

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

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LICENSING SUPPORT SYSTEM

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ADVISORY REVIEW PANEL MEETING

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PUBLIC MEETING

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U.S. Department of Energy

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Great Basin Room, #A106

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232 Energy Way

14

North Las Vegas, NV

15

Tuesday, February 24, 1998

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The above-entitled panel meeting commenced,

18

pursuant to notice, at 8:30 a.m.

19

20 PARTICIPANTS:

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JOHN HOYLE, Chairman, NRC

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CHIP CAMERON, NRC

23

KATHRYN WINSBERG, NRC

24

MOE LEVIN, NRC

25

DAN GRASER, NRC

1 PARTICIPANTS: [Continued]

2 CLAUDIA NEWBURY, DOE

3 STEVE FRISHMAN, Nuclear Waste Project Office, Nevada

4 LES BRADSHAW, Nevada

5 MALACHY MURPHY, State of Washington

6 DENNIS BECHTEL, Nevada

7 PETER CUMMINGS, Nevada

8 LORETTA METOXEN, Wisconsin

9 JUDY TREICHEL, Nevada

10 STEVEN P. KRAFT, Washington, DC

11 JOHN GREEVES, NRC

12 TONY COTTER, NRC

13 JIM THOMAS, NRC

14 HARRY LEAKE, Nevada

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P R O C E E D I N G S

[8:30 a.m.]

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CHAIRMAN HOYLE: Okay. I'd like to get started. We're running off -- running a little bit behind, but I would like to see if we can cover everything we had hoped to today.

My name is John Hoyle. I'm the NRC representative on the panel and the chairman of the panel. This panel is a formal advisory committee which operates in accordance with the Federal Advisory Committee Act.

Notice of the meeting was announced in the Federal Register on February the 11th of this year. It is open to members of the public. And I will offer an opportunity for members of the public toward the end of our session to speak if anyone wishes to be recognized at that time.

As I said, we have a very full agenda. So I'm not going to recite history here, though I think as we go along you'll probably be reminded of some of it.

We did meet last formally here in Las Vegas in May of '96. During '97, we utilized the Internet to conduct our interactions and to get initial views and comments on the proposed rule changes we'll be discussing today.

Before proceeding further with introductions and talking about the agenda, let me ask Chip Cameron to set out the objectives of the meeting please.

1 Chip.

2 MR. CAMERON: Okay. Thanks, John.

3 I hesitate to do this, in a sense, knowing how
4 raucous and chaotic these sessions can be. But I did want
5 to dedicate this meeting to the memory of our good friend
6 Bill Olmstead, who is no longer with us. And with that, I
7 just want to talk a little bit about objectives of the
8 meeting.

9 We've been at this for a long time, some of us
10 longer than others. And we've had a lot of stops and
11 starts, and I'm hoping that this time we may be positioning
12 ourselves to succeed with this project.

13 And in order to do that, we really have to insure
14 that this version of the rule, the proposed rule that's in
15 front of everybody, does the job in terms of fulfilling the
16 LSS functionalities in terms of reducing discovery time and
17 facilitating preparation for the hearing and participation
18 in the hearing, and also reduce the time spent on motions
19 practice. So we have to make sure that the framework of the
20 rule does this.

21 And what we want to do is to get your attention to
22 the changes in the rule, whether you agree with those
23 changes, whether they're clear to you. And most
24 importantly, we want to be able to take back alternatives to
25 consider in drafting the final rule.

1 That's the importance of this meeting, is to
2 explore those alternatives with you if you don't think that
3 a particular provision in the rule is going to do what it
4 should do or is the right way to proceed. And of course we
5 also want to know what steps we should take in the future,
6 what do we need to do to implement the rule.

7 And I guess that the question of ambiguities is
8 important. I think as we go through the presentations
9 you're going to see that there are some ambiguities in terms
10 of what provisions in the proposed rule means. We need to
11 clear those up because it's important to be precise.

12 And I'm going to use my good friend Tony Cotter as
13 an example of some of the difficulties you can get in if
14 you're not precise. And Tony will introduce himself later,
15 but he is the chairman of the Atomic Safety and Licensing
16 Board panel at the NRC, who of course is going to be the
17 focus for the adjudicatory hearing.

18 But I was talking to Tony a couple of weeks ago
19 about coming out here and he said that he was going to stay
20 at the Excalibur. And I asked him, I said "Well, how are
21 the rooms there?" And he said "Well, they're terrific.
22 Last time I was out they even gave me an upgrade and they
23 gave me a room with a couple of queens." And so I said
24 "Well, whatever turns you on, Tony." But I mean --

25 I think you were talking about queen beds. And

1 you may have an opportunity to clarify this on the record,
2 but --

3 MALE VOICE: That will cost you.

4 MR. CAMERON: I know. I warned him I was going to
5 get him. But at any rate, I'll stop.

6 CHAIRMAN HOYLE: Okay. Thanks, Chip.

7 I do want to go through the agenda, but let's
8 first go around the table as we usually do and introduce
9 ourselves briefly. It's not been real recent that we've had
10 a chance to see each other face-to-face, so let's take that
11 opportunity.

12 I'll ask Steve Kraft, whose name tag I can't find,
13 to start us off please.

14 MR. KRAFT: Steven Kraft, Nuclear Energy
15 Institute.

16 CHAIRMAN HOYLE: Thank you.

17 MS. METOXEN: I'm Loretta Metoxen. Today I'm
18 representing the National Congress of American Indians, at
19 their request. I had acted for them in an official capacity
20 prior on the advisory review panel. But all of the
21 leadership, Indian leadership and their staff are meeting in
22 their midwinter council in Washington right now, so I'm
23 representing them. Thank you.

24 CHAIRMAN HOYLE: Thank you, Loretta. And I'm
25 reminded that Loretta hosted a -- one of our meetings in

1 Wisconsin in 1995, I guess it was.

2 MS. METOXEN: That's right.

3 CHAIRMAN HOYLE: Yeah. Thank you.

4 MS. METOXEN: Thank you.

5 MS. TREICHEL: Judy Treichel, the Nevada Nuclear
6 Waste Task Force. I guess representing all those
7 troublesome citizens we were talking about.

8 MR. FRISHMAN: Steve Frishman, State of Nevada.
9 And Harry Swainston won't be with us today.

10 CHAIRMAN HOYLE: Okay. Thanks.

11 MR. THOMAS: Jim Thomas with the NRC.

12 MR. GREEVES: John Greeves. I'm director of waste
13 management at NRC.

14 CHAIRMAN HOYLE: And I'm John Hoyle, secretary of
15 the Commission.

16 MS. WINSBERG: Kathryn Winsberg with the general
17 counsel's office at NRC.

18 MR. CAMERON: Chip Cameron, office of general
19 counsel, NRC.

20 MR. LEVIN: Moe Levin, office of CIO at NRC. And
21 I'm the licensing support system administrator.

22 MR. GRASER: Dan Graser with the office of chief
23 information officer at NRC.

24 MR. MURPHY: Mal Murphy, Nye County.

25 MR. BRADSHAW: Les Bradshaw, Nye County.

1 MS. NEWBURY: Claudia Newbury, Department of
2 Energy.

3 MR. BECHTEL: Dennis Bechtel, Clark County,
4 Nevada.

5 MR. CUMMINGS: Pete Cummings, City of Las Vegas.

6 CHAIRMAN HOYLE: Okay. Thank you very much.

7 Looking at the agenda, which I hope all of you
8 have seen, some maybe for the first time, we're running
9 along pretty good now. It's about 10 minutes to 9.

10 Kathryn Winsberg of the NRC is going to start us
11 off with an overview of the proposed rule and the
12 differences between this one and the prior rule. Then DOE
13 and NRC will both be talking to us about the automation
14 efforts and records management status of their respective
15 agencies.

16 Hopefully we will be able to take a break
17 somewhere in the midmorning time frame and then ask Moe
18 Levin to talk about the first of the major issues we'd like
19 to lay on the table, and that's system architecture. And
20 the second issue should also be covered this morning, and
21 that's definition of documentary material.

22 In the afternoon we've got the continuation of
23 anything of the morning that we haven't finished up and then
24 go into compliance issues: need for LSS administrator,
25 function; the role of this advisory review panel; and cost

1 and equity concerns. We shown an adjournment of about 5:30
2 today. We'll see how things move along.

3 And pick up tomorrow morning with what happens
4 next and cover anything that we need to cover that we hadn't
5 gotten to today.

6 So I think without any further comment from
7 myself, unless there's comment from the panel members, I
8 would ask Kathryn to give us a start.

9 MS. WINSBERG: Okay.

10 CHAIRMAN HOYLE: Okay. Thank you.

11 MS. WINSBERG: Well, I guess I just would start
12 off by recapping a little bit of the history here. Many of
13 you may be more familiar with it than I am, the history from
14 the very beginning.

15 But I guess more recently, at the NRC we perceived
16 a problem with the fact that the LSS had not been developed
17 as envisioned. And the Commission had a senior management
18 team composed of Bill Olmstead, who's no longer with us, and
19 Moe Levin, the LSS administrator, and John Greeves from NMSS
20 to try and think about the path forward. And they focused
21 on the fact that, for two reasons, we really needed to do
22 something to deal with this situation about the LSS.

23 First of all, the LSS could not really achieve its
24 intended function due to delays in being developed and the
25 backlog of materials that had accumulated and the failure to

1 track decisions on issues as had been envisioned when the
2 LSS was designed.

3 And then the second reason really was the
4 technical obsolescence had overtaken the idea of a dedicated
5 stand-alone hardware and software system. And the
6 functionalities that had been envisioned for the LSS now can
7 be achieved with software that's readily available. And NRC
8 is developing for use throughout the agency a system that
9 would be capable of performing the electronic docket system
10 that the LSS was supposed to perform.

11 So in order to scope out the topics involved,
12 maybe some of you participated in LSS Net that was conducted
13 at a web site on Internet. We had three phases and
14 discussed some of the issues: whether we should retain the
15 requirement for an LSS but with distributed sites or whether
16 the requirement for an LSS should be eliminated, the role of
17 the LSS administrator and various other topics.

18 And final phase of LSS Net included a draft of
19 what the subpart J rule, the LSS rule might look like, the
20 main author of which was Bill Olmstead. And we received a
21 few comments on that and took them into consideration in
22 trying to develop the draft rule that you have before you
23 now.

24 This new rule is designed to try and, as flexibly
25 as possible, give the same or similar functions of the LSS.

1 The major functions are the availability of documents before
2 the license application is filed, the capability for
3 electronic transmission of documents for filing, electronic
4 transmission of orders and decisions, and access to an
5 electronic docket for the licensing proceeding.

6 I guess I'll just get to a summary of what the
7 changes are to the rule. And as John outlined in the
8 agenda, we're going to discuss in detail parts of the
9 changes that we think need to be clarified, but this is just
10 going to be an overview.

11 First of all, we are eliminating references to the
12 LSS in the rule and replacing those references either to
13 electronic availability of documents or electronic docket,
14 or both, because those are the functions that the LSS rule
15 was going to accomplish. So now instead of just referring
16 to the LSS that was going to perform both those functions,
17 we have to specify which function we're talking about. And
18 we have definitions of electronic docket and pre-license
19 application electronic docket as two different issues.

20 Also, since there is no LSS in this rule now, the
21 references to the LSS administrator have been removed. And
22 those functions, for the most part, are not in the rule.
23 And that's going to be a topic for discussion later today.

24 The rule, the proposed rule also removes as many
25 references to existing technology as possible; for instance,

1 references to ASCII or to certain technical headers that
2 were included in the rule. Those references have been
3 removed. And the purpose is to give as much flexibility as
4 possible to incorporate ongoing advances in technology so
5 that we're not tied down to some specific thing that will
6 not -- that will be obsolete or not helpful at the time when
7 we're actually trying to use these -- to use this
8 information.

9 We have changed the definition of documentary
10 material. And that is a whole topic that we're going to
11 discuss in detail. But the idea is that we wanted to define
12 as carefully as possible the most relevant documents that it
13 would be most important to have access to before the license
14 application is filed.

15 During all these years that have taken place, the
16 backlog of documents has grown and grown. And documents
17 that were accumulated at the beginning of the process,
18 particularly at a time when more than one site was under
19 consideration, there's quite a collection of documents that
20 may no longer be relevant to the final license application
21 that is filed. And we hoped to define a more specific
22 definition that would hone in on that information.

23 Another key change to the rule is the definition
24 of the pre-license application phase. And the importance of
25 that definition is that beginning at that time, all

1 participants would be required to give electronic access to
2 their documents. And we've chosen a date that we hope would
3 give the maximum amount of access to information at the time
4 when the information is best defined.

5 The time we've chosen is the time when the
6 president sends his site recommendation to congress. And at
7 that time, we'll know that that is the administration's
8 recommendation. So that the danger of requiring people to
9 give access to documents for an application that is not
10 going forward, we think will be minimized by choosing this
11 date. Of course we hope that parties would be giving access
12 before that time, but this is the date that we've chosen to
13 require access.

14 This proposed rule also removes the possibility of
15 going forward under subpart G, the normal adjudicatory
16 procedures in our procedural rules. Previously, the rule
17 stated that if the LSS administrator did not certify that
18 the Department of Energy had complied with the LSS rule six
19 months before the application was filed, that the
20 application might have to go forward under the normal
21 adjudicatory rules, which would involve document discovery,
22 possibly lengthy, after the filing of the application. So
23 this -- we are defining this rule to include all the
24 necessary processes so that we can go forward under this
25 rule under all circumstances.

1 Incidentally, the rule also removes the necessity
2 for submitting a signed paper copy of each document filing,
3 because the electronic docket, we believe, will be developed
4 to the point where we'll have electronic signatures and
5 we'll be able to dispense with having paper copies.

6 That is a real quick overview of the changes that
7 we've made here. As I said, throughout we tried to have the
8 rule be as flexible as possible in order to accommodate a
9 procedure that will work. And it's kind of quick, but I
10 think that's a pretty good overview.

11 CHAIRMAN HOYLE: Okay. Thanks, Kathryn.

12 Any general questions that we could respond to
13 now? Otherwise I

14 MR. MURPHY: Yeah, I've got --

15 CHAIRMAN HOYLE: Yes.

16 MR. MURPHY: I've got one, and it's not really all
17 that significant. But I just wonder why the decision was
18 made to discard the term "LSS." Why not keep the term in
19 there and redefine it to refer to this conglomeration of
20 various systems that people are going to use, various tech
21 -- you know, designs and -- that people are going to use to
22 accomplish the result? I mean you got to refer to it as
23 some -- what are we going to call this thing, I guess is the
24 question.

25 MS. WINSBERG: Well, the -- I think the idea was

1 that the LSS had been a single stand-alone unit. And what
2 we're establishing under this rule can be accomplished in a
3 number of different ways. And the first part, making your
4 documents available electronically beforehand, it isn't a
5 thing. The electronic docket is a single thing that is
6 similar in concept to the LSS, but the first part could be
7 accomplished a number of different ways.

8 For instance, it might be possible to provide
9 CD-ROM disks of your documents, or have a web site, or we
10 don't know exactly how it'll happen. So because it wasn't
11 one unified thing, I guess we thought maybe we -- and also
12 because it's a change from what we were considering before.
13 Those are the ideas that kind of went into that.

14 MR. MURPHY: Yeah, I, I mean it's not a big deal,
15 but just, you know, there's something missing here. I got
16 to --

17 MR. LEVIN: What you're saying is we need --

18 MR. MURPHY: I want to call this thing something.

19 MR. LEVIN: What you're saying is we need a
20 handle.

21 MR. MURPHY: Right.

22 MR. LEVIN: So we can call fumble when we talk
23 about it.

24 MR. MURPHY: Right, yeah.

25 MS. WINSBERG: Right.

1 MR. KRAFT: Well, what -- all you need to do is
2 broaden your definition of system. Systems aren't just --

3 MR. MURPHY: Yeah.

4 MR. KRAFT: -- hardware and wire. Systems are
5 people, places, things --

6 MR. MURPHY: Sure.

7 MR. KRAFT: -- procedures. I --

8 MR. LEVIN: Well, if we have --

9 MR. KRAFT: No, it's not a terribly important
10 issue, but you will find yourself, in the nomenclature of
11 this group, stumbling if you don't have as most -- as a
12 handle, you know.

