
5 disused must a licensee declare it as such?

6 The fourth area addresses source
7 characteristics such as type of radioactive material,
8 half-life, physical form and remaining useful life.
9 In the FRN the staff asked for feedback regarding how
10 these characteristics should be factored in to
11 establishing equitable financial planning requirements
12 for end-of-life management.

13 The fifth area acknowledges that any NRC
14 rulemaking must involve the Agreement States, and the
15 question posed by the NRC staff was if NRC rulemaking
16 is initiated as a result of this scoping study, how
17 should NRC engage with and consider the impact on the
18 Agreement States and what would be the primary
19 considerations in establishing compatibility levels
20 for rule requirements?

21 The sixth area addresses the applicability
22 of financial planning requirements to licensees
23 possessing generally licensed sealed sources. In the
24 FRN the staff asked for feedback regarding the
25 mechanism that should be used when necessary to

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1 administer financial planning requirements on general
2 licensees.

3 The seventh area addresses characteristics
4 and quantifications of the custodian for any funds
5 earmarked for long-term management of disused sources.
6 For instance, what characteristics should be
7 considered regarding the custodian's relationship to
8 the licensee and what should be the fate of any
9 residual funds following payment of disposition costs?

10 And the final area notes that for
11 licensees possessing Category 1 or 2 sources,
12 regulators can access the National Source Tracking
13 System, or NSTS, to determine the number and type of
14 licensees that would be impacted by any new financial
15 planning requirements. For new sources, source
16 manufacturers or suppliers could be contacted to
17 determine impacts. However, it may be more difficult
18 to implement requirements and ensure accountability
19 for sources that are not currently tracked in the
20 NSTS; for example, Category 3 or lower sources. In
21 the FRN the staff asked what are the key
22 characteristics of a tracking system for byproduct
23 materials subject to financial planning requirements
24 and which of these characteristics are not available
25 as part of the NSTS?

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1 Next slide, please. Okay. So the issues
2 and questions that the NRC staff identified in the FRN
3 are by no means exhaustive. As Jim said, we're
4 seeking perspectives from a broad range of
5 stakeholders and we fully expect that some of you will
6 identify additional issues that should be considered
7 in the staff's scoping study. The staff will assess
8 the information gathered from today's meeting, written
9 comments provided in response to the FRN, and other
10 resources such as the reports that Jim discussed to
11 prepare a staff report on byproduct material financial
12 planning for the Commission, which will include
13 recommendations for next steps. This report is due to
14 the Commission in spring of 2016. Staff
15 recommendations could include options such as
16 rulemaking, development of guidance, issuance of a
17 generic communication or no action. The Commission
18 will review the staff's report and will make a
19 decision regarding the path forward.

20 Next slide. In addition to the comments
21 received today, we'll be accepting comments on the FRN
22 through October the 19th. There are a variety of ways
23 in which you can provide your comments as shown on
24 this slide. Also, even if you provide comments today,
25 you're welcome to submit any additional input you feel

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1 the NRC staff should consider through the end of the
2 comment period. All of the material covered by Jim
3 and myself in this presentation is summarized in our
4 *Federal Register* notice, and so you may wish to review
5 the FRN in formulating your comments.

6 Next slide. Should have any questions,
7 please feel free to contact myself or Jim Shaffner.
8 Our contact information is shown on this slide. I've
9 also provided a link to the FRN on the slide.

10 I want to thank you again for
11 participating in today's meeting and we look forward
12 to hearing your comments.

13 FACILITATOR SMITH: Okay. Great. If you
14 could leave the contact information up, that would be
15 great.

16 So now is the time we're going to solicit
17 feedback from stakeholders, both here in the
18 headquarters and those that are attending via webinar.
19 What we ask is those that are attending webinar, if
20 you can call in to provide your feedback. And we'll
21 go between this room and those that are on webinar on
22 the phone lines to get that feedback.