13 MR. LEVIN: If we hadn't already used the term
14 "LSS Net," I could have offered that up. Or maybe we can
15 just spend --

16 MS. WINSBERG: right.

17 MR. LEVIN: -- LSS Net. Because what we're really
18 talking about is now a network, cooperative type entity.

19 MR. MURPHY: Why don't you call it the LSN then,
20 the licensing support network?

21 MR. LEVIN: LSN, LSSN would be fine. At least for
22 -- to facilitate discussions.

23 MR. MURPHY: I just need something to put down on
24 my time sheets. I got to be able to describe the work I've
25 done.

1 MR. KRAFT: You know, it finally comes out. You
2 lawyers are all alike.

3 MR. CAMERON: Let's get to the bottom line; right?

4 MS. WINSBERG: So how many blocks do you have to
5 fill in then?

6 MR. LEVIN: Shall we call it the LSSN, or --

7 MR. MURPHY: Sure.

8 MR. LEVIN: Okay.

9 MALE VOICE: It's got my vote, yeah.

10 MR. LEVIN: All right.

11 MS. WINSBERG: Sure.

12 FEMALE VOICE: One S or two?

13 MR. LEVIN: This is incredible. We've already
14 agreed on something.

15 MALE VOICE: It's a real problem though.

16 MR. LEVIN: It's only 9:10 in the morning.

17 MR. BECHTEL: Say John.

18 CHAIRMAN HOYLE: Okay.

19 MR. CAMERON: Say John.

20 CHAIRMAN HOYLE: Yes.

21 MR. BECHTEL: Just had a question.

22 CHAIRMAN HOYLE: Yeah.

23 MR. BECHTEL: We have -- there's a section here on
24 topical guidelines. We've had several discussions just
25 about, you know, topical guidelines as recently as I think

1 our last meeting. And I'm not sure I ever saw, you know, we
2 discussed some, maybe some confusions in part of it. We had
3 some confusion about where socioeconomic fit. And is there
4 a final version of the topical guidelines, or --

5 MS. WINSBERG: Yes.

6 MR. BECHTEL: D -- does someone have a copy?
7 Maybe we could take a --

8 MS. WINSBERG: Yes. I brought it along.

9 MR. CAMERON: Okay. We'll make a copy of that --

10 MR. BECHTEL: Oh, okay.

11 MR. CAMERON: -- available before the meeting is
12 over. Right? We probably can do that.

13 CHAIRMAN HOYLE: Yes. Yeah, why don't we do that.

14 Is it clear that the socioeconomic --

15 MS. WINSBERG: Yes.

16 CHAIRMAN HOYLE: -- documents will be covered in
17 it?

18 MS. WINSBERG: Yes. There's a topic 12 that's
19 entitled "Information for Preparation of a Geologic
20 Repository Environmental Impact Statement."

21 MR. BECHTEL: Great.

22 MS. WINSBERG: And it contains environmental,
23 socioeconomic and transportation subtopics.

24 MR. BECHTEL: Okay. So we will have copies. I
25 mean just to -- there was a few other things too. Okay.

1 CHAIRMAN HOYLE: We'll make sure, Dennis.

2 Anything else?

3 Well, it's 10 past 9. I think we should press on
4 to the next agenda item before we take a break. So Dan and
5 Claudia each have something to present. I'm not sure who's
6 going to start.

7 Dan, do you -- have you agreed on something?

8 Claudia.

9 MS. NEWBURY: Is there a Viewgraph machine? You
10 know we can't go anywhere without Viewgraph machines.

11 CHAIRMAN HOYLE: You know, we had one in here --

12 MS. WINSBERG: I've got one.

13 MR. LEVIN: There's one in the corner here.

14 CHAIRMAN HOYLE: We had one yesterday, and then --

15 MS. NEWBURY: I just have one, but I can talk
16 without it. It's just a nice picture that shows how we're
17 going to do things.

18 MS. WINSBERG: Well, do you want to see if the
19 thing works?

20 CHAIRMAN HOYLE: Yeah.

21 MS. NEWBURY: No rush. We can do it some other
22 time.

23 CHAIRMAN HOYLE: Why don't you talk to it, and
24 then maybe we can get set up on the break and then just
25 display it for us.

1 MS. NEWBURY: Okay. It'll take a little bit
2 longer for me to talk through. That's okay.

3 DOE is in the process right now of doing several
4 things. And I'm kind of going to go through a lot of them.

5 We are developing something called a table of
6 contents, which is to be put out on the Web for the general
7 public. And that is kind of a front-end view of everything
8 that the Yucca Mountain has been doing. It'll consist of
9 three different parts.

10 One is the functional descriptions, which is a way
11 of telling people who the Yucca Mountain project is and what
12 we do. And it will contain short pieces, 500 words or less,
13 at the 10th grade level on -- well, we tried to get it lower
14 but we couldn't with the length of the words that we were
15 sticking in there.

16 That basically describes what is site
17 characterization, what is performance assessment, what is
18 engineering and design, what are the basic management
19 processes that we go through in doing our work. And that's
20 kind of a front-end to get the general public up to speed on
21 what the project is.

22 The second part of the table of contents is a --
23 is the major products. And what we intend to do beginning
24 with the VA, and actually we've got a couple pre-VA,
25 viability assessment, is take the document itself and put it

1 out on the Web as hypertext. That's not with hyperlinks.
2 The original VA will be out as just the document itself as
3 soon as the secretary signs off on it so people can look at
4 it.

5 Within three months of the viability assessment
6 going out under the secretary's signature to congress, we
7 will have hyperlinks to all the references in the viability
8 assessment. And bear with me, because this will hold true
9 for the license application as well.

10 What we'll link to is the actual reference, if it
11 is one of our records. So you will see the full -- you will
12 see the scanned image and you will have the full text also
13 available eventually, for everything that is directly
14 referenced. That isn't the full package of information that
15 was developed in writing the document, it's the document
16 itself. So it's, of this much paper (indicating), it's this
17 much probably (indicating).

18 We will continue that with our other major
19 products that are leading up to the license application and
20 with the license application itself. So as these documents
21 are developed, the site recommendation, the final EIS, the
22 other major documents, they'll be put out on the Web with
23 the links to everything that is referenced in that document.

24 If it is not one of our records, we will link to a
25 statement that says this is either a readily available

1 reference or you can order it from us. And we will have
2 copyright clearance on those.

3 Once those documents are out and available, we
4 expect people to take a good look at them. And what we are
5 telling our authors they must do is not just cite things
6 that support our arguments.

7 In other words, in the document itself they have
8 to say I reviewed so and so's work and it did not -- was not
9 directly applicable to my work, or it contained information
10 that did not fit with the analyses I was doing, or I don't
11 know, maybe I just didn't like it, whatever. But they have
12 to have a reason why they chose not to use that.

13 In essence, they're citing that document now, and
14 we will make the linkages, whether it supports our case or
15 not.

16 So when we're done you'll have on-line available,
17 the general public as well as the members or the parties to
18 the licensing process, a complete record of our final
19 decision, which is the license application, and all those
20 things that are referenced in it.

21 The third part of the table of contents are
22 indices. And that is an index, indexes of all of our
23 records, which is all the other stuff that is not directly
24 referenced in those official documents. Our technical data
25 will be available on on-line. And a listing of everything

1 that is in our library. Now we don't expect to put all of
2 our records out to the general public. That would be what
3 would be part of LSSN. I really need that acronym.

4 So what we would see is the general public would
5 have access to this complete set of information that is
6 directly referenced in our documents. And then people who
7 are parties to the licensing process would have an in to the
8 indices, which are everything we have. And that would take
9 place when the site recommendation goes to congress. We
10 would open that up to the members.

11 Where are we now? We are in the process of
12 developing our search and retrieval requirements for the
13 full text search. We have started adding -- we will add
14 full text to our riz web (phonetic), which is our internal
15 system, beginning in August of this year. We are analyzing
16 a thesaurus approach of key words to search for things. The
17 full text search and retrieval system will be implemented
18 internally in the first quarter of FY '99.

19 Right now, there are 742,000 records on-line with
20 headers. Of those, 322,000 records with images are on-line
21 internally. That's about 3 million pages worth. We expect
22 to have 450,000 records with images by the first of October
23 of this year, 650,000 records with images by October of '99,
24 and all records reprocessing completed by the first of April
25 2000.

1 Let's see. That about covers where we are right
2 now, I guess.

3 Yes, Chip.

4 MR. CAMERON: Claudia, do you, and I know you may
5 not have a precise answer to this yet. But from what you
6 described, including the indices, does it look to you like
7 that matches up pretty well with the definition of
8 documentary material that's in the proposed rule?

9 MS. NEWBURY: I have a problem with the definition
10 of documentary material in the proposed rule.

11 MR. CAMERON: Okay, good. Well, we can save that
12 then.

13 MS. NEWBURY: Okay.

14 MR. CAMERON: And get into that.

15 MS. NEWBURY: Okay.

16 MR. MURPHY: That's why we're reserving judgment
17 on it too, because I know what Claudia's problem is and I
18 want to hear everybody else's reaction to it.

19 MR. CAMERON: Good.

20 MS. NEWBURY: Did I tell you?

21 MR. MURPHY: Yeah.

22 MS. NEWBURY: Oh.

23 CHAIRMAN HOYLE: Claudia, have you generally used
24 the header scheme that this panel had worked on a few years
25 past?

1 MS. NEWBURY: Yes.

2 CHAIRMAN HOYLE: Okay. Thank you.

3 MR. GREEVES: Claudia, you didn't mention the
4 draft license application, but that would be one of the
5 series of documents that would be up and running?

6 MS. NEWBURY: I'm not sure that we would put the
7 draft license application out. It would be the final. We
8 need to work, because part of the site recommendation is
9 your compliance arguments, and we need to figure out what
10 those are based on. And that's an issue that April Gil and
11 I are working on.

12 MR. MURPHY: What was --

13 MS. NEWBURY: For the site recommendation, we have
14 to have compliance. I'm sorry, we have to have, from the
15 NRC, a statement.

16 MR. MURPHY: Oh, right. Yeah.

17 MS. NEWBURY: So they have to have something to
18 base it on.

19 MR. MURPHY: A certificate that -- the certificate
20 of completeness as to characterization, or whatever it's
21 called?

22 MS. NEWBURY: Right.

23 MR. MURPHY: Yeah.

24 MR. KRAFT: We have to comment before you can put
25 it out.

1 MS. NEWBURY: Right.

2 MR. MURPHY: Yeah.

3 CHAIRMAN HOYLE: Anything else for Claudia at this
4 time?

5 MS. NEWBURY: Okay, Dan. Yours.

6 MR. GRASER: Good morning, everyone.

7 I'm going to probably use the balance of the hour
8 that we were originally scheduled for. Just kidding.

9 MR. LEVIN: Stunned silence.

10 MALE VOICE: You know we believed it though.

11 MR. GRASER: The Nuclear Regulatory Commission has
12 a project underway to develop internally an agency-wide
13 document management access -- document manage -- document
14 access and management system. I included for the members of
15 the panel some of the marketing propaganda of the software
16 package that we are using to build this system. We're
17 building it using some products that have been integrated by
18 the Filemet (phonetic) Corporation.

19 The product line will allow us to establish
20 libraries across the entire NRC enterprise that are focused
21 on the business areas of the organization and to set up
22 libraries associated with those business areas. So that
23 everybody inside NRC who is authoring documents will be able
24 to create them and declare them to the system, and the
25 system will organize them by the business areas within NRC.

1 And the reason I'm giving you this background is
2 because the concept of being able to identify discrete
3 libraries or collections of materials that are related to
4 particular business problems or business areas is one of the
5 things that we intend to use to help meet the LSN
6 requirements, if that be the new terminology.

7 The software that we're using will allow us to
8 establish either an Intranet, which users inside our
9 organization can access directly into the data stores inside
10 of our firewalls. And that would be for things like our
11 on-site inspectors to be able to access the full collection
12 of NRC materials, including materials that are not generally
13 publicly available.

14 We would then also select out materials that met
15 certain criteria and make them publicly accessible on a
16 server outside the firewall. And the server outside the
17 firewall would have essentially similar library structures
18 set up. So that you could go to a collection of materials;
19 for example, NRC's publicly available materials that are
20 currently accessible through the public document rooms would
21 be a defined collection. And the general public could
22 access that collection.

23 We may also have additional collections where the
24 access is restricted to certain authorized parties. And
25 that would be the situation we would use for participants in

1 the hearing process and so forth to be able to go into that
2 data store, the collection of LSS documents or the
3 electronic hearing docket file that are sitting in a
4 publicly accessible server outside the firewall, but the
5 general public would not have access to that material. We
6 would restrict it to the people who are participants in
7 licensing activity.

8 So the first chart that I've represented here is
9 just a very simple schematic or representation of us taking
10 material from, you know, an integrated network that's
11 supporting our business activities within NRC and migrating
12 that data onto a server and onto libraries on a server
13 that's sitting outside the firewall.

14 For general collection materials, the general
15 public would have access to those. And for things like the
16 electronic hearing document or our document collection of
17 relevant materials, the participants would have specific
18 access to those collections in support of the licensing.

19 So the second page that I included in the handout
20 just identifies how we would use this internal system to
21 help meet -- and I did this before we had an acronym, so I'm
22 sorry I used the LSS on this overhead. How we would use
23 this internal system to meet the LSS requirements.

24 We would establish our agency-wide document
25 management system. Internally, everybody will have

1 bibliographic full text imaging and work flow capabilities.
2 We have servers across the entire enterprise. That internal
3 system will then feed an external collection of materials
4 that are publicly available. And with user-specific
5 restrictions in the case of a licensing proceeding, users
6 will be able to come in via a standard Internet browser
7 capability and be able to conduct full text and
8 bibliographic, you know, research against the document
9 collection.

10 The general time line that we have for this
11 project is that the rapid prototype development level zero
12 is going to be developed and delivered next week to the
13 first 60 users at NRC. The design phase of the project is
14 going to be completed approximately June 21st, 5 p.m.

15 The software engineering will be completed
16 November 1st, 1998. And the first 400 users at headquarters
17 should be installed starting November 16th, 1998. We will
18 complete installation to all of the headquarters users of
19 the system and have essentially all of our record materials
20 migrated into the new format by July 1999.

21 Those time frames would include making a server
22 available to accept these external collections roughly in
23 the November 1998 time frame, although the population of
24 those databases, the exact timing of that is still under
25 internal discussion within NRC. It could be as late as July

1 1999, which is the drop dead date we've given to Chairman
2 Jackson.

3 The remaining pages in the package, I've just
4 included some screen snapshots out of the propaganda folders
5 that I left on the tables for all the members of the panel.
6 The first one essentially shows how this software can be
7 used to set up and organize libraries. And this is from
8 their marketing brochure, so it doesn't quite fit our
9 business case.

10 We will have libraries and subfolder collections
11 and so forth that will be keyed specifically to business
12 areas such as a docket number, or a library of high level
13 waste documents, or an electronic hearing docket for a
14 certain, you know, licensing activity. And then once you
15 get into the business area folder, the documents are listed
16 out. And all it takes for a user to do is to click on the
17 document and open it up in the native format that the
18 document was originally created in.

19 So we don't have document conversion or data
20 conversion or data formatting, or anything else for any
21 documents that we're creating from this day forward. We
22 will be able to store them in the package in which they're
23 authored. We'll be able to view them in an inside out
24 viewer type capability. So we can essentially author our
25 documents in Wordperfect and commence using this software to

1 run full text and bibliographic searches for that data.

2 The way the -- on the next page I've given a
3 simple query form that, right out of a box, the system would
4 present to any user who were coming in through the Internet
5 or Intranet and searching one of these libraries. We have
6 total flexibility in designing these forms, but the example
7 I'm giving you here shows that you can take the
8 bibliographic data and have a pre-established search form.
9 So that somebody coming in for the first time through a
10 browser does not need specific hardcore training in how to
11 operate the system. If you've done Internet type browsing
12 and searching, you would find this very similar to the sorts
13 of things that you can currently on the Internet.

14 The next page is a snapshot of a form that can be
15 used to conduct even more sophisticated searching, and for
16 those users who have the need to go in and do specific
17 search and retrieval trying to locate materials in a case
18 where you'd be going in and trying to find out what's really
19 out there. You can create screens that give you much more
20 search and retrieval capability and power. And these
21 screens also are totally tailorable to the bibliographic
22 structure that we're going to be using for these libraries.
23 It allows you to search both bibliographic and text
24 information coming out of the same document library.

25 The next page on the flip charts there represents

1 how a report is presented to the user who's looking at this
2 from either Netscape or Microsoft browser from the Internet.
3 When they run a search against this document repository, the
4 documents are listed out. And you will see that down the
5 left side of the example, it allows you to select what form
6 you'd like to view the document in.

7 We have the capability to store documents as tiff
8 images, Wordperfect files, ASCII files, PDF images,
9 virtually any type of format, and support a user being able
10 to download that information. And in the case of a PDF, if
11 you don't have PDF, we could put that right on the home page
12 and you could download that to facilitate being able to look
13 at the images of the documents that you've retrieved. So
14 there's a very lot of flexibility in the system.

15 The -- that is essentially where we're going with
16 the technology. We have a lot of latitude with the
17 software. It allows us to render documents in HTML format
18 or PDF format, all sorts of things that are Inter and
19 Intranet accessible in terms of format.

20 Materials that are retrospective will have to go
21 through some conversion process. A lot of our historical
22 materials within NRC in terms of records are essentially
23 microfilmed. But the collection of materials supporting the
24 high level waste activities within NMSS are already in full
25 text. And all I need to do is to collect a bit map image of

1 those and that collection will be ready to roll.

2 The other externally generated materials would
3 generally be submitted to us either in paper or in
4 electronic form. We have some initiatives going on right
5 now to establish electronic submission of licensing
6 materials by the entire range of NRC licensees to allow them
7 to submit materials electronically into the Nuclear
8 Regulatory Commission. The initiatives are targeting having
9 that capability in place by January 1999.

10 This would allow external parties to submit
11 electronic information to us using a standard electronic
12 commerce type header. And we would collect the
13 bibliographic information that's used as part of that
14 transmission and use it to automatically populate part of
15 our bibliographic header record, and use our work flow
16 software to automatically dump it into a hopper that says
17 it's going into this docket file or this case, or it needs
18 to go to this person to log the document in.

19 So we're still working the business procedures
20 needed to implement the new technology. But essentially we
21 should be ready for electronic commerce, if you will, or
22 electronic submissions by the January 1999 time frame.

23 And in addition to support, since it's not going
24 to be mandatory, it would be essentially voluntary, we would
25 also have the ability to continue accepting submissions from

1 licensees in paper format as well. And we would do the
2 conversions for that.

3 So that's essentially where we stand right now
4 with automation activities within NRC. And I'll entertain
5 any questions anybody has. Thank you.

6 MR. KRAFT: A procedural question for both Claudia
7 and Dan.

8 Do you guys have these notes available that we
9 could have copies of? There's a lot of information, dates,
10 times, quantities, that I stopped writing after I got to
11 650,000. So it would be real helpful.

12 MR. GRASER: It should be in the transcript.

13 MS. NEWBURY: I just --

14 MR. KRAFT: Well, how long is that going to take
15 to have? We need to comment on this rule. I have lots of
16 technical people behind me who you would love to talk to,
17 not me, that need to hear this all.

18 CHAIRMAN HOYLE: We should have the transcript in
19 three days, Steve. And --

20 MR. KRAFT: That'd be fine, yeah.

21 CHAIRMAN HOYLE: We'll circulate it as soon as I
22 get it.

23 MR. KRAFT: That'd be fine. That'd be fine. And
24 even --

25 MR. MURPHY: What is the final date for commenting

1 on the rule, John? I don't think you've ever --

2 CHAIRMAN HOYLE: It's March the 30th.

3 MR. MURPHY: March 30th? Have you ever put that
4 out formally?

5 MS. WINSBERG: Yes.

6 CHAIRMAN HOYLE: Yes.

7 MS. WINSBERG: I have a copy of the notice, if you
8 want it.

9 MR. MURPHY: I probably have it. I just haven't
10 --

11 MS. NEWBURY: I haven't seen it.

12 CHAIRMAN HOYLE: Dan, for the record, tell us what
13 ADAMS is. What does that stand for?

14 MR. GRASER: It's an acronym, John.

15 CHAIRMAN HOYLE: Yes, I know.

16 MR. MURPHY: It's the last name of John Adams.

17 MR. GRASER: It's the --

18 MR. MURPHY: That's what it is.

19 MR. GRASER: It's the Agency-wide Document Access
20 and Management System.

21 CHAIRMAN HOYLE: Okay.

22 MR. CAMERON: John.

23 MR. GRASER: And I didn't come up with that
24 acronym. I inherited it.

25 CHAIRMAN HOYLE: Chip.

1 MR. CAMERON: Same question that I asked Claudia,
2 Dan, with the same caveats about you may not be able to give
3 a precise answer. But will ADAMS meet NRC's obligations
4 under the definition of documentary material in the proposed
5 rule?

6 MR. GRASER: Yeah, absolutely. I -- we, in terms
7 of all of the design that we have been doing, Chip, we've
8 been keeping in mind everything historically that had been
9 done in terms of the bibliographic structures that people
10 generally agreed to. And we've kept in mind the
11 requirements for being able deliver full text search
12 capability and the ability to present images, especially of
13 graphic material that don't contain text.

14 All of the capabilities that we are going to have
15 available to us support all of the LSS requirements. And at
16 that point, it's really just a question of making sure that
17 the correct documents get put in the correct externally
18 accessible libraries.

19 MR. CAMERON: And if we eventually, on the basis
20 of conversation and comment from the panel and others have
21 to -- if we revise the definition documentary material, then
22 obviously you'd have to reassess. But if it's --

23 MR. GRASER: I think at this point that it really
24 just would become a question of identifying the collections
25 that NMSS designates to us to put in that external library.

1 And that's essentially procedural. There's nothing in the
2 hardware or software that would cause any problem to
3 adapting to changes in how evidentiary material is designed.
4 There are no hardware or software constraints in it.

5 MR. CAMERON: Okay. Good point. Thank you.

6 MR. BECHTEL: John.

7 CHAIRMAN HOYLE: Yes, sir.

8 MS. NEWBURY: Could you -- Dan, could you describe
9 how the public may have access to this, you know, system, or
10 what's NRC's intent?

11 MR. GRASER: The libraries that we would set up,
12 especially in the case of the electronic hearing docket,
13 access to libraries can be granted by user. And the access
14 to various libraries or even down to a specific document
15 level can be granted or withheld on an individual by
16 individual basis.

17 Essentially the way we're looking at it right now
18 is when we put these collections out on our external server,
19 they would be in subcollections, if you will, of our
20 external collection, of our external library. There would
21 be the subcollection for the licensing support network,
22 evidentiary materials, you know, our relevant material
23 collections, and the electronic hearing docket for it.

24 And just as was done on the LSS Net, if you wanted
25 to have access to that we would set up a user account and a

1 password to restrict access to those sublibraries only to
2 the people who were approved for access to those libraries.
3 So unless there were more stringent security type
4 requirements, that would be the general approach we're
5 thinking of right now.

6 MR. CUMMINGS: Would it be PC, I mean a desktop PC
7 you would have access to it?

8 MR. GRASER: It's Internet access. If you have
9 access to the Internet, you would have access to this
10 system.

11 MR. CUMMINGS: With the password and --

12 MR. GRASER: Right.

13 MR. BECHTEL: So parties would have, say formal
14 access to it, or is that -- I mean is --

15 MR. GRASER: It's essentially procedural at this
16 point, yeah. But technologically, we could set it up any
17 way. Right now, the way I was perceiving of it was that the
18 parties would have an account, you know, user ID and a
19 password.

20 MR. BECHTEL: I think the way this was originally
21 envisioned, wasn't it supposed to be -- I mean I'm thinking
22 we intend on being a party, you know, Clark County, and
23 presumably the others as well. But the -- wasn't the
24 original system supposed to have -- I mean the public was
25 supposed to have access to it.

1 MR. GRASER: We --

2 MR. BECHTEL: I mean not --

3 MR. GRASER: We could support that too, Dennis.

4 It's just a question at that point of saying well, I --

5 MR. BECHTEL: Yeah.

6 MR. GRASER: I want to make it generally publicly
7 available. Well, I would simply take off all of the ID and
8 password.

9 MR. BECHTEL: Yeah.

10 MR. GRASER: And it becomes just another generally
11 accessible subcollection.

12 MR. KRAFT: Well, header docket work now. I mean
13 I'm not a licensing person. If there's a docket open on a
14 power plant licensing, hard copy paper, any member of the
15 public can go into the library and read --

16 MR. GRASER: That's correct.

17 MR. KRAFT: -- any document. So I think to use,
18 you know, I think you -- now I understand the need for
19 security. One of the questions I had, we can talk about it
20 at the right time, is document protection.

21 I mean if you go into a hard copy library, it's
22 clear someone has defaced or attempted to change the paper
23 copy. It is not always clear electronically. We know from
24 our own systems, you know, the minor sort of, you know, just
25 word processing systems you use in the office that people

1 can manipulate your document; and if you've got a lower
2 capability system, you'll never know it.

3 But my point is that just listening to it, there's
4 a lot of questions that arise that were dealt with very
5 nicely in a stand-alone system because you had centralized
6 control. Now you're not going to have that. And there's
7 all -- for example, and these are just -- I don't -- I'm not
8 asking answers now, but just think about them.

9 Is I can see where NRC and DOE, with their massive
10 resources, can do all the firewalls and all the protections
11 and all the tracking, and they'll know if a hacker is in
12 there trying to manipulate a document, either, you know, to
13 cause trouble in the licensing proceeding or just to have
14 fun. I think NEI probably would know that. We've got a new
15 improved system. It's not clear to me that everyone who
16 might be granted party status is going to have that same
17 level of technological capability.

18 MR. GRASER: Well, I think we're going to talk
19 about that.

20 MR. LEVIN: That's that -- I was going to say,
21 that is going to be the discussion that follows. The very
22 next session we're going to get into that.

23 MR. CUMMINGS: Okay. Thanks.

24 MR. LEVIN: So if you could hold that for just a
25 few minutes.

1 MR. MURPHY: Let me go back to the public access,
2 Dennis. I think, if I remember correctly, the original
3 system called for the public to have access to the LSS at
4 certain workstations.

5 MR. BECHTEL: Right, right, right. That was --

6 MR. MURPHY: We were going to have one out at
7 Amigroso Valley, for example, probably out at the community
8 center.

9 MR. BECHTEL: Yeah.

10 MR. MURPHY: I don't think, and I don't see, I
11 mean that would continue, wouldn't it? But that doesn't
12 mean that the public, from their own, you know, basement
13 office could log onto the Internet and get access to it.

14 MR. BECHTEL: I guess we're -- maybe I confused
15 them. The term access, I guess, or, you know, some kind of
16 permission or -- yeah, I would hope it would be that way, as
17 originally envisioned it.

18 MS. NEWBURY: I guess I'm a little confused.
19 Because if we have it set up so that the parties, there's
20 something special about being a party and signing up and
21 being an LSS person.

22 MR. BECHTEL: Right.

23 MS. NEWBURY: LSSN person. So if you make it
24 available universally to the public anyway, why have
25 parties?

1 MR. CAMERON: Yeah. This is -- the key thing to
2 remember from the existing rule is that the public, during
3 the pre-license application phase, would not have access to
4 the documents. All they would get from that terminal is
5 access that they could do a full text search of the headers
6 only of everything in the system. That was the quid pro
7 quo.

8 In other words, since the NRC has no jurisdiction
9 during a pre-license application phase, the quid pro quo for
10 all of you volunteering to comply with the requirements in
11 the rule to build this system and to comply with the orders
12 of the pre-license application presiding officer is that
13 then you would get access; in other words, access that
14 someone else did not have.

15 So the question is is if you open up this whole
16 thing in the pre-license application phase, because after
17 the license application then, again, it switches to a
18 different story. So I think that we're still working on
19 this assumption that there will be some type of special
20 access for what are called potential parties.

21 MR. MURPHY: Well, but also even during the
22 license application phase. The difference between a party
23 and the public is that I can sit in my office in Olympia and
24 access the system. A member of the public would have to go
25 to one of these centralized, you know, public document room

1 type facilities and to access the system. Isn't that right?
2 I mean that's the way we originally envisioned it.

3 MR. KRAFT: Could the public then, at one of those
4 public access points, download, copy and take home for the
5 purpose of reading at their convenience? Or are they
6 forced --

7 MR. MURPHY: Sure. Why not? I mean why not?
8 They can go to the public document room --

9 MR. KRAFT: Right.

10 MR. MURPHY: -- and get a copy now.

11 MR. KRAFT: Right.

12 MR. BECHTEL: Sure.

13 CHAIRMAN HOYLE: I think the rule -- the idea was
14 no more difficult than it is now, and perhaps easier.

15 MR. MURPHY: Right. I think that's a good way to
16 express it.

17 CHAIRMAN HOYLE: Yes, Moe.

18 MR. LEVIN: Help me out here a little bit. In the
19 original rule, we knew that not, you know, people didn't
20 have terminals in their homes. There weren't that many PC's
21 at all in people's homes when this all started. So that's
22 why we provided for access for the public. And where it
23 would be, as we envisioned then, dumb terminals basically in
24 public places, like libraries and things like that.

25 Now with the Internet, and with readily available

1 access from homes to the Internet, doesn't make a
2 difference. I mean still yes, we have to make it available
3 in libraries or whatever for those who don't have PC's at
4 home or Internet access. But for those who do have Internet
5 access at home, why not let them have access?

6 MS. TREICHEL: Yeah.

7 MR. LEVIN: Am I missing --

8 MR. MURPHY: Well, would you give them access to
9 file a document in the licensing --

10 MR. LEVIN: No. That's a different type of
11 access. That --

12 MR. MURPHY: You have to --

13 MR. LEVIN: Yeah. That's an issue of --

14 MR. MURPHY: That's what I thought.

15 MR. LEVIN: That's an issue -- okay. That's an
16 issue of passwords and giving people privileges to do things
17 in the system. But that doesn't mean they have to go to a
18 predesignated terminal to do that.

19 MR. MURPHY: I suppose not. Yeah, you're right.

20 MR. LEVIN: Unless I'm missing something.

21 MR. THOMAS: What's the most awful thing that
22 could happen if you didn't restrict access? And I'm not
23 talking about inputting. I mean I --

24 MR. KRAFT: It's read only.

25 MS. TREICHEL: If you --

1 MR. BECHTEL: It's read only.

2 MS. TREICHEL: Yeah. If you have a web site, I
3 don't know how, like if I pull up Steve Kraft's web site, I
4 don't know how to mess with it and change it. If I did. But
5 I don't know how you do something that's intrusive into just
6 a web site that's there. So what's the worst thing that can
7 happen if anybody in the world wants to sit down and get
8 into this thing, to read?

9 MR. LEVIN: Okay. This here again is a discussion
10 for the next -- we're going to get into in a little more
11 detail in the next session. So we'll bring that up again.

12 MR. KRAFT: Another distinction on party though,
13 Chip. The one that you said is in the pre-licensing phase.
14 But the other one was a party is bound by the rules to make
15 documents available in the system. Because it's not clear
16 that everyone around this table will be a party under the
17 rules.

18 MS. TREICHEL: Right.

19 MR. KRAFT: And if that's true though, there is
20 interest in this other interested party kind of category, or
21 interested party category, where you're going to want to
22 read it; you may want to have something to say to people who
23 are parties. But you're not a party because A) you don't
24 have documents to put -- make available; you don't want to
25 be a party for the -- because that entails a tremendous

1 amount of effort that perhaps you're not prepared to make.
2 You know, there's lots of reasons, as I recall.

3 So it was two-fold. It was being able to have the
4 access in the pre-licensing, and then also throughout both
5 pre-licensing and licensing to make documents available.
6 Because I think that lines -- that's a very important
7 distinction.

8 MR. CAMERON: And keep in mind that, you know,
9 technology really has overtaken this since we sat around the
10 table in 19, you know, '86 and '87. In other words, the key
11 at that time, because there wasn't this large volume of
12 documents available in full text search capability; that
13 there would be a centralized system where all these
14 documents were that you could do a full text search. Okay?
15 So that the key, the quid pro quo for participating in
16 putting your documents in, would be you would get access to
17 that central system of all these documents full text search.