23 I understand we were having some problems
24 with the webinar. Is that cleared up, or we're still
25 working it?

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1 (No audible response)

2 FACILITATOR SMITH: Okay. You think it's
3 working all right right now?

4 (No audible response)

5 FACILITATOR SMITH: Okay. Great. So
6 we're not having problems on the webinar. We were
7 having some difficulties earlier.

8 So again, we ask that we limit our
9 feedback to 10 minutes. If we have time a little
10 later, we'll open the floor up again for more
11 feedback.

12 So, is there anyone here in the room that
13 would like to provide feedback? We do have a mic that
14 we'd like for you to speak in because again, this
15 meeting is being recorded. Anyone in the room here at
16 headquarters? Sure. You want to go?

17 MR. KLEBE: Good afternoon. My name is
18 Michael Klebe. Last name is spelled K-L-E, B as in
19 boy, E. I have my own small consulting company,
20 Michael Klebe & Associates.

21 I'm a retired State of Illinois employee
22 where I worked for 28 years in the -- originally
23 started out with the Illinois Department of Nuclear
24 Safety and then got merged in with the Illinois
25 Emergency Management Agency in 2003. Most of my

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1 entire tenure there was dealing with radioactive
2 materials management issues, radioactive materials
3 licensing and financial assurance. In fact, I had the
4 duty of seizing someone's financial assurance and
5 cleaning up the mess that they let behind, so I have
6 a little bit of experience.

7 I'd like to talk -- well, first of all,
8 I'll try to stick within your 10 minutes. I'd like to
9 hit some key points and then will also then follow up
10 with written.

11 First of all, I'd like to again thank you
12 for the opportunity to come in and address you this
13 afternoon.

14 The first issue I'd like to address is
15 basically the thresholds for financial assurance for
16 radioactive sealed sources. They're just set way too
17 high. If you take a look at the multipliers that you
18 have, the 10 to the 12 and the 10 to the 10, there are
19 no Cat 1 sealed sources that meet the 10 to the 12th
20 multiplier to produce a cost-based financial assurance
21 estimate. Fourteen of the twenty Category 1 sources
22 at the -- and this is again at the threshold levels
23 for the category sources -- only fourteen of those
24 twenty meet the requirements for the fixed fee of
25 \$113,000. And there are six Cat 1 sources at the

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1 threshold that have no financial assurance
2 requirements at all. None of the Category 2 sealed
3 sources at their threshold levels have any financial
4 assurance required. Obviously, yes, for any of these
5 there's a range of those sources, but again speaking
6 at the threshold level.

7 To me it seems that if a source is risk-
8 significant enough that it requires tracking through
9 the National Source Tracking System database it out to
10 be risk-significant enough that it would warrant
11 financial assurance, because let's face it, financial
12 assurance really does nothing for the generator.
13 Financial assurance is an administrative mechanism to
14 protect the regulator for when a licensee fails to
15 live up to their obligations of the radioactive
16 materials license.

17 We had to do it in the State of Illinois
18 while I was there. We had a radioactive waste broker
19 that failed to live up to the commitments in their
20 license. They were unable to take care of their
21 situation and we ended up having to seize their
22 financial assurance and take care of the mess for
23 them. So it does a licensee no good. It's basically
24 to protect you, the NRC, and also to protect the
25 Agreement State programs.

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1 In my opinion all Category 1, 2 and 3
2 sealed sources should have financial assurance. And
3 this financial assurance should be based upon a cost
4 estimate. Having to go through the exercise and
5 identify what source you have, where it is in its life
6 term, what its potential reusability or disposition
7 path -- some of these sources can be reused. Some of
8 them can be recycled. Some of them need to be
9 disposed. Obviously a new fresh source, there's more
10 options available for you for reuse and recycling, but
11 a source that's sort of outlived its useful life, it
12 requires disposal. And all those have specific costs
13 associated with it, whether it be disposal cost,
14 licensee transfer cost, packaging, shipping, all those
15 type of administrative costs. And those are too vague
16 and too numerous to put any fixed dollar amount in a
17 regulation.