18 The public could still go into the NRC's public
19 document room or the DOE public document room and maybe get
20 access to 90 percent of those same documents. But it would
21 be much harder for them to gain access because the documents
22 were not in full text search. This ADAMS system, for
23 example, is wiping out, or Claudia's system, is wiping out
24 those distinctions.

25 So I guess that what we need to focus on in the

1 next session is do we still need to maintain that
2 public/private, or public potential party distinction in
3 order to build this system. Maybe we don't need to do that
4 anymore, but I think that's what we need to focus on.

5 MR. LEVIN: I'd like to ask a question. I need a
6 little background.

7 Are there any documents in this whole process that
8 are not going to be publicly available, that we would not
9 want to make available to the public?

10 MALE VOICE: Potentially.

11 MR. MURPHY: Not as far as we're concerned, but
12 DOE may have a different view of it.

13 MALE VOICE: Safeguards.

14 MS. NEWBURY: Well --

15 MR. MURPHY: Oh, yeah, safeguards and security
16 documents, sure.

17 MS. NEWBURY: Safeguards and security documents.
18 And what we had envisioned is final documents going out
19 generally to the public, not circulated drafts, not the
20 things that you're going to look for in the discovery
21 process, letters, correspondence, all the other things
22 besides the final documents on which we rely, you know.

23 MR. CAMERON: And keep --

24 MS. NEWBURY: Signed off approved documents.

25 Yeah, they're out there as they would be in a public reading

1 room. But I thought the concept of the LSS was we have a
2 lot of other stuff too that are part of the record but are
3 not approved documents that we would be making available as
4 parties to the other parties for discovery. And if that's
5 the case, yeah, there is a lot of stuff in there that is not
6 publicly available, is not a document, is not signed off and
7 approved, that would be searchable under an LSSN, LSN,
8 whatever it is.

9 MR. KRAFT: But those are documents that would be
10 in, under subpart G proceeding, discoverable.

11 MS. NEWBURY: Discoverable, yes.

12 MR. KRAFT: But once they were discovered, then
13 they would be available to the public.

14 MS. NEWBURY: Yes. Once they were put in as an
15 exhibit --

16 MR. KRAFT: See, the whole genesis of this entire
17 deal, going back to the very beginning of the program in
18 1983, was a request on many parties' parts, particularly
19 ours and DOE's, I think, let's raise the bar for things like
20 contentions and eliminate the very long periods of discovery
21 by making everything available to everyone first. And then
22 the arguments we had was, you know, how to do that,
23 technology versus, you know, high-tech, low-tech. I
24 remember all those discussions.

25 And I think that what's happened is that, as Chip

1 has pointed out, is that technology has overwhelmed all of
2 us, in the sense of what's available. You know, I mean I'm
3 going to have to ask some questions privately about how you
4 find out some of the simplest things in people's web. You
5 can find some of the most complicated things in web sites
6 and you can't find some of the simplest things. Just a
7 funny thing about web sites.

8 But the -- I think what's happening is that these,
9 as you point out, these distinctions are being blurred. And
10 my concern is not that we're going out of our way to prevent
11 access, in that the very nature of the design of these
12 systems can, without any malice at all, abuse the process,
13 from both sides. Granting access that should never have
14 been granted, preventing access that should never have been
15 prevented on the other side, by the nature of the design. I
16 mean we'll have some conversations about the technology
17 later, but I think everyone has already been thinking about
18 that.

19 MR. CAMERON: John.Yes.

20 CHAIRMAN HOYLE: Yes.

21 MR. CAMERON: Just two points on that. Of course
22 there's going to be some documents where -- that are going
23 to be -- that might be privileged in some way. It's not,
24 it's going to be a very small percentage of the documents.
25 And those have to -- that might have to be examined under a

1 protective order issued by the board. Those would not be in
2 their full text. But that's a small amount of documents.

3 And you mentioned circulated draft. I just want
4 to clarify, because we always get into this discussion, is
5 that very few drafts have to be available on the LSS. The
6 definition of circulated draft is the idea of not
7 circulation. That's a misnomer carried over from something
8 we did before on that. But a document that there was a
9 nonconcurrence on. Okay? And so that also is going to be a
10 very small segment of documents too.

11 MS. NEWBURY: Chip, I just have mental images of
12 what we go through for putting out a document, and the
13 document review sheets and the concurrent sheets and the
14 comment sheets and the response sheets, and all of that.
15 And the volumes of material involved when you look at the
16 number of pages we're copying. A lot of it is just that.

17 And when I'm trying to -- I guess my mental
18 process is I want to make sure that people see the thought
19 process, the final thought process in putting out an opinion
20 on something, whether it's a site recommendation or the
21 viability assessment or whatever, and can look at that
22 without sorting through all that other stuff that is related
23 to what we finally put out but isn't what we finally put
24 out. And how much of that do I really want to put on the
25 Net.

1 MR. CAMERON: That's exactly the point too,
2 Claudia, about why we eliminated most of that in the -- as a
3 requirement in the LSS rule. But there still is a
4 requirement. It doesn't mean that we can't revisit it. And
5 it might be interesting to talk about, now 10 years later
6 from when originally talked about this, that.

7 And this is the whole smoking gun idea of
8 discovery, is that if there was a document that was being
9 developed within NRC that Greeves, for example, said I'm not
10 going to concur on this document. Well, the way things work
11 in reality at NRC that it would get rewritten, but the thing
12 is is it --

13 MR. KRAFT: Well, it would show up too.

14 MR. CAMERON: Right. But it would be documents
15 where someone did not agree with a position. So we don't
16 want to get into all of that draft stuff, because that would
17 just completely overwhelm us.

18 But there still is this one very small category of
19 draft that is still in the proposed rule, if I'm not
20 mistaken, Kathryn; right? So just be aware of that. And
21 maybe we can, when -- we'll get into this later on, I guess,
22 if we want to raise it.

23 CHAIRMAN HOYLE: Sounds like an area we do need to
24 get in more.

25 Dennis.

1 MR. BECHTEL: Another question for Dan. Have you
2 -- you have actually selected this software then, this
3 Mezzanine, or is this -- it's kind of --

4 MR. GRASER: Selected and procured, Dennis.

5 MR. BECHTEL: Oh, okay. And NRC's going -- you're
6 kind of testing it out now? I mean --

7 MR. GRASER: We're building it now.

8 MR. BECHTEL: Yeah. Is there any possible
9 advantage maybe to having an external party also test it? I
10 mean just look at it, I mean just maybe get another
11 viewpoint or -- I --

12 MR. LEVIN: At the appropriate time, when we have
13 it fully implemented, and --

14 MR. BECHTEL: Yeah.

15 MR. LEVIN: Or before we have it fully
16 implemented --

17 MR. BECHTEL: Yeah.

18 MR. LEVIN: -- but are getting ready to, we could
19 consider having members of the public, you know, give us
20 their comments to help.

21 MR. BECHTEL: Or maybe a party.

22 MR. LEVIN: Yeah. It's, in a sense, we'd be going
23 to our stakeholders, the people who have --

24 MR. GRASER: Yeah. We already have plans to go to
25 the licensee community, for example, on the issue of

1 electronic signaturing and how they want to, you know,
2 voluntarily or mandatory and so forth. And so we have it on
3 just some of those components and it had not crossed my
4 mind.

5 MS. NEWBURY: Yeah.

6 MR. GRASER: But I'd certainly consider that,
7 yeah.

8 MR. BECHTEL: You know, I think NRC did this once
9 before under the prototype of the other system. We sent
10 somebody back to Washington for a week and, you know, I
11 thought it was useful to share information. You know, maybe
12 that's another --

13 MR. MURPHY: It was DOE.

14 MR. BECHTEL: Maybe it was. Maybe it was, yeah.
15 Been a few years ago.

16 MR. GREEVES: John.

17 CHAIRMAN HOYLE: Yes.

18 MR. GREEVES: Just to clear up. There was a lot
19 of discussion here. But, Dan, I think what you spoke
20 earlier on in your chart was there -- we have an ability to
21 have two levels of external looks at these documents.

22 MR. GRASER: Yes.

23 MR. GREEVES: So that the general public who does
24 have a PC in their home, they don't have to go to a
25 library --

1 MR. GRASER: That's correct.

2 MR. GREEVES: -- to take a look at something. And
3 then, quote, parties would have other access opportunities.
4 So you have that capability built into the system.

5 MR. GRASER: Yes. And however the comments come
6 in and eventually get resolved on the rule, I'm prepared to
7 be able to implement any timing or level of access or
8 restriction. I have the ability to do that technically.
9 And it really just comes down to a question of the panel,
10 you know, and the potential participants all sitting here
11 and saying do we still want to follow through with the
12 original intent of having bibliographic access only at a
13 certain period of time. I can do that too.

14 So you know, basically whatever the final rule
15 gets written to, we can implement that technically. We've
16 got a lot of latitude in that direction. Because it's early
17 enough in the design phase that, architecturally, I can make
18 that happen relatively quickly.

19 CHAIRMAN HOYLE: Any further discussion?

20 Dennis, I was wondering whether you or any of the
21 other participants want to describe what you're doing with
22 your document systems. Is anything -- are there changes
23 going on there too, or --

24 MR. BECHTEL: We are kind of in the process right
25 now of kind of reconstituting our program. We haven't been

1 funded for a couple years and we're -- we have documents
2 that we've, you know, obviously produced in the past that
3 would be probably a component of the system. But I think we
4 need to -- we're exploring -- we've got a large paper
5 library right now, but kind of transitioning to electronic
6 something. And that's why I was wondering about this
7 Mezzanine. You know, it may be something that, you know,
8 might want to emulate, since we haven't made a selection on
9 software. But --

10 CHAIRMAN HOYLE: All right. Okay. Yeah, I didn't
11 mean to put you or anyone on the spot, but I'm just, now
12 that we've heard what DOE and NRC is doing, it's an
13 opportunity for others to describe what they're doing.

14 MR. FRISHMAN: What we're doing is just as
15 interest and resources permit. We're continuing to add
16 documents to, just to our web page. And at sort of the
17 lowest level possible. We just scan them in. And you can
18 search our list of publications. And since we don't have
19 all of them on the page, if you see a title, then just
20 contact the office and we'll send you a paper copy.

21 But as time goes and resources are available, we
22 just continue to add things to the Net that we think at this
23 point are of interest to people, rather than any type of a
24 systematic scanning of everything that we have. We're going
25 to have to talk some more later about our role in this whole

1 thing, since we have friends but I'm not sure we have no
2 resources.

3 MR. BECHTEL: John.

4 CHAIRMAN HOYLE: Yes, Dennis.

5 MR. BECHTEL: Just one other comment. I had made
6 some comments by e-mail on suggested topics or our concerns
7 about this meeting. I made some copies of that, so maybe
8 this is something I could maybe just pass out and --

9 CHAIRMAN HOYLE: Yes. That would be fine.

10 MR. BECHTEL: Kind of telegraph some of our
11 concerns maybe here.

12 CHAIRMAN HOYLE: Okay. Did those in NRC get that?
13 I had sent that to you all on Friday, those that were
14 working Friday.

15 All right. It's 10:00. I'm prepared to announce
16 that we take a short break. Our agenda shows about a 20
17 minute break. There's a -- the restrooms are right across
18 the hall. A cafeteria is there. I would like you to come
19 back please by 20 after 10.

20 [Recess.]

21 CHAIRMAN HOYLE: All right. If you'd take your
22 seats please. I'd like to get started.

23 I will circulate a sheet for the attendance for
24 today. I think I've got everyone at the table. So after we
25 get started, I'll start it around the perimeter of the room.

1 Claudia, we do have a projector now. Do you want
2 me to project what you had talked about and just walk us
3 through it?

4 MS. NEWBURY: Yeah, would you please. I think it
5 kind of -- actually it's not -- I'm going to blame Dan
6 Graser partly for it too, because we've talked about this
7 quite a bit.

8 You'll see that there are two things that are
9 shaded and three things that are not on this diagram. And I
10 talked briefly about the DOE table of contents and that
11 there are three parts of it, the functional descriptions --

12 CHAIRMAN HOYLE: We'll lose focus for a second
13 here, I guess.

14 MS. NEWBURY: -- the actual primary documents and
15 the indices. And you'll see double arrows coming out of the
16 DOE table of contents to three boxes.

17 The middle one is the DOE on-line license
18 application. And this would be a license application that
19 actually has hyperlinks from all the reference materials to
20 those references. We would deliver to the NRC a flat file
21 license application that has nothing hyperlinked or
22 anything. It's just what a paper license application would
23 look like.

24 But this on-line one would be an enhanced version,
25 so to speak, because what we would do is link from those

1 references in the license application, the citations, to the
2 actual documents in our records management system. And so
3 if you clicked on a reference that said "Newbury 1996," up
4 would come the published version of that document. Okay?

5 That would be available. And from that, we would
6 be selecting information that we would be using to support
7 our license application, our exhibits, or other people might
8 be selecting other things that they wanted entered into the
9 docket. So from our records management system, information
10 would move over into the NRC electronic docket.

11 There's another box down at the bottom which is
12 the DOE technical database, or technical data management
13 system. And that's where we store in electronic format the
14 data that we've acquired on the program. The records system
15 has images of a lot of this information, but it's very
16 difficult to take and OCR tables and tables of data and make
17 any use of it. And the image is not particularly useful if
18 you want to use that data yourself and put it into another
19 calculation. So we've maintained a separate database that
20 is basically a relational database.

21 And for the spatial data, we have achieved a GIS,
22 geographic information system, so that we can maintain all
23 that data and people can take it out and use it. We want
24 people to use that information and verify our calculations
25 if they so chose, or run another model using the same data

1 set that we had used. But it is available generally and we
2 hope to put that out to the public.

3 We do have an obligation to put it out to the NRC
4 as soon as possible, and I'm working on that within the next
5 few months.

6 Anyway, what I wanted to point out is that while
7 we do have this stuff on-line, the gray boxes are kind of
8 special. The records management system has documents and a
9 lot of supporting information which I did not envision as
10 being available to the public. All I envisioned as being
11 available is those final documents, the approved versions,
12 not the comment response sheets and other type documents
13 that are the basis for the final document.

14 I did envision, based on the old rule, and I'm
15 going to reread the documentary material definition again
16 but I think it's still there, that the parties would have
17 access to all those comment response sheets. And if -- so
18 you can track every comment that everyone made on the
19 document development and what our resolution was and who
20 made that comment. But that would be a restricted
21 environment to those parties.

22 And I'm not sure how ADAMS fits and what is
23 available to the public and what is not. I see the NRC web
24 there which is the public's view into the NRC library, but I
25 don't know how you intend to protect the records.

1 Dan, do you want to talk about that? The
2 electronic docket, is that protected in or publicly
3 available?

4 MR. GRASER: The docket is publicly available.

5 MS. NEWBURY: So that is? Okay.

6 MR. GRASER: Yeah.

7 MS. NEWBURY: Anyway, that was our concept. And I
8 just wanted to throw it up there so people could see how
9 things kind of relate to each other.

10 Steve.

11 MR. FRISHMAN: Why, if you're going to make the
12 discoverable sort of subdocuments available to the parties,
13 why don't you want them to be available to anyone who enters
14 the system?

15 MS. NEWBURY: Well, originally we had them
16 available to everybody. And this will get into another
17 discussion we were going to have.

18 We were just going to put the records out on the
19 Net. And when I looked at the, even the new proposed rule,
20 we have parties. And there's a reason why people are
21 parties to the LSS. And one of the reasons is they got
22 access to all that stuff. So I didn't want to preclude
23 NRC's ability to insure that we have people complying with
24 everything that's in LSS by just making it all available.

25 The other issue is the size of the database

1 itself. It's a lot of information. How much -- how big of
2 a server do I have to put out. Those are --

3 MR. FRISHMAN: Well, if you're going to have to do
4 it for the parties, you have to do it anyway.

5 MS. NEWBURY: That's true.

6 MR. FRISHMAN: I just don't see what -- where the
7 department is at risk for making anything that would be
8 discoverable generally available. Because, you know, as was
9 mentioned before, there's a good possibility that there are
10 people who would like to be parties, but just don't have the
11 resource capability to do that, who will be working with
12 parties.

13 MR. CAMERON: John.

14 CHAIRMAN HOYLE: Yes.

15 MR. CAMERON: I think this is a -- this obviously
16 is an important issue. And the question is do we want to --
17 do you want to flag somewhere where we're going to discuss
18 this. Okay? Because I guess the thing is is that are you
19 going to have people coming in and basically putting up
20 their web site, okay, to meet the requirements if there's
21 really nothing that they're going to get for that? And
22 that's a question. I'm not trying to suggest that there is
23 an answer to that. Okay?

24 But this -- Kathryn is pointing out there is a
25 session, the last session on the agenda, this 4:45 thing is

1 the cost and equity session is where we were going to get
2 into these. And that may still be a good place for it
3 because there may be things that we're discussing throughout
4 the day that may lead into that. But if it's going to be
5 one of these issues that is going to keep dogging our
6 tracks, so to speak, maybe we don't want to wait till the
7 end of the day. I don't -- anybody else have any
8 suggestions on that agenda stuff?

9 CHAIRMAN HOYLE: Judy.

10 MS. TREICHEL: It may be important to get this
11 settled before you go on because it may color other things
12 that are discussed later.

13 MR. CAMERON: I guess that I would think that we
14 might want to get ready a little bit to put it into the
15 right context. So I'd like to give Dan or whoever is going
16 to lead the discussion time to do that. So it may be an
17 after lunch deal.

18 Does anybody else have any feelings about whether
19 we move it up or leave it till the end of the day?

20 CHAIRMAN HOYLE: It's been suggested that we move
21 it up, and Chip is saying right after lunch. So would that
22 be all right, Judy?

23 MS. TREICHEL: Oh, I don't have any -- I don't
24 care when it comes up. It's just that as you go through
25 other things and you haven't made a determination on how

1 wide the access is, it may make a difference in -- I mean it
2 may keep coming each time. Well, yes, but who's doing, you
3 know.

4 CHAIRMAN HOYLE: Well, you're right. As Chip said
5 earlier, this is, in the original rule, the existing rule,
6 the public, because of the quid pro quo agreed to in the
7 negotiated rule, the public was going to get access only to
8 headers during the pre-application period and the
9 participants would have access to the full documents. And
10 so I guess we preserved, in our thinking, that continuation.

11 So you're right. We do need to talk about it and
12 resolve it. If we can resolve it today, we should. But in
13 order to give us a little time to prepare, why don't we see
14 if we can get through the rest of the morning without
15 bumping into it too often.

16 MR. CAMERON: You may be --

17 CHAIRMAN HOYLE: And then do it after lunch.

18 MR. CAMERON: -- just be able to pull it from the
19 last item on the agenda after lunch to up before compliance
20 issues, LSS administrator, ARP. Because I think that's
21 probably, you know, probably a more logical place anyway.

22 CHAIRMAN HOYLE: Where'd you say? Between
23 compliance and administrator.

24 MR. CAMERON: Yeah. Just make it the -- yeah.

25 CHAIRMAN HOYLE: Okay.

1 MR. CAMERON: Before the compliance issues
2 discussion.

3 CHAIRMAN HOYLE: Before compliance, okay. All
4 right. We'll do that.

5 Okay, Claudia. Thank you.

6 MS. NEWBURY: Okay. You can switch that off if
7 you want.

8 CHAIRMAN HOYLE: All right. I will.

9 Well, then let's move on to the first issue that
10 we have set out, which is system architecture. And Mr.
11 Levin is going to lead that for us.

12 MR. LEVIN: Just to set the stage. Again, one of
13 the main reasons for the rule revision was to take advantage
14 of modern technology to facilitate document management
15 during the repository licensing proceeding. And
16 specifically right now, as we've discussed this morning,
17 we're talking about the Internet, the World Wide Web. And
18 very importantly, making use of existing commercially
19 available software.

20 To generate discussion, to give us something to
21 start talking about, although I don't know that I need to do
22 this because it seemed like this morning we -- the
23 discussion was self-generating. These are topics that
24 everybody already had given some thought to obviously. But
25 I will just characterize a few issues that have been

1 presented to me over the last year in passing.

2 People, in informal discussions, people have said
3 hey, have you thought about this as an issue, a technical
4 issue for the LSS system architecture? So I jotted a few of
5 those down. I'll go through and very briefly describe them,
6 and then just open it up for the general discussion. And we
7 can add issues obviously as we go along.

8 One of the most important things to do at this
9 point, during this discussion, is not only to surface new
10 issues, but to look at all the issues and determine their
11 magnitude, their importance. I mean there are big issues
12 and there are little issues, and we have to come away with a
13 feeling of how important these issues really are.

14 I think you all -- it was put in front of you or
15 at your seat this morning, a handout labeled systems
16 architecture, system architecture. And I just want to go
17 through these very briefly.

18 Given a worldwide based system, some of the issues
19 are Internet reliability. And for ease of discussion, I'll
20 probably use the information highway metaphor and try to
21 make, or at least analogies to an information highway to all
22 the different elements of the Internet.

23 If we talk about the Internet, we're really
24 talking about the interstate highways, the main major
25 thoroughfare, the backbone for getting information from one

1 place to another. And when we talk about Internet
2 reliability, we're talking about the ability of the
3 interstates to stay open, to be there when we need them.

4 I think everybody would agree that reliability, up
5 time, has improved on the Internet. At least from my
6 experience it has. This isn't the same as response time.

7 Response time is once you get on the road, is
8 there a traffic jam? Is it rush hour and you're crawling?
9 The road could still be open but you might not get anywhere.
10 Right now we're just talking about Internet reliability, the
11 Internet service providers having their computers and their
12 switching network up so that you can at least get onto the
13 highway.

14 Another issue then -- and these two things are
15 sometimes tightly related, because when the user gets on and
16 they, or tries to get on to a web site and can't get there,
17 sometimes they don't know if it's because they can't get on
18 the Internet or they can't get to the web site. Because the
19 web site is kind of like an off ramp to the highway. You
20 can get on the highway, things can be going fine. Then all
21 of a sudden you get to the off ramp you, where you want to
22 go, and it's shut down. You can't get there. So another
23 issue is web site availability.

24 Then there's response time. If everything's open
25 and you can get -- no roads are closed, is there a traffic

1 jam. Is there so much traffic on there you can't get to
2 where you have to be in the time you have to be there.

3 One of the things we talked about this morning is
4 security. And security actually covers a lot of different
5 things. One is we could call hacking. What if somebody
6 comes in and does something evil to the system? Some
7 unauthorized user comes in and changes a document, changes a
8 web page. How -- that's an issue we have to consider.
9 That's probably more of an issue than we had in the original
10 rule with a centralized system. Things were a little
11 tighter then on a centralized system.

12 There's data integrity. Even if nobody is
13 attacking a system, sometimes things happen, malfunctions
14 happen within a system and compromises the data integrity.
15 So how do we insure data integrity is another issue.

16 Also, something that normally comes under the
17 heading of security is contingency planning too, which means
18 that -- which goes back to response time and availability
19 also. You have to have -- good security also means good
20 backup of data, good plans. If your primary system goes
21 down do you have a backup system, what do you do.

22 Another issue is, and this is also something we
23 talked about this morning, was administration of the system,
24 registering users and passwords. Do you give access to some
25 things to some people and not to others, and then how do you

1 manage that.

2 The searching, under the proposed rule. The idea
3 is to take advantage of existing powerful search engine
4 capabilities, software that comes straight off the shelf.
5 Do these functional capabilities provide the capabilities we
6 need to make effective use of a system for it to support
7 what needs to be done?

8 I know in the original system we had some working
9 groups that developed functional specifications or
10 requirements for searching. We could use those as a
11 starting point, but are those requirements still necessary?
12 That's something else that has to be addressed.

13 There's also the issue of multiple sites versus
14 searching a central index. If somebody wants to find some
15 information do we require them to go to each individual
16 sites of the different parties and do a search, multiple
17 searches across multiple sites, or do we have to provide a
18 central place where some -- where a party can go and just
19 bring up one screen that formats a query, a search, and then
20 automatically goes against multiple sites and then combines
21 the information and brings it back?

22 And a lot of this hinges on standards and
23 procedures. To make it a really effective system, we would
24 probably need some kind of commonality, some kind of uniform
25 look and feel to access to the system. Also, standards

1 would come into play when we talk about moving data between
2 the systems, transfer of data when you want -- if data has
3 to move into electronic hearing docket for instance, or if
4 we have to pick up bit mapped images of a document that
5 might have to be in a standard format that we could handle.

6 These are all the -- these are some of the issues
7 that have been discussed, like I said, over the past year.
8 And I just over them up as a beginning of discussion. And
9 I'm opening it up.

10 MS. TREICHEL: Aren't you almost all -- aren't you
11 almost forced to have some sort of multiple site thing if
12 they're referencing stuff they didn't use? Like the state
13 has put out so many reports and has so much stuff that you
14 wouldn't want to have to incorporate all of that. Couldn't
15 you have it like a footnote that is in the back of a book
16 where you have footnotes and they could go off to another
17 place? That's just one example. There's probably all sorts
18 of paper that's been put out.

19 MS. NEWBURY: In the case you're discussing,
20 that's precisely what we do with that reference in our
21 document, say to one of your investigators, would say this
22 is available from the State of Nevada in that part of our
23 process.

24 MS. TREICHEL: On their web page?

25 MS. NEWBURY: On their web page.

1 MS. TREICHEL: Yeah.

2 MS. NEWBURY: But when Moe's talking about
3 searching across, he's doing -- talking about more of a
4 universal search, where I'm just looking for anything. I'm
5 not trying to follow a thread of thought process, but what
6 is it that the State has that was produced by some author,
7 or that contains these words, or in some way might relate to
8 something else.

9 And there are ways of searching. It's like if
10 you've been on the Internet and gone on Alta Vista and said
11 give me everything that has to do with horticulture, and
12 they bring up everything.

13 Harry Leake from Department of Energy has put
14 together two extreme ends of costs for a universal search
15 engine of some sort. And I asked him to be here today. Do
16 you want to ask him to come up --

17 MR. LEVIN: Sure.

18 MS. NEWBURY: -- and talk a little bit about those
19 two extremes, the cheap end and the expensive end?

20 MR. CAMERON: And while he's coming up, I just
21 want to point out that the -- there's two aspects to this
22 discussion, and they're related. One is what problems do we
23 have to try to anticipate and solve with this web site based
24 architecture?

25 But the other one is the option that's in the

1 existing rule, which is the centralized system. And I'd
2 just like to make sure that we close out on -- just make
3 sure that there's no one that still thinks that we should
4 advocate -- that is advocating a centralized system rather
5 than this web based system, at some point in our discussion.
6 Because I know we're all on the bandwagon.

7 MS. NEWBURY: But you want it on the record?

8 MR. CAMERON: Yeah. Well, I'd just like to make
9 sure that, you know, I know that people have concerns about
10 reliability, et cetera, et cetera. But okay, there's ways
11 that you can try to address that and still have the
12 decentralized architecture. But some people might say that
13 those reliability issues are so much that you really should
14 hang on to the centralized version, which I don't see a lot
15 of enthusiasm for though.

16 CHAIRMAN HOYLE: Will you give us your name again,
17 sir, for our record?

18 MR. LEAKE: Certainly. My name is Harry Leake,
19 and I work with the M&O in Las Vegas.

20 The -- what I have here is just a half a dozen or
21 so slides. They're -- if anybody's interested, they can
22 certainly have a handout. I have some available.

23 The, for lack of a better term, we called it the
24 universal search tool. And this isn't -- this is just some
25 isolated thoughts on, as Claudia said, two different

1 extremes of what could be done. And it by no means covers
2 the entire spectrum.

3 The two options we'll look at is one is just a
4 commercial web search engine. And that'll have a couple
5 different permutations of how it could be done. But
6 essentially it would be just simply buying something like
7 Alta Vista or some other web search engine and using it
8 against the data that we all have.

9 The other would be some kind of custom software
10 web search tool that would allow the centralized search that
11 was -- well, the single screen search that was talked about
12 earlier.

13 The assumptions. The -- for putting this
14 together, some of the assumptions were simply that we need
15 an Internet based solution to provide ready access to a
16 broad spectrum of people.

17 Another assumption is that there are a spectrum of
18 other solutions that exist. This isn't some comprehensive
19 study. This was just some thoughts for discussion.

20 Another assumption is that we would certainly need
21 some requirements analysis to determine an optimal solution.
22 And we're certainly not proposing one here.

23 The -- another assumption was text representation
24 only; that the images and the actual records remain at the
25 participant's systems and that this, what we're talking

1 about here is some kind of representation of the records in
2 a text form. And the costs assume a five year maintenance
3 and no telecommunications costs, that we're just going to
4 use the Internet.

5 MR. MURPHY: Why did you pick the five year
6 maintenance figure?

7 MR. LEAKE: That was just --

8 MR. MURPHY: This process is going to go on a lot
9 longer than five years.

10 MR. LEAKE: Yeah. That was just a number that was
11 given to me for costing purposes. I don't really know
12 exactly where it came from.

13 MR. KRAFT: You know, 10 years ago, nobody knew
14 that the system was going to be what it is now worldwide.
15 And in fact if you remember, our arguments were to go lower
16 tech rather than higher tech. This thing's going to turn
17 over technologically. Five years is probably the outside.
18 So in five years, we're talking again in this group about
19 the next world. So you know, and five years is a
20 traditional, by the way, it's a traditional payback period,
21 a lot of the industries use.

22 MR. LEAKE: Okay. Option one. Option one is the
23 low cost option. And it was simply using a commercial web
24 search engine, and something like an Alta Vista. And, you
25 know, there's various scenarios you could do with this. You

1 could put together a system like this. But it, for the
2 purposes of discussion, we assumed centralized storage of
3 the web based text. And the thought was that the various
4 participating parties could produce HTML pages for their
5 records and submit them to a central site.

6 The -- each participant would be responsible for
7 any additions, updates or deletes to the data, their portion
8 of the data at that central site. And if on the HTML pages
9 they submit they have a link to their individual systems,
10 then they would have to be responsible for their own systems
11 availability for image access. So you would basically have
12 this central repository of HTML. The central index, if you
13 will.

14 Now whether it was actually transmitted as HTML
15 pages, whether, you know, the central site simply went out
16 and did a web crawl and built the index is really a
17 relatively minor implementation detail. But the idea is
18 there would be a central system that would have an index
19 that would allow people to do the -- do searching.

20 The central site would be responsible for indexing
21 all that material and providing computer resources to have
22 it available on the Internet. The, like I said, it
23 basically would be one web page per record. The header and
24 text would link -- and a link to the image would exist in
25 the participant's system.

1 The -- it'd be a low cost kind of system. I mean
2 order of magnitude, you know, it's something like 500 K and
3 it's a short schedule. It's a handful of months to put
4 something like this together, assuming that participants
5 could produce -- provide their data in that time frame.

6 The -- okay. Option two is more the customized,
7 the custom web search tool. That's the idea that you go to
8 a particular web site, you get a single screen, and it goes
9 and searches all the participant parties databases at their
10 site; that there is no central index.

11 You know, the concept here would be a single
12 search screen. It would take a query and it would break it
13 up and it would send the individual queries to the
14 individual sites. The individual site database performs the
15 query, and the results are consolidated back and presented
16 to the user as a single result set. This would save the
17 users having to go out to each individual site and do the
18 query.

19 The participants, in this scenario the
20 participants assume quite a bit more responsibilities. In
21 the first option, there would certainly have to be an
22 interface spec and there would have to be a standard for how
23 the information would be provided.

24 In this option, that interface spec would be
25 greatly expanded. Because what's going to have to happen is

1 various systems are going to have to be up and available,
2 and they're going to have to write custom CGI kind of
3 programs to allow these queries to be performed on their
4 site.

5 Obviously they'd have to keep their systems up.
6 Because if any individual participant wasn't available, then
7 somebody doing a query would not have access to that data
8 and their results would be incomplete.

9 You know, it's a much higher cost. I mean here we
10 were -- what we were looking at was just the cost for us to
11 basically do the analysis and build that layer. That
12 doesn't reflect the cost of the individual participants to
13 build their portions of the code. Okay? To the interface
14 spec.