18 So the fixed amounts, the fixed \$113,000
19 that you have in 30.35, it doesn't reflect actual
20 cost. It was something that was made up in 2003. And
21 again, that's another one of the problems. Any time
22 you put a fixed cost in a regulation, it's frozen in
23 time. And this \$113,000 has been frozen in time since
24 2003.

25 And then in order to fix the problem of

1 having a fixed dollar amount specified in any
2 regulation requires a rulemaking. Rulemakings are --
3 as you folks are probably well aware more than anybody
4 else, the labor-intensive nature and process that
5 those things have and how much of a pain in the back
6 side that they can be for you folks.

7 So, all financial assurance should be
8 based upon an actual cost estimate, and then these
9 cost estimates should include a contingency to allow
10 for the potential errors. And the cost estimates also
11 need to be periodically reevaluated. Some states --
12 I believe the State of Colorado has an annual
13 requirement for a formal submittal. State of Illinois
14 has an annual requirement for the licensee to do that
15 informally. Most states seem to have a three-year
16 period. Three years to me seems to be the minimum
17 frequency at which you would want to reevaluate. That
18 so three years at most is what I wanted to say.

19 Again, taking a look at Category 1, 2 and
20 3 sources, they should probably all be specifically
21 licensed. I know there's been a lot of papers in the
22 past that have talked about licensing of sealed
23 sources. I understand that the whole idea of having
24 a general license -- as long as someone uses that
25 source or that radioactive material within the

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1 confines of which the NRC has defined that this
2 material can be covered under a general license,
3 that's fine, but requiring specific licensing for
4 everything, for Category 1, 2 and 3 sources makes
5 sense.

6 So, in my mind you should either have
7 exempt material or you should have licensed material.
8 And licensed, your choice should be specific and
9 basically get rid of the general. Because if you take
10 a look at the Category 1, 2 sources, they're risk-
11 significant in and of themselves. Category 3 sources
12 are easy enough to accumulate to get yourself a risk-
13 significant quantity.

14 Requiring a specific license for Category
15 3 does a couple of things for you: First of all, it
16 creates a revenue stream. And I mean everybody has
17 budgets and they have to live within their budgets.
18 So, by creating a revenue stream, that provides money
19 for either the NRC or for the Agreement State program
20 to put in place more regulatory oversight.

21 When I was with the State of Illinois, I
22 wanted to make some changes to some things that were
23 generally licensed. The basic response was, well, you
24 know, that's all fine and dandy, but there's no money
25 stream associated with putting those requirements in

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1 place. So general licensees don't pay a fee. The
2 regulatory bodies have limited resources. And as you
3 well know, actions have to be prioritized, and it's
4 easier to prioritize an action when there's funding
5 behind it.

6 Financial assurance instruments. I'm not
7 a big fan of self-guarantees and parent company
8 guarantees. Having gone through the experience in
9 Illinois, I'm a big fan of something that has a cash
10 value so that when you as the regulator decide that
11 you need to seize that financial assurance, you get a
12 check in the mail, because that's the best way to do
13 it. Because if you have to sit down and argue with
14 somebody that's posted a self-guarantee or a parent
15 company guarantee -- because let's face it, if they
16 posted a self-guarantee and they're not in a position
17 to live up to the regulatory requirements of their
18 radioactive materials license, they're sure as heck
19 not going to be in a position to pay for it and all
20 you're going to end up doing is getting into a big
21 legal battle with them.

22 So self-guarantees, parent company
23 guarantees ought to be done away with. Everything
24 should be done either through like a cash set-aside,
25 a prepayment, a surety bond, irrevocable standby

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1 letter of credit, something that is pledged to the
2 regulatory agency such that if it's seized, you get a
3 check in the mail. I mean, that's the one thing that
4 really saved I think the State of Illinois in their
5 process is that that licensee had an irrevocable
6 standby letter of credit. It had specific language
7 for calling that and it made that process very simple
8 and straightforward. The bank didn't really
9 appreciate it, but that was between the bank and the
10 licensee to deal with.

11 And then the last subject I'd like to talk
12 about; and hopefully I'm still within my time here, is
13 about long-term storage. Right now there is a
14 decommission rule, or sort of a so to speak
15 decommission rule, with regards to unused facilities,
16 unused things in your license for more than two years
17 if you have a facility that is contaminated and you're
18 not doing anything with that, you've got basically two
19 years to either figure it out or start to decommission
20 it.

21 There is no similar requirement for sealed
22 sources. And the point I'd like to make is the longer
23 that something goes unused, the greater likelihood it
24 will be forgotten or something bad will happen. And
25 I'd like to provide you with a case in point.

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1 Riverside Hospital in Kankakee, Illinois
2 -- and this is all recorded in NRC Incident -- the
3 number should be 46098. They stopped their
4 brachytherapy program in October 2003. That was the
5 last time they used the cesium-137 sources. They were
6 always included in their routine inventories, leak
7 tests, and then they were last inventoried by the
8 licensee in July of 2009.

9 Well, in July of 2010 when they went to go
10 looking for them, they were identified as missing.
11 Turns out the building where the safe that stored
12 those brachytherapy sources -- the building that those
13 sources were stored in was remodeled in December of
14 2009. The safe and other contents of the room were
15 moved about. The basis consensus was they believed it
16 was disposed of with other scrap material. If you
17 read the internal correspondence of the Illinois
18 Emergency Management Agency, that's sort of where they
19 think it is, but they don't rule out the possibility
20 that it went someplace else. But anyway, based on
21 their findings, they believe it's buried in a landfill
22 in the State of Indiana, which I guess it's better in
23 Indiana than in Illinois.

24 But I'd like to talk about those sources.
25 There were 14 cesium-137 sources.

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1 FACILITATOR SMITH: So, Mike, and I hate
2 to interrupt you, but --

3 MR. KLEBE: I got two minutes.

4 FACILITATOR SMITH: Okay. If you can wrap
5 it up, okay.

6 MR. KLEBE: Two minutes. Thank you very
7 much. I appreciate it.

8 FACILITATOR SMITH: Great information, but
9 we'd like to get some other --

10 (Simultaneous speaking)

11 MR. KLEBE: I know. I know. I know. You
12 must have gone to the Chip Cameron School of Meeting
13 Facilitation.

14
15 These 14 sealed sources, decay corrected
16 to 2010, represented 372 millicuries. So 14 sealed
17 sources. They're a couple millimeters in diameter,
18 about 20 millimeters long. Based on the
19 manufacturer's safety sheets, 3.6 milliR per hour per
20 millicurie. So, that basically puts -- if you put
21 those 14 sealed sources in a film can, at one foot
22 you're getting 1.3 R per hour exposure off those
23 sources.

24 So I think that's a timely point to be
25 made, because when I woke up this morning listening to

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1 CNN, it appears the FBI and Interpol have foiled a
2 cesium-137 smuggling ring in Europe or in the old
3 Soviet Empire.

4 So anyway, those are my comments. I again
5 appreciate the opportunity to give these to you in
6 person, and I will be following up with written
7 comments that will expand and also touch on other
8 subjects. Thank you very much.

9 FACILITATOR SMITH: Great. Really
10 appreciate your feedback.

11 Carolyn, you can open up the line. Do we
12 have anyone in the queue on the line?

13 OPERATOR: Thank you. We do have a
14 question or comment coming from Mike Welling.

15 Your line is open.

16 FACILITATOR SMITH: Okay. Mike, thanks
17 for calling in. We'd just like to remind you if you
18 can hold your comment to around 10 minutes, and if we
19 have more time at the end, we'll open the floor again.