15 If -- and that could vary greatly. A particular
16 participant may have a records system that is in very fine
17 shape and requires relatively minimal effort to link in and
18 another one might find that their system doesn't support it
19 at all.

20 The schedule, it would certainly be a longer
21 schedule. You're talking now something that's going to
22 take, you know, more than a year to put -- to organize and
23 put together, depending on the state of the participants,
24 because there's that tendency on them to be able to provide
25 this kind of programmatic link into their systems. It could

1 be a lengthy schedule. But that would have to come out of
2 the analysis.

3 Pros and cons. The -- for the commercial web
4 search engine, the pros are cost and schedule. I mean it's,
5 as long as the participants can in fact submit their data to
6 be indexed, it's, you know, and here too a much lighter
7 interface spec. It would be relatively inexpensive to get
8 that information together and index it.

9 The participants, they would be responsible, like
10 I said earlier, for keeping track of their, you know,
11 updates and deletes and their additions. But, you know,
12 that's fairly minimal. And there's user familiarity.
13 People searching the system would see something very similar
14 to what they, I mean to what they see out there right now on
15 things like Alta Vista.

16 The cons is that, you know, the centralized index
17 as a vision this way would be rather simple. I mean it's no
18 field by field searching. It's basically you look for
19 nuclear waste and you find all the documents that have it,
20 whether it's in the title, or whether it's whatever. Okay?
21 As opposed to you want to find all the documents that were
22 authored by Joe Smith. You know, a field by field kind of
23 search would allow that.

24 The second approach, where you have the custom web
25 search tool, you're going to get something more like what

1 Dan Graser showed earlier, field by field searching, where
2 you can have much more powerful queries. The -- so you get
3 a much more manageable hit list.

4 And the cons are just cost and schedule, and a
5 much more higher dependency on the participants and impact
6 on them to participate. And a lower level of user
7 familiarity. It could still -- it wouldn't be bad, but I
8 mean you would have to explain what some of the fields were,
9 especially as you mapped them into the various participants
10 systems. It may not be a clean mapping depending on how the
11 various participant systems, you know, how they store their
12 information.

13 Any questions?

14 MR. KRAFT: How -- again, I'm showing some of my
15 ignorance here. When I use a search engine like Alta Vista,
16 all right? There are web sites that I have no earthly idea
17 are out there. I mean I find them this way. So people who
18 want to have their web site searchable by Alta Vista have to
19 make sure their web site meets the Alta Vista interface
20 spec?

21 MR. LEAKE: No.

22 MR. KRAFT: How does that work?

23 MR. LEAKE: Alta Vista, well, typically what those
24 kinds of sites will do is they'll simply go out and crawl.
25 As sites become registered and are available on the web,

1 they'll simply go out and crawl a site and index whatever
2 they find. And that's why you can get such diverse results.

3 MR. KRAFT: Diverse results and huge numbers.

4 MR. LEAKE: That's right. Now in this particular
5 scenario, if we used a commercial search engine, we could
6 certainly do that. But there -- I mean what would be more
7 likely is we would simply, whoever's participating in this,
8 we would either crawl their web sites or they would submit
9 the information to us and we'd just index it locally.

10 MR. KRAFT: Well, I just, I wasn't quite sure what
11 I was imagining when this first got mentioned. But if you
12 could take Alta -- this is now limited to the parties,
13 potential parties, and, you know, that list of people.
14 Okay?

15 MR. LEAKE: Right.

16 MR. KRAFT: So that's a known universe, whatever
17 it is. A dozen, half a dozen, two dozen. So couldn't you
18 just have a search engine that everyone who's a party has,
19 that only looks on those sites?

20 MR. LEAKE: Absolutely.

21 MR. KRAFT: But that's not one of the options you
22 looked at. I mean --

23 MR. LEAKE: Well, that's --

24 MR. KRAFT: Which one --

25 MR. LEAKE: -- a permutation of option one.

1 MR. KRAFT: Option one.

2 MR. LEAKE: The --

3 CHAIRMAN HOYLE: Harry, excuse me.

4 MR. LEAKE: You bet.

5 CHAIRMAN HOYLE: Why don't you go up to the podium
6 there.

7 MR. LEAKE: Okay.

8 CHAIRMAN HOYLE: Appreciate that.

9 MR. COTTER: Isn't there -- there's an underlying
10 point here, and that is how search engines operate.

11 MR. LEAKE: Right.

12 MR. COTTER: And some search engines operate by
13 searching on the Net a statement that is put up by a given
14 -- now you all correct me, because I'm --

15 But they search on the Net a statement that is put
16 out by the web page. I believe Alta Vista is probably the
17 only one that searches on everything that is actually up on
18 the page. So Alta Vista is going to give you the kind of
19 huge number of hits that you otherwise would not get using
20 the other search engines.

21 MR. LEAKE: Yeah, that's absolutely right. And
22 another thing is too is it gets back to what we want the
23 participants to have to have. If the participants have
24 their own web site, and they have pages available, then we
25 could simply crawl their web site and index it.

1 But in option one, they wouldn't have to have a
2 web site. I mean they could have their information. And as
3 long as they could drop the information according to the
4 interface that can send it to the central site, it could be
5 indexed and searched there. And they wouldn't have to have
6 any on-line available system.

7 Now if, for example, that information that they
8 were sending, if they did have an on-line system and they
9 wanted to include links into say their images, then there's
10 no reason that that central site couldn't support those
11 links and pass that request off to somebody searching.

12 In option two, they would have to be on-line.
13 They would have to have a system up and running. And if
14 they weren't on-line, then that portion of the information
15 would not be searchable.

16 CHAIRMAN HOYLE: Chip has a question, I think.

17 MR. CAMERON: I think you accidentally created
18 some confusion and consternation up here. Not your fault,
19 but we're all going down this trail, but you brought up this
20 whole concept of centralization again. Okay?

21 And I guess that we thought that your presentation
22 was going to focus, one of the assumptions was going to be,
23 and I think it's good that perhaps you didn't have this
24 because it does put that big option of centralization out
25 there. But I wish that Moe would put this in context, or

1 try to put it in context for us.

2 MR. LEVIN: I -- the issue is, and you'll have to
3 help me out here again. Assume we have a distributed system
4 where everybody manages their own web site and makes all
5 their documents available on their web site. And I don't
6 know how many parties there are going to be to this. Let's
7 say 10. Okay?

8 Now I'm sitting there and I want to search. Do I
9 have to do 10 individual searches? Do I have to go to each
10 site and do a search using their search engine? Is that
11 acceptable? And maybe it is. I don't know enough about the
12 process.

13 In other words, I can envision where you're
14 sitting there. You're a knowledgeable person, you're trying
15 to find things for discovery, and you know that for any
16 particular information you're looking for, it's at that
17 particular site, because you know the nature of that
18 institution's business. And that's the simplest case, and
19 that would be the easiest case. And that'd be great,
20 because then it makes things easier.

21 But looking a little -- to make it even better.
22 If the case is such that that would be very cumbersome and
23 would make this new architecture not workable, maybe we want
24 to keep a centralized index, or having some -- and this is
25 just one option. Or having some method for central

1 searching. In other words, you get on and you just go to
2 one place and you format your search, your query. And then
3 behind the scenes, the software goes and it knows where all
4 these other web sites are. And it goes and it looks there
5 and then brings the answer back to you.

6 To make this effective, one of the options would
7 be to have a central search index. Not have the documents
8 or the images available centrally, but just create a little
9 database for search purposes only. And then when you make
10 -- get hits as a result of the search, this links you back
11 to the individual web sites. That's an option.

12 MR. CAMERON: Now does that, when you say "central
13 search index," what you mean there is the ability for you to
14 search all of the individual databases at the same time.

15 Now keep in mind then you still have the question,
16 whether you do it like that, like that or whether you have
17 to go to each search -- each site, you still have the
18 question of what search engine do you want to use to do this
19 to get you the response that you want. I mean you could --
20 and who sets those standards for these individual sites?
21 And that takes us into the, you know, LSSARP, LSS
22 administrator angle, which we're going to get into. But --

23 MS. NEWBURY: Well, your borderline difference
24 between a search engine and the intelligent query that a
25 person would put into it.

1 When you're querying a data -- using any search
2 engine, you can be borderline ridiculous and search on every
3 document that has the word "Nevada" in it. And 10 to 1
4 you're going to get lots of stuff, but how much of it is
5 relevant you don't know. But if you start connecting things
6 together, give me everything that says Nevada and Yucca
7 Mountain and hydrology and 1997, and you'll get a very small
8 subset of information from whatever source, whoever has it.

9 So the search engine is an issue, but also it's
10 intelligent way of searching with the search engine.

11 MR. CAMERON: Now is the intelligent way of
12 searching with the search engine we've always said that's
13 going to be -- we had the concept of training.

14 MS. NEWBURY: Yeah, that's a person, people thing.

15 MR. CAMERON: Yeah. You know, because it's -- the
16 people who know how to get information out of these systems
17 and do better searches are the ones who are going to have an
18 advantage in proceeding.

19 MR. KRAFT: But that was true prior to LSS as
20 well. The people who had --

21 MR. CAMERON: Right.

22 MR. KRAFT: -- the better way to ask the
23 questions, how to phrase the discovery requests, how to
24 phrase the questions in interrogatories, how to depose
25 potential witnesses, who had the better counsel, those are

1 issues --

2 MR. CAMERON: Yeah. I'm not suggesting it should
3 be any other way than that.

4 MR. KRAFT: No. I'm raising this point because of
5 a little side bar conversation John and I had, is that when
6 I first read the rule, new rule, my reaction was okay,
7 there's two distinct issues here. One is we're going to
8 improve the technology because the technology is improved.
9 Who's going to disagree with that? Do that, and the fight's
10 going to be over document question.

11 But what we're discovering as we talk through this
12 thing is that what you do about the document question is
13 driven so largely by what is available technologically. The
14 New York Times now puts color pictures on the newspaper
15 because they're capable of doing it. Doesn't enhance the
16 news one damn bit. May sell more newspapers, but it doesn't
17 enhance the news. The information is still there.

18 And that's -- this is a problem that I think we're
19 running into. Because we agreed to certain conceptual
20 capabilities in the original rule, to go beyond what was
21 available in traditional discovery in order to gain certain
22 advantages in terms of process, procedure and time. Okay?
23 And I think we lose sight of that when we start saying well,
24 because we can do this search engine or that search engine,
25 and I'm guilty of it too, the other search engine. That

1 well, we're capable of doing certain things, so why aren't
2 we? Why aren't we doing them? And is it available to the
3 public or not available to the public.

4 I mean all those questions because they're --
5 you're technologically able to do it now. Because you're
6 technologically able doesn't mean it ought to be done,
7 because there are certain fundamental concepts that still
8 are not changed by the rule.

9 MR. LEVIN: How you do it; right.

10 MR. KRAFT: How you do it. We're just trying to
11 do it, do it better. So I mean that's just my thoughts.
12 I'm listening to this swirling around. And I think Judy
13 really raised the point earlier that you keep banging up
14 against this. And I think what you're banging up against is
15 that we know we have the -- we all have used these systems.

16 There are probably a handful of us who may know
17 more about this than the rest of us, but we all have used
18 the system. We all know how powerful it is, and how
19 powerful it's gotten since it's become access -- since it's
20 become available to us, and how easy it is to get the
21 information. The problem here is that you're going to start
22 going beyond what were the fundamental concepts that are in
23 the rule that are not being proposed to be changed at this
24 time.

25 MR. LEVIN: Well, that goes back to one of my

1 opening statements, in that we have to look at what the
2 requirements are, not what's available. And we have to be
3 reasonable about it. Well, what do we really need to get
4 the job done? And that's what should drive the requirements
5 for the technological solutions. And that's valid.

6 MR. CAMERON: And I guess you have a hierarchy of
7 issues on the architecture that you need to think about.
8 Again, they're related, but I mean we don't have to have all
9 the bells and whistles that technology can provide. But
10 certainly there has to be some just crude standard or
11 requirement about what you're going to -- or maybe there
12 doesn't, that you're going to get off of each site that you
13 search on.

14 Are we really, in terms of deciding on this
15 proposed rule, is this really the forum to decide what type
16 of search engine we're going to have on these web sites? Or
17 is that something that, you know, in the implementation of
18 this rule we're going to figure out somehow through working
19 like a committee like this perhaps?

20 I guess that one of the things that we would like
21 to be able to take back with us is that there's a general
22 agreement that going the web site route is going to be
23 better than going back to the centralized storage of
24 documents route that we were talking about. And I mean
25 that's sort of the first order question. And I'd like to

1 hear comments from around the table about that particular
2 issue.

3 Does anybody think that we should be not
4 abandoning the system architecture that currently exists in
5 the LSS rule?

6 MS. NEWBURY: I think we all think it should be
7 abandoned.

8 MR. CAMERON: Okay. Well, that's --

9 MS. NEWBURY: After where we've been. You want to
10 --

11 MR. LEVIN: No. I was just going to say I think
12 the idea behind this discussion is to look at these issues,
13 not resolve the issues. Talk about them a little bit, flesh
14 them out maybe a little bit, determine if they do need
15 follow-up and if they are real issues.

16 And then maybe a proposal would be we convene
17 working groups like we did before to really nail down the
18 standards, the functional requirements, you know, what we
19 need to do. But before we can do that, before we know what
20 working groups to establish, we need to know what the real
21 issues are. And that's really the purpose of this
22 discussion, trying to find out what the real issues are.
23 Does that make sense?

24 MR. KRAFT: Well, that procedurally suggests to me
25 that you're not going to be able to close off comment when

1 you want to on this rule; that you're going to have to
2 extend it even further. I think there are issues being
3 fleshed up in this discussion that's going to require a heck
4 of a lot more thought and time to respond.

5 MR. CAMERON: Well, I'm not sure I agree with
6 that. If you can put in place a framework that really
7 establishes the basic concepts that you're going to use,
8 then I think you can close off. You can set that forth in a
9 rule. In fact, we need to. We need to close on that. And
10 that some mechanism be established to move forward to, for
11 example, decide whether there's going to be a central search
12 index or whether it's going to be web site by web site. And
13 if it's web site by web site, what kind of response is going
14 to be acceptable and what gives you that response.

15 MS. NEWBURY: Chip, I think I'd raise it even, for
16 this group, to a higher level of do we want a search tool
17 that, given that we want a web site and that we will
18 maintain our own, is there a reason to have a single search
19 tool or can we just use 10 different ones. That's the
20 question we need to answer.

21 MR. CAMERON: That's a good point. Good point.

22 MR. LEVIN: That is the question.

23 MR. KRAFT: Well, is the --

24 MS. NEWBURY: And then how we do that is --

25 MR. MURPHY: I thought one of the underpinnings to

1 this whole new proposed approach was to make it as simple as
2 possible to each participant.

3 MR. LEVIN: But it still has to be useful. And
4 this is one thing that has -- that we have to decide. And
5 only the stakeholders, the users can really decide this. Is
6 this acceptable. Certainly that would be the simplest and
7 most effective. We just lay down some ground, some general
8 ground rules. You got to be able to do these kind of
9 searches. You got to tell me where your site is and then I
10 can go and search.

11 MR. KRAFT: Okay.

12 MR. LEVIN: That would be the simplest. But is
13 that acceptable is the question.

14 MR. CAMERON: It could be as, just as laissez
15 faire as that.

16 MR. LEVIN: Yeah.

17 MR. CAMERON: You establish your site with these
18 documents in it. And obviously there has to be a way to
19 search the site, and whatever it is is fine.

20 MR. KRAFT: Well, but I have a point of procedure
21 here. Is the question now before the committee as to
22 whether or not we want to go to a disbursed web based system
23 or retain the centralized system? I mean we -- that
24 question we talk around it. Are we going to properly put
25 that before the group, or are we just going to keep talking

1 about it?

2 MR. CAMERON: No. I think it is before the group
3 and it has to be explicitly answered. I mean that's my
4 feeling on it, for us to go forward.

5 MR. LEVIN: But now procedurally, we've asked the
6 question twice and we've gotten resounding silence. Do we
7 need to vote? What -- I mean what do we have to do to get
8 this on the record and put this to bed?

9 MR. KRAFT: Well, the only question that I would
10 raise, I mean I agree with Claudia that you're never going
11 to make that central system work the way it was originally
12 thought of. But if you're -- I have a couple questions.