20 MR. WELLING: All right. It'll be short.
21 Just one, just so you know, the external webinar
22 didn't work, so if you could send out the slides to
23 either the board and we'll forward it to all the
24 Agreement States, if anybody else down there didn't
25 get a chance to see those.

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1 FACILITATOR SMITH: I think the slides
2 were posted on the web site, right, you said on the --

3 MR. WHITED: I did not post the slides,
4 but I can send the slides to all the webinar
5 participants after --

6 (Simultaneous speaking)

7 MR. WELLING: Yes, because I'll just
8 forward them to all the Agreement States and the
9 boards.

10 And two, yes, you do have the STC letter
11 out there and stuff. And your question is regarding
12 how you should reach out to the Agreement States. You
13 have done that, but we're hoping that you listen and
14 take our comments seriously, and including any changes
15 in the regulations go through the Standing
16 Compatibility Committee and listen to their
17 recommendations and comments that they make.

18 FACILITATOR SMITH: Okay. Thank you,
19 Mike. Is that it?

20 MR. WELLING: Thank you.

21 FACILITATOR SMITH: Okay. Great. Thanks.

22 Carolyn, we'll take another individual on
23 the line if you have someone.

24 OPERATOR: I'm currently showing no
25 further questions from the phones at this time.

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1 FACILITATOR SMITH: Okay. Thanks. We'll
2 open up the floor again here at headquarters. Is
3 there anyone else here that would like to provide
4 comments?

5 (No audible response)

6 FACILITATOR SMITH: I was going to ask if
7 you want to come back up.

8 MR. SHAFFNER: If you don't mind, I'd like
9 to maybe have a chance to ask Mike a question or two.

10 FACILITATOR SMITH: Okay. The only thing
11 I'll say -- yes, Carolyn, if you have someone that
12 comes in the queue, if you can let us know.

13 OPERATOR: I will, certainly.

14 FACILITATOR SMITH: Okay. Also, here in
15 here the room, if you would like to make a comment,
16 just raise your hand and I'll acknowledge you.

17 MR. SHAFFNER: First of all, Mike, I
18 really appreciate your comments. Obviously you've got
19 a lot of experience in this area and it's very, very
20 helpful to hear from you.

21 During the course of your presentation it
22 seemed to be that what you had to say about 30.35
23 could extend beyond sealed sources to loose byproduct
24 material in that you seemed to be not a fan of a fixed
25 dollar amount, but more in favor of a decommissioning

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1 planning approach.

2 MR. KLEBE: Yes, sir. The State of
3 Illinois, if you take a look at their financial
4 assurance regulations, they're in 32 Illinois
5 Administrative Code, Part 326. They run there's a
6 little bit different. Instead of keying off of the
7 NRC's -- I mean, it sort of meets the general
8 umbrella, but for radioactive sealed sources they have
9 a threshold of one curie. If you have a one curie
10 source, up to what they classify as a major possessor,
11 you have to post a \$25,000 financial assurance
12 instrument. Again, I'm not a big fan of that, because
13 \$25,000 in some cases for some of those sources is
14 overkill, and in some cases it's not enough.

15 And, yes, you are correct that that is
16 directly relatable to whether you do it in -- the
17 other sections escapes me, but even within 30.35 for
18 loose form material and then where financial assurance
19 is talked about for source milling, that type of
20 stuff. Yes, fixed dollar amounts don't work because
21 each situation is unique. What is the general
22 framework that you're using to create that fixed
23 dollar estimate and how do you know that it's
24 universally applicable for all situations?

25 I'm a firm believer of decommissioning

1 cost estimates or decommissioning funding plans,
2 whatever you want to call it, a specific evaluation
3 of, okay, what is it that I have? In the case of
4 sealed sources what sealed source do I have? What's
5 it going to cost me to either recycle it, send it back
6 to the manufacturer, or dispose of it? Or if I'm a
7 radioactive materials licensee and I have a facility
8 where I'm using loose form, okay, well, what
9 radioactive material do I have? Where was it used?
10 How was it used? What's the likelihood of it
11 contaminating my facility, the grounds?

12 We had a situation of a thorium-magnesium
13 casting plant located in one of the south suburbs of
14 Chicago. They actually did on-site disposal. And it
15 was at that point in time they complied with all the
16 regulations of probably AEC at that point in time. I
17 don't know if it overlapped when NRC took over. But
18 things changed. They ended up having to go through a
19 major decommissioning effort to remove contaminated
20 soil on the property, to remove contaminated soil
21 underneath their buildings.

22 So, I don't really see how in that case
23 where they're just using thorium in terms of the
24 casting material how any regulatory agency could have
25 identified a framework to say, okay, well, it's going

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1 to cost you X amount of dollars, because that was
2 strictly a unique situation. And it's a unique
3 situation for anyone regardless of whatever
4 radioactive material they use. And that's why I think
5 it is important to have a cost estimate.

6 Now, on the regulator side, you have to
7 have somebody that's smart enough to understand what's
8 going on and have they considered all the applicable
9 costs? There might be a situation where the NRC could
10 create some guidance documents, because one of the big
11 things, especially when you're talking about a
12 facility that has used loose form radioactive material
13 is, okay, I've used it in this room. I don't know
14 what the size of this room is. It's probably what,
15 about 1,700 square feet, give or take. Okay. I don't
16 know what -- me as a licensee, I don't know what it's
17 going to cost for some third party to come in and do
18 a survey of this. It might be helpful to have
19 standards.

20 Okay. Well, this is generally accepted
21 practice. If you're going to be doing a gamma survey
22 in a building, you can do so many square foot an hour
23 and you can then divide your square footage by that
24 amount and you come up with an hour estimate and then
25 you can assume some labor charge. So there are some

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1 mechanisms there.

2 But again, I think it's going to be a
3 matter of you're going to train your license
4 reviewers, or whoever it is that's reviewing these
5 decommissioning cost estimates, whether it be at the
6 NRC or at the Agreement State so that they can have
7 understanding, okay, well, this is what it costs.
8 This is what it takes. If you're doing any sort of
9 on-site disposal or you had radioactive material to
10 sort outside, and now you have the potential that it's
11 migrated into the environment, well, what does that
12 mean? And so, it's a matter of a lot of education.

13 But to get back to your original question;
14 I know it was a 10-minute answer for a 2-minute
15 question, no, I'm not a fan of fixed costs.

16 FACILITATOR SMITH: So you're clear.
17 You're clear.

18 MR. SHAFFNER: Now, I'm not going to pose
19 this as a question to you --

20 MR. KLEBE: I'll be more than happy to
21 answer anything you'd like, sir.

22 MR. SHAFFNER: No, but obviously one of
23 the points of this is to get the perspective of the
24 people who are impacted by these -- you alluded to, in
25 your opinion, the need for financial assurance.

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1 Obviously licensees are going to have to pay for that,
2 and there are a broad range of licensees that would
3 have to be considered in this process and the impact
4 thereon. And so, like I said, I'm just raising that
5 now as something we would like to hear some
6 perspective on.

7 FACILITATOR SMITH: Well, why don't we
8 give them the opportunity. If there any licensees
9 that are either here in the room or on the line, if
10 you have any feedback on that, Jim would really like
11 to get some feedback from any licensees that are
12 actually called in on the line.

13 Do we have anyone on the line that would
14 like to provide Jim some feedback on that?

15 OPERATOR: And again, if you do have
16 feedback, it's star, one and record your name. And we
17 do have one party in queue holding for a question or
18 comment.