13 If you're going to make it a web based, and let's
14 assume for the purpose it's going to be disbursed in some
15 manner. Does that mean the price of entry for a participant
16 is to have a web site that is capable of meeting the
17 interface criteria that Harry alluded to? If not, does that
18 mean NRC or DOE is going to provide that for that, or are
19 they going to create a spot on theirs for that other party?
20 I mean how does all that work?

21 MR. MURPHY: What do you mean interface criteria?
22 At what point? I understood the new proposal to be
23 everybody has their own web site, using commercially
24 available technology. And --

25 MR. KRAFT: Okay. So the answer is yes, the price

1 of entry is your own web site.

2 MR. MURPHY: The price of entry is your own web
3 site, up until the adjudicatory hearing starts. Then the
4 price of continuing entry is some sort of interface so that
5 you can -- so that you have access to the electronic hearing
6 dockets.

7 MR. KRAFT: So if --

8 MR. MURPHY: That requires an interface obviously.

9 MR. KRAFT: Having your own web site, then that
10 means your web -- you have to have on that web site all the
11 documents that are described in that very -- saying --
12 reserving that we'll argue about that definition later.

13 MR. CAMERON: Right, exactly.

14 MR. KRAFT: Okay?

15 MR. CAMERON: Yeah.

16 MR. KRAFT: Is every party able to do that? And
17 if they're not able to do that, are they then barred from
18 being a party? And what does that mean?

19 MR. CAMERON: When you say "do that," I'm assuming
20 that "that" --

21 MR. KRAFT: It speaks to --

22 MR. CAMERON: -- refers to collecting your
23 documents?

24 MR. KRAFT: It speaks to a certain technological
25 sophistication. And not to necessarily take the State of

1 Nevada's side, forgive me, but --

2 MR. CAMERON: Go ahead. Just --

3 MR. KRAFT: But Steve did say, Steve did say, and
4 I thought it was a very interesting statement, "As interest
5 and resources permit, we scan into a web site things we
6 think people would be of interest." Now is going to be that
7 laissez faire that --

8 MR. CAMERON: No, no.

9 MR. KRAFT: Okay. That's my point. So that means
10 there's a technological sophistication and a resource base
11 required of every one of these people who get involved.

12 MS. NEWBURY: Correct me if I'm wrong, but didn't
13 NRC and DOE at some point volunteer to take the documents of
14 whomever trusted whomever and scan them and put them in the
15 system?

16 MR. CAMERON: It's in the rule. And this is,
17 again, part of the cost equity discussion.

18 MR. MURPHY: Yeah. That's one of the options.

19 MR. CAMERON: That --

20 MR. MURPHY: Take your documents to the NRC and
21 give them to them.

22 MR. CAMERON: If the State of Nevada decides that,
23 or the environmental coalition decides that they don't want
24 to have their own web site, is that either NRC or DOE, if
25 they wanted them to do that, would put that up as part of

1 their web site.

2 MR. KRAFT: Well, I'm --

3 MR. CAMERON: But the key is is that those people
4 who want that done --

5 MR. KRAFT: Well, I --

6 MR. CAMERON: -- still have an obligation to
7 produce the documentary material. So that, I mean that part
8 of it has to be separated.

9 MR. MURPHY: Yeah, electronically. But it
10 wouldn't --

11 MR. FRISHMAN: Produce it electronically. It's a
12 key point.

13 MR. MURPHY: Don't limit it just to the NRC or
14 DOE. You know, that -- just as a pure hypothetical, you
15 know, Mineral County, Churchill County, White Pine County
16 could bring their documents to Nye. We could put them on
17 the Nye web page.

18 MR. CAMERON: That's true.

19 MR. MURPHY: There would be a price, I'm sure.
20 But -- and, you know, people could search, could find out
21 Mineral County's documents, all six of them, you know
22 through the Nye web page.

23 MR. KRAFT: But they just paid their price.

24 MR. MURPHY: They paid their price. They've
25 access to the electronic, you know --

1 MR. KRAFT: And so that then, keeping the analogy
2 going, that Mineral County then could not, at a future part
3 of the proceeding, claim that they were denied due process
4 because gee, we never gave you the seventh document.

5 I'm trying to think ahead. I'm trying -- look, I
6 support this. I --

7 MR. MURPHY: They were denied due process because
8 they somehow screwed up.

9 MR. KRAFT: No. I'm --

10 MR. MURPHY: Board has already ruled on that one.

11 MR. KRAFT: I'm trying to think forward into the
12 licensing process, where we've always believed, you go back
13 to the history of this. We've always believed that a lot of
14 issues about the technological capability of the LSS will
15 become contentions in the licensing.

16 You know, remember we had this discussion, Chip?
17 It goes back many years now, on the reliability and, you
18 know, are you sure, and what percent do you have to be
19 certain that the documents are -- remember when we were in
20 the scanning in concept. We knew that back in those days
21 the scanners were not that accurate and words got altered
22 and paragraph marks got altered, what percentage of success
23 do you have to have. And all those issues were never really
24 fully dealt with.

25 And now what you're doing when you go to -- and

1 you had some control over that in a central system. Now
2 that you go to a disbursed system and you leave it to the
3 parties involved, who have varying degrees of technological
4 sophistication and resources. To me, that could open up a
5 whole other series of contentions in the licensing revolving
6 around the operation of what we're now calling the LSSN.

7 MR. MURPHY: Well, but theoretically, those
8 contentions or those problems would be resolved before the
9 licensing process started. They'd be resolved in the
10 pre-license application process. Now I think that's what's
11 envisioned in any case. I think that was what was
12 envisioned before.

13 And if they -- my personal view, at least, would
14 be that if -- that access to garbage is not access under the
15 rule. If I can't -- if I -- if the documents that you have
16 on your web site aren't intelligible and usable by me,
17 that's not access. And there -- and we're going to get into
18 this this afternoon.

19 But it's our view, and Dennis' view I think, from
20 reading the material he submitted, that we still need
21 somebody with a hammer. I don't care whether we call him
22 the LSSA or somebody else. We can postpone that. But we
23 still need somebody to say hey, Nye County, you're -- that's
24 garbage. Fix it. Or, you know, or you haven't complied.

25 MR. CAMERON: And one thing, Steve. In your, sort

1 of the hiatus when you weren't with this group between when
2 we negotiated the original rule, there was indeed, you're
3 absolutely correct, there were issues about quality. They
4 call it quality assurance. And we had long-running
5 commentaries on these quality assurance issues. Okay?
6 Mainly under the guise of what was the LSS administrator
7 going to look for. And, you know, we talked about scanning,
8 et cetera, et cetera, et cetera.

9 You're right. Those issues don't go away with a
10 distributed system. I think you can -- but the question is
11 is do we need someone with a hammer to provide even some
12 base minimum requirements along those lines. I don't think
13 that we can be naive enough to think that just because we go
14 to the distributed system, and we want it to be simple and
15 easy, that you're not going to face issues of making sure
16 that those documents are on the system that need to be there
17 and that you can get to them in some reasonable way.

18 MR. MURPHY: And that they make sense when you get
19 to them. They're usable.

20 MR. CAMERON: Yeah.

21 CHAIRMAN HOYLE: The --

22 MR. MURPHY: Instead of having every fourth word
23 garbled, you know.

24 CHAIRMAN HOYLE: Right. The existing rule, Chip,
25 correct me if I'm wrong, would have required certification

1 by each participant that they have placed the right
2 documents into, or they have provided the right documents
3 into the system.

4 MR. CAMERON: And the proposed rule also does
5 that.

6 CHAIRMAN HOYLE: That's what I was going to ask,
7 to be sure we cover the point that Steve raised. You know,
8 suppose there are seven documents but only six are entered,
9 provided from one participant to another if the other is
10 going to be the entry point. You know, how have we covered
11 that defect? Each participant needs to certify that they
12 have put everything that is proper in the system.

13 MR. CAMERON: They have to do, the way the
14 proposed rule reads, they do an initial certification.
15 "They" being everybody else except DOE. Okay? And that if
16 the pre-license application presiding officer or licensing
17 board, whatever it is, they can request further
18 certification. It doesn't need to be like that, but that's
19 the way it is in the proposed rule.

20 The pre-license application presiding officer is
21 set up as the body or the individual that would resolve
22 disputes over whether a particular party, in this case
23 potential parties if we're in pre-license application space,
24 had met the requirements under the rule.

25 Now conceivably that would also cover the fact

1 that hey, they're in there on my web site, but, you know,
2 every time everybody does a search it takes you to, you
3 know, the Mickey Mouse Club or something like that; that
4 that also would be something that could be brought before
5 the pre-license application licensing board.

6 MR. KRAFT: Okay. That's --

7 MR. MURPHY: I think we need an independent
8 counsel. That's what I think.

9 MR. CAMERON: I have someone in mind.

10 MR. LEVIN: Find that seventh document in
11 somebody's drawer, they go before the grand jury.

12 MS. TREICHEL: I had to go out to be on a
13 conference call, so I'm not sure what happened with the
14 agenda. But did we -- have we talked about the definition
15 of documentary material?

16 CHAIRMAN HOYLE: No, we haven't.

17 MS. TREICHEL: Well, that's another chicken and
18 egg kind of a deal that we're bumping up to as well.
19 Because I don't -- I was of the opinion that there were
20 probably very few people with documentation going into a
21 licensing procedure, or very few entities. And I guess it's
22 because I don't know what a document is yet.

23 MR. MURPHY: Well, but you got to remember, Judy,
24 that it's -- that the documents, the licensing process is
25 also going to cover the EIS. And a lot of parties will have

1 environmental socioeconomic type documents that are relevant
2 to that part of the process but not necessarily have
3 hydrology or long-term erosion documents. There's still
4 going to be documents.

5 MS. TREICHEL: Okay.

6 MR. CAMERON: When's your conference call, noon?

7 MS. TREICHEL: I did it.

8 MR. CAMERON: Oh, you already did it?

9 MS. TREICHEL: I was just gone, and I didn't know
10 if we had already done this.

11 MR. CAMERON: So I hope that we resolved that
12 point about public access.

13 MS. TREICHEL: While I was gone?

14 MR. CAMERON: Yeah.

15 MS. TREICHEL: Yeah. I hope so.

16 MR. CAMERON: No, I'm kidding. Maybe -- I think
17 one of the biggest issues that's coming out of this
18 discussion is the need for someone to ride herd over what
19 kind of search engines, et cetera, et cetera, are used in
20 this process. So maybe, we have that on the agenda. Maybe
21 we should go to the documentary material.

22 Having heard no one say that look, we got to keep
23 that centralized system, I think that we're on a path of a
24 decentralized system. And we know there's reliability
25 issues, et cetera, et cetera, that we need to solve. But we

1 can, you know, we can do that.

2 Does -- I don't know, John. Do you want to --
3 what do you want to do?

4 CHAIRMAN HOYLE: Yeah. I don't mind moving to
5 that. I just wanted to point out to Judy, we were unsure
6 also how to pull the issues apart. And this is only one
7 reflection of how we might deal with them in a progressive
8 manner. But maybe we've got them in the wrong order or
9 maybe you can't pull them apart.

10 MS. TREICHEL: Yeah. I'd love to see a consensus
11 that opposes centralized storage, but whatever.

12 MS. NEWBURY: No, this is just documents, Judy.

13 CHAIRMAN HOYLE: Yeah.

14 MR. CAMERON: That's good.

15 CHAIRMAN HOYLE: Okay. Then let's proceed then to
16 the documentary material discussion with Kathryn Winsberg to
17 lead us.

18 But before we do that, Harry Leake, thank you very
19 much for your presentation. And you helped us kick off some
20 issues here.

21 Kathryn.

22 MS. WINSBERG: Okay. The documentary material
23 definition is, that we've proposed, is very long. And it
24 presently is drafted to include any material that a party or
25 potential party intends to rely upon or cite in support of

1 his position, and any material that's relevant to that issue
2 and that doesn't support their position. And also, any
3 reports and studies that were prepared on behalf of the
4 potential party, including circulated drafts, regardless of
5 whether they're going to be relied upon or cited by the
6 party.

7 And I'm dying to know what Claudia's fatal problem
8 is with the definition.

9 MS. NEWBURY: I don't like the third clause.

10 MS. WINSBERG: The --

11 MS. NEWBURY: Please take it out.

12 MS. WINSBERG: -- all studies and reports? That
13 was added by the commissioners. In two --

14 MR. MURPHY: Which clause don't you like, Claudia?

15 MS. NEWBURY: The one that starts "And all reports
16 and studies prepared by or on behalf of the potential
17 party." Is that the whole Department of Energy, is that the
18 AEC whatever we used to be? How far back in life are you
19 going on this?

20 MS. WINSBERG: Well --

21 MR. MURPHY: When was the --

22 MR. CAMERON: It's relevant.

23 MR. MURPHY: -- atom split, '38? 1938 I think.

24 MS. WINSBERG: I guess there isn't any time period
25 stated on here, and it is limited to topics in the topical

1 guideline. But --

2 MS. NEWBURY: But the topical guidelines are broad
3 enough that they again could include BWIP, salt.

4 MR. CAMERON: That's right.

5 MS. NEWBURY: Granite, gosh knows what. And it is
6 so broad, that we think that it ought to be -- we think that
7 the first two clauses cover everything just fine and we
8 would like to leave it at that.

9 MR. CAMERON: Can I -- one of the, you know, we
10 toyed around with setting dates, that owning materials on
11 such and such a date, et cetera, et cetera. We went up with
12 just the first two to the commission.

13 Now there was a concern expressed by some that the
14 universe of documents available under the proposed rule, as
15 sent to the commission, would be much narrower than what was
16 available under the existing rule, and indeed narrower than
17 what would be available to a participant in an NRC
18 proceeding under our traditional rules through discovery
19 after the license application came in. Now I haven't -- I
20 don't know how true, whether there -- how big a difference
21 there would be. But that third clause was added by the
22 commission to try to address that problem.

23 The one set of documents that is out under the
24 proposed rule that would have been captured by the existing
25 rule is in terms of general, generally, not that the parties

1 cannot ever rely on it or it doesn't support. But all of
2 the memos that were written in DOE, for example, or NRC,
3 they're not reports or studies, I'm assuming. All of those
4 would not have to go into the system. Okay?

5 But I think that one of the things that we need to
6 address is do we know what's included in this document
7 universe under the proposed rule. For example, what does --
8 what do the words "rely" or "support a party's position"
9 mean?

10 MS. NEWBURY: I'd go one farther. What do you
11 mean by "material"?

12 MR. FRISHMAN: Or relevant. I mean --

13 MR. MURPHY: Well, that --

14 MS. NEWBURY: Are you only talking about final
15 documents?

16 MR. MURPHY: There -- but that's the problem,
17 folks. I mean you're asking us, Claudia, and Steve on
18 behalf of the State of Nevada, to rely on the Department of
19 Energy to decide, in the first instance, what's relevant to
20 the State of Nevada's challenge to the validity of the, or
21 the adequacy, whatever, of the license application. They're
22 not going to be willing to do that. I'm not going to be
23 willing to do that on behalf of Nye County.

24 We've already acceded in a sense to a significant
25 reduction in our discovery rights by not including in the

1 definition of documentary material the, you know, the
2 catch-all, or any other -- or any information that's likely
3 to lead to the discovery of relevant material. We, you
4 know, we're already giving up a significant amount of
5 discovery with this definition of documentary material. I'd
6 like to see that put back in, you know.

7 Why not allow us; why not put everything into the
8 record because, you know, assuming we have the resources
9 available to do it. We're going to eventually discover it
10 anyway through derivative discovery processes. But it's
11 much broader than you alluded to, Chip, with memos, et
12 cetera. We -- but for this definition of documentary
13 material, DOE would be required to put in "All information
14 that's likely to lead to the discovery of relevant
15 material."

16 MR. CAMERON: Well, let me ask Kathryn this,
17 because I'd like to clear this up. I don't think that there
18 was any intent to take out the phrase "Or that is likely to
19 lead" --

20 MR. MURPHY: Well, it isn't there.

21 MR. CAMERON: -- to it. Well, that's why I'm
22 asking.

23 MR. MURPHY: Good.

24 MR. CAMERON: Because the critical point was not
25 to change the traditional discovery definition, which is

1 relevant information or information which may lead to it.