19 FACILITATOR SMITH: Great. Can we have
20 that individual?

21 OPERATOR: Certainly. We have Mary
22 Shepherd on the line.

23 Your line is open. Please go ahead.

24 MS. SHEPHERD: Hi. Can you hear me?

25 FACILITATOR SMITH: We can, Mary. Thanks

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1 for calling in. Really appreciate it.

2 MS. SHEPHERD: Okay. I have hours of
3 things to talk about, but on this particular question
4 we do -- we're JL Shepherd & Associates. We do Cat 1,
5 2, 3 sources. Some of the same Cat 3 sources that are
6 used for Part 30 licensees are also used in the GLs,
7 and it's never made any sense to us that if we're
8 putting it in a specifically -- the same source in the
9 specifically licensed device why that same source in
10 a GL isn't subject to the same requirements that our
11 licensees have to comply with. Same source model,
12 same activity. So I agree that everything should be
13 probably on an important to safety risk basis.

14 FACILITATOR SMITH: Okay. Thanks a lot,
15 Mary. Really appreciate your feedback.

16 MS. SHEPHERD: And I have more questions
17 for later, but I'll leave it open for --

18 FACILITATOR SMITH: Well, if you have
19 another question, you can provide it right now.

20 MS. SHEPHERD: Okay.

21 FACILITATOR SMITH: Go ahead, Mary.

22 MS. SHEPHERD: One of the things; I have
23 to study this more, is end-of-life seems to mean
24 different things to different people in the different
25 groups, and I'm talking about the Cat 1 and 2 sources

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1 that have long histories of use. There are many Cat
2 1 and 2 sources licensees that are private and
3 federal, NRC licensees. And there's also quite a few
4 at the DOE which are also part of 10 CFR, but not
5 under discussion here. Many of these sources are not
6 continuous use like a GL-type device would be, but
7 they're in periodic use.

8 And at one of meetings Jet Propulsion
9 Laboratory brought up the fact that they were very
10 concerned, because like with space missions, which are
11 years in the making, you could have a source that's an
12 integral part of the space mission, but it's not used
13 consistently. It might not be used for 5, 10 years.
14 Or after the mission is launched, if they have to do
15 some retesting, it could be another five years space
16 mission where they've got to retest some parts to see
17 if -- oh, you could manipulate something on the Mars
18 Rover to work better.

19 And we have multiple licensees, like DOT
20 and Agriculture for the Sterile Release Program for
21 insects. Those programs can be cyclical and say if
22 you have great success and you don't have an
23 agricultural problem anymore, just because you don't
24 have a problem that year doesn't mean the insect
25 problem could emerge two years later. If they have to

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1 get rid of their irradiator, then there's a huge
2 economic loss because they don't have the kind of
3 response if they'd kept the irradiator in storage for
4 some reasonable amount of time to make sure that that
5 insect problem is really gone.

6 We've had that with measles, the measles
7 outbreak. With climate change we don't know what's
8 going to happen. Or not even climate change. With
9 the changes in climate, the cyclical or real climate
10 change the agriculture industry is not 100 percent
11 sure what's all going to happen with their pest
12 control issues.

13 And I'll explain more in some of my
14 written comments, but I really think that some
15 definitions need to be made concerning the end-of-life
16 cycle, because there's so many different kinds of uses
17 with different kinds of issues on when a source is not
18 being used versus when it's real life cycle ends for
19 the project.

20 FACILITATOR SMITH: Okay. Thanks a lot,
21 Mary. Really appreciate your feedback.

22 MS. SHEPHERD: Okay.

23 FACILITATOR SMITH: Is there anyone here
24 in the room who'd like to make feedback at all?

25 (No audible response)

1 FACILITATOR SMITH: Okay. Carolyn, we'll
2 go back to the line.

3 I'm sorry?

4 MR. KLEBE: You want a response?

5 FACILITATOR SMITH: No, I think we're
6 okay.

7 Carolyn, is there anyone else on the line
8 that would like to -- that's in the queue?

9 OPERATOR: And I'm currently showing no
10 questions from the phone. Again, it's star, one and
11 record your name. And I'll let you know if we have
12 anyone that comes into queue.

13 FACILITATOR SMITH: Okay. Again, we would
14 really like to hear from some of the licensees. It
15 would be great feedback if we can get some of that
16 information from you guys.

17 (No audible response)

18 FACILITATOR SMITH: Okay. We'll come back
19 to the room. We're going to look at you. Are you all
20 right?

21 MR. KLEBE: I just didn't know if Jim
22 wanted a response in terms of the impact on the
23 licensee.

24 FACILITATOR SMITH: I mean, if you want to
25 provide feedback, it's okay. We have time, so --

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1 MR. KLEBE: Yes, hate to have your party
2 end within an hour. That seems like it's a waste of
3 effort.

4 You had talked about -- well, first of
5 all, I'd like to at least give some credit to the
6 folks at JL Shepherd. When I was with the State of
7 Illinois, we had a lot of people that used JL Shepherd
8 devices, and they were very good in terms of providing
9 actual real life cost estimates. This is what it's
10 going to cost to get rid of your source, to return it
11 to the manufacturer. So they always did a very nice
12 job with that.

13 But you talk about impact to the licensee.
14 In the State of Illinois there are five means that
15 financial assurance can be posted: certificate of
16 deposit, surety bond, irrevocable standby letter of
17 credit, self-guarantee, parent company guarantee.
18 There's about 62 persons in the State of Illinois that
19 need to post financial assurance. One person uses the
20 parent company guarantee, but they're a medical firm
21 of a very large international corporation that uses
22 initials. There is nobody that uses a self-guarantee.
23 There were like two or three that used certificate of
24 deposits. They're usually small sealed source people
25 like well loggers that post a \$25,000 certificate of

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1 deposit. The rest were pretty much evenly split with
2 a surety bond or an irrevocable standby letter of
3 credit.

4 My understanding in terms of talking with
5 those licensees and talking with people that issue
6 surety bonds, depending upon the caliber of an
7 individual you are a surety bond is an annual premium
8 that will cost you roughly about 10 percent of the
9 face value. So that's an annual -- so if you post a
10 \$50,000 surety bond, your cost on an annual basis is
11 going to be about five grand, give or take. And it
12 depends upon who you are.

13 If you're having an irrevocable standby
14 letter of credit, well, that's between you and the
15 bank in terms of what you have secured against it. In
16 the case of Illinois where we seized that irrevocable
17 standby letter of credit, that licensee had used
18 physical property, the building as part of the
19 collateral to secure that letter of credit. So that's
20 sort of the level of impact to the licensees that I'm
21 aware of.

22 FACILITATOR SMITH: Great. Thank you.
23 Thank you very much.

24 Again, anyone else in the room who would
25 like to provide feedback?

1 (No audible response)

2 FACILITATOR SMITH: We'll go to the line
3 one more time. Carolyn, is there anyone else that
4 would like to provide feedback?

5 OPERATOR: I'm currently showing no
6 questions or comments at this time from the phones.

7 FACILITATOR SMITH: Okay. I'm going to
8 turn it back over to you, Ryan, and you close out the
9 meeting.

10 MR. WHITED: Okay. Thank you, George.
11 Once again we do apologize for any technical issues
12 that happened on the webinar. I will get the slides
13 out, the slides that were used this afternoon. I'll
14 get those out this afternoon to the folks that were
15 registered for the webinar so you'll have those.

16 I'd like to thank all of you, both folks
17 in the room and those participating by webinar, for
18 contributing today to the discussion. Again, if you
19 have thoughts between now and October 19th, please get
20 them into us on our -- in responding to our *Federal*
21 *Register* notice. And thanks again and good afternoon.

22 (Whereupon, the above-entitled matter went
23 off the record at 2:00 p.m.)

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