2 And that's a good point you're bringing up, that if that's

3 gone, I think we need to think about putting that back in.

4 Because I think that's an oversight.

5 The -- our focus was is there some way that we can

6 make this a more manageable document universe. So we keyed

7 on the fact of are you going to rely on it and is there

8 something else in the record that does not support your

9 position that you're relying on. And then we got all the

10 studies and reports. That goes -- that's not time limited.

11 You're right, it's not site limited.

12 MS. WINSBERG: No, it's not.

13 MR. CAMERON: As long as it's relevant to the

14 licensing of a repository or if we put back in the other

15 phrase, information that might lead to relevancy issues.

16 That at least gets all these final memos, the zillions of

17 memos that are around, I assume. So I mean that's sort of

18 what our thinking was on it. And --

19 MS. WINSBERG: Was there a question there?

20 MR. CAMERON: No, no. I just -- I guess I'd just

21 like to hear --

22 MS. NEWBURY: That might lead to discovery again

23 leaves it open to some interpretation, but I think it's an

24 easier interpretation than simply everything that was ever

25 generated by the Department of Energy.

1 MS. WINSBERG: So --

2 MS. NEWBURY: Or its predecessor agencies.

3 Because the secretary is signing this. And as the secretary
4 of energy, that's the party. And it makes it a very, very
5 broad, hugely broad category. And so we'd like to have it
6 just a little narrower than that, like related to Yucca
7 Mountain. Or if it's --

8 MR. MURPHY: Well, I -- the topos --

9 MS. NEWBURY: Or related, you know. Well, the
10 topo guidelines again are very broad, Moe.

11 MR. MURPHY: But they don't rely -- they don't
12 relate to anything beyond Yucca Mountain.

13 MS. NEWBURY: Geological repository. Yeah, they
14 do. It says --

15 MR. MURPHY: Beyond the repository program.

16 MS. NEWBURY: But the repository program again
17 goes back to the 70's, and includes non-selected granite
18 sites in the east that were never identified. It's very
19 broad.

20 MS. WINSBERG: So the -- adding back in the
21 language about relevant or likely to lead to relevant would
22 be to modify the reports and studies?

23 MR. CAMERON: No. That's sort of a general --
24 that's a general statement. And the question is is that I
25 think if you look at the topical guidelines, they do focus

1 obviously on the repository program. But there conceivably
2 could be a document out there from some other area that
3 might be relevant to the repository. I mean it is -- but it
4 matches.

5 Again, what we were trying to do is to replicate,
6 originally, was to replicate what might be available to a
7 party in an NRC proceeding in traditional discovery. Okay?
8 So that we could move all of this before the license
9 application so that they would feel -- people would feel
10 comfortable that they weren't losing any discovery rights.
11 And we've been struggling ever since to try to maybe make
12 this document universe more manageable.

13 And I don't know, I guess I'd like to hear
14 comments from others on this issue.

15 MR. GREEVES: It should be relevant to Yucca
16 Mountain. I mean this business of dragging all the
17 (indiscernible word) stuff up, I think that's --

18 MS. NEWBURY: Thank you.

19 MR. GREEVES: -- what Claudia was saying.

20 MS. NEWBURY: Yes.

21 MR. GREEVES: There are chances where people want
22 to refer to the technology that was developed, but you have
23 to have a relevancy I think to this case. And I think
24 Claudia's saying she'd prefer that approach. And I'd be
25 curious if anybody disagrees with that, because you're going

1 to have --

2 MR. MURPHY: I don't disagree with that.

3 MR. GREEVES: -- information overload if you take
4 this broader approach.

5 So relevant to Yucca Mountain. Anybody disagree
6 with that?

7 MS. TREICHEL: I don't know. If you go back and
8 you look at some of the old stuff before Yucca Mountain
9 emerged as the top spot in the world for this thing, you see
10 assumptions, you see all sorts of expectations. You see a
11 lot of stuff that looks pretty amazing when you go back and
12 look at it now.

13 MR. GREEVES: Well, if it has relevancy to this
14 case, then it would be included.

15 MS. NEWBURY: And --

16 MS. TREICHEL: Okay. So that's just a judgment
17 call.

18 MS. NEWBURY: Are you talking about stuff that's
19 already available in the public domain, in essence, that's
20 out there?

21 MS. WINSBERG: Uh-huh.

22 MS. NEWBURY: Because I'm more concerned about the
23 records stuff that we would have to put on a web page. And
24 certainly if there was something that was published for BWIP
25 and is out there and you want to submit it --

1 MS. TREICHEL: Okay.

2 MS. NEWBURY: Go for it.

3 MR. MURPHY: I don't think your problem is that
4 severe, Claudia. Just take BWIP. I mean studies related to
5 cask degradation that were done by the BWIP people in 19,
6 you know, '86, just before the amendments act was passed,
7 seems to me are either relevant to Yucca Mountain or could
8 lead to the discovery of relevant material with respect to
9 Yucca Mountain. Whereas studies, hydrologic studies,
10 drilling done by the, you know, remember USGS was, you know,
11 was not contractor up in BWIP, but say USGS' critique of the
12 hydrologic drilling done by the --

13 MS. NEWBURY: SAIC.

14 MR. MURPHY: Yeah, by SAIC at BWIP. That's not
15 going to be relevant to Yucca Mountain. I mean I don't
16 think you're even going to get any argument about that.

17 MS. NEWBURY: Well, I think that's right.

18 MR. MURPHY: But cask studies is going to be,
19 transportation studies are going to be, potentially at
20 least.

21 MS. NEWBURY: That's why I'm agreeing with John,
22 that if it's says relevant to Yucca Mountain.

23 MR. GREEVES: Need some language in the rule to --
24 you know, another example is interpretation of some of this
25 thermal testing. I think that is relevant. There were

1 thermal tests run at other locations that state or county
2 may bring forward and say look, the interpretation of how to
3 run a thermal test as established by the Swedes, that is
4 relevant. So I think, you know, it has to be a rule of
5 reason. But some language of relevant to this case is a --

6 MR. MURPHY: No, that's -- I don't have any
7 problem with that, limiting it to relevancy to Yucca
8 Mountain, sure.

9 MR. KRAFT: Well, but the way I understand it, if
10 the author relies on that study to justify the system, the
11 test design, that has to be shown. The issue is if the
12 author even didn't know about that study, and that study
13 calls into question the test design. That's a document that
14 you're interested in having.

15 MR. MURPHY: Well, if nobody in DOE knows about
16 the study, they can't be faulted for putting -- for not
17 putting it in the system.

18 MR. KRAFT: So it would get in the system by
19 someone who wanted to raise that as a reason.

20 MR. MURPHY: Yeah. In -- by discovery, you know.

21 MR. GREEVES: Which is permissible.

22 MR. MURPHY: I -- you've got a -- you're the
23 author of a study. DOE doesn't -- has never heard of you.
24 I note your deposition up, hand you a subpoena duces tecum
25 and say "Kraft, bring your study."

1 MR. KRAFT: Okay. So --

2 MR. MURPHY: Bang, it's in.

3 MR. KRAFT: So what -- well, okay. What if, you
4 said before, Claudia, that let's assume there is that study
5 out there done in another country that would lead to
6 questioning the way your hydrologist designed the study.
7 Let's just say that.

8 MS. NEWBURY: Okay.

9 MR. KRAFT: Your hydrologist, by your own rules,
10 is required what, to search the literature and say hey,
11 there's a study over here and I don't -- this doesn't apply
12 or I disagree. Is my -- they have to do that all?

13 MS. NEWBURY: Yes. We've asked that they, in
14 developing any document, that they do a reasonable search of
15 the outside literature as well as everything that's held
16 within our own records system. And if they find anything,
17 they document --

18 MR. KRAFT: And having done that --

19 MS. NEWBURY: -- whether or not they are using
20 that.

21 MR. KRAFT: -- found that document, then it
22 becomes something you have to then have available through
23 your links?

24 MS. NEWBURY: Yes.

25 MR. GREEVES: Even though they aren't relying on

1 it.

2 MR. KRAFT: Even though they're not relying on it?

3 MS. NEWBURY: Even if we're not relying on it.

4 We, for our own sake, want to have it there so we can say
5 well, as it goes through the review process, we disagree or
6 agree.

7 MR. KRAFT: So the issue then is --

8 MR. MURPHY: That's covered by the language in
9 here already.

10 MR. KRAFT: Understand. So the issue then is --

11 MR. MURPHY: That's no problem.

12 MR. KRAFT: -- a scientist who did that, saw the
13 study, chose to ignore it. Read the study and said whoa,
14 chose to ignore it. You didn't know about it, your system
15 didn't know about it, no one else knew about it. And then
16 you all and other parties know about it, say.

17 MS. TREICHEL: It's always so easy for you to --

18 MR. KRAFT: Yeah, sorry. No, I meant the other
19 parties.

20 MR. MURPHY: Yeah. We find out we about it. Our
21 guy does a better search than their guy.

22 MR. KRAFT: Or does the same search.

23 MR. MURPHY: Person.

24 MS. TREICHEL: Yeah.

25 MR. MURPHY: Does the same search. But I mean but

1 then, but, you know, we know the study's there. We haul the
2 author of the study in, call him and say would you send us a
3 copy of it. If he -- if he or she doesn't say sure, then
4 they get their deposition taken.

5 MR. KRAFT: Okay. So I mean I just --

6 MR. MURPHY: We'll go to Taskcan to take
7 depositions, no problem.

8 MR. KRAFT: Cool. The -- so the --

9 MR. MURPHY: It's only your money, Steve.

10 MR. KRAFT: No, it's not.

11 MR. MURPHY: No, but that's --

12 MR. KRAFT: I'll introduce you to the people whose
13 money it is one day. They're real fun.

14 MR. MURPHY: And it -- and we all know that DOE is
15 going to miss documents. I mean that's innocently miss
16 documents that are in their own document room. I mean
17 that's inevitable.

18 MR. CAMERON: And keep in mind that -- and Mal
19 keeps talking about deposition. But keep in mind that if
20 DOE, you're talking about two things here. Does the fact
21 that DOE doesn't find a document that may be relevant, I
22 mean they have to do -- they have to put together these
23 documents for their own purposes. If Judy or Steve knows
24 about a document from another site, another country or
25 whatever, that they want to, quote, rely on to challenge how

1 DOE's meeting one of the rules, there's no limitation on
2 them putting that document into their web site.

3 MR. MURPHY: They're required to put it in the web
4 site if they're going to rely on it.

5 MR. CAMERON: If they're going to rely on it.

6 MS. NEWBURY: If they're going to use it, yeah.

7 MR. CAMERON: And we need to talk about what rely
8 means sometimes on this, but see, what we're doing, we
9 talked about two things here. One is is making sure that
10 the "or is likely to lead to relevant information" goes back
11 in. And instead of "relevant to the licensing of a geologic
12 repository," it's "licensing of a geologic repository at
13 Yucca Mountain."

14 Steve.

15 MR. FRISHMAN: Isn't that already implicit in the
16 system, where the Waste Policy Act, as amended, tells NRC
17 that you specifically deal with Yucca Mountain? Part 60 is
18 going to be amended specific to Yucca Mountain. Why is this
19 not acceptable as a generic rule? It's already implicit in
20 the legal and regulatory system that it's Yucca Mountain
21 you're talking about. Therefore, you're not going to gain
22 any credibility at all if you try to introduce irrelevant
23 material.

24 MR. CAMERON: I guess I would agree.

25 MR. FRISHMAN: And it'll be a lot easier on your

1 lives if this is not site specific, because you may need it
2 somewhere else.

3 MR. CAMERON: Well, see, that's the whole point,
4 is that should you -- should -- do we really need to read it
5 to be specific to Yucca Mountain when we might need to use
6 it as a generic rule, because there's -- I don't think
7 there's anything in the topical guidelines or anything in
8 the rule that would be specifically focused on the Yucca
9 Mountain site. So -- and I mean I think I at least, Steve,
10 agree with you.

11 John Greeves, what do you think?

12 MR. GREEVES: I wouldn't have raised it, but
13 Claudia raised it. So --

14 MS. NEWBURY: Well, I, yeah, I did raise it.

15 MR. GREEVES: I don't want Claudia putting a bunch
16 of this stuff down.

17 MR. MURPHY: I mean I -- Steve's got a very good
18 point. You know, it's, by operation, it's limited to Yucca
19 Mountain anyway.

20 But isn't there some process, administrative
21 process available, where the commission can issue an
22 administrative interpretation of its own rule, saying in the
23 license that relevancy means relevant only to the site that
24 is to the -- the site that is the subject of the licensing
25 application bearing, you know, docket number or something

1 like that? You guys -- there's a --

2 MR. CAMERON: We could very easily put in the
3 supplementary information.

4 MR. MURPHY: Sure.

5 MR. CAMERON: This understanding.

6 MR. MURPHY: Sure.

7 MR. KRAFT: Yeah.

8 MR. CAMERON: You know, I mean I don't think that
9 would be --

10 MR. GREEVES: You need to set a record so Claudia
11 doesn't have to worry about this at night.

12 MS. NEWBURY: Fix it so that I don't end up trying
13 to interpret this, or someone tries to interpret this more
14 broadly.

15 MR. CAMERON: We can do that. But let me ask you
16 a question though. Okay?

17 What documents are you worried about that might be
18 relevant to the licensing of a geologic repository versus
19 documents that would be relevant to the licensing of a
20 geologic repository at Yucca Mountain? There's a whole -- I
21 mean you can think about those documents.

22 MS. NEWBURY: That's what we were just trading
23 words about with BWIP for instance, that that was a proposed
24 site for a geologic repository.

25 MR. CAMERON: Okay. But there might be some

1 things that are --

2 MS. NEWBURY: So there are things.

3 MR. CAMERON: -- that happened at BWIP that could
4 be relevant to Yucca Mountain.

5 MS. NEWBURY: Right. And if they are --

6 MR. CAMERON: And as we go in --

7 MS. NEWBURY: -- relevant to Yucca Mountain,
8 certainly they should be included.

9 MR. CAMERON: Okay. All right.

10 MS. NEWBURY: But there's irrelevant stuff as
11 well, and we don't want it so broadly stated --

12 MR. CAMERON: Okay.

13 MS. NEWBURY: -- that we end up with --

14 MR. CAMERON: Well, we can put that in the
15 supplementary information.

16 MR. GREEVES: Yeah.

17 MR. CAMERON: Right, Kathryn?

18 MS. WINSBERG: Yes. I just had a question though.
19 Does this definition, if we clear up some of these question
20 marks, does it actually define a smaller universe of
21 material than was included in the previous definition?

22 MS. NEWBURY: If you put back in "information that
23 may lead to," probably not. But since we're imaging
24 everything anyway, I --

25 MS. WINSBERG: Yeah.

1 MS. NEWBURY: Yeah.

2 MS. WINSBERG: Well, yeah, that was part of what I
3 was wondering, if you needed relief from -- if you're
4 already capturing all the information that was covered by
5 the previous -- the previous definition says "Any
6 information that's relevant to or likely to lead to the
7 discovery of information that's relevant to the licensing of
8 the likely candidate site for a geologic repository."

9 MR. CAMERON: So that's already --

10 MS. WINSBERG: Yeah. I mean that was there.

11 MR. MURPHY: But remember, that language was
12 written prior to the passage of the '87 amendments act. We
13 wrote that language while we were still pre-site.

14 MR. CAMERON: Okay. Well, we can do something
15 about that in the supplementary information. But I think
16 that, I mean Kathryn has raised a point that we need to
17 discuss, which is the comparative size of the -- what's
18 going to be in one universe existing rule and what would be
19 in the proposed universe.

20 To me, what it looks like is there's a lot of
21 memos, that are not reports or studies. Okay? So they
22 don't fall into that bin. They may not be, quote, relied
23 on, quote, and they may not undermine the position that's
24 relied on. All of those things it would seem, which is --
25 there must be a hell of a lot of correspondence, would not

1 have to be in.

2 But the basic question for me is what does "rely"
3 mean? Does that mean that it just backs up a point you're
4 making, does it mean that you are going to introduce that
5 into evidence? Is "reports or studies" clear enough to
6 everybody? In other words, I just want to make sure that,
7 as much as possible, we can remove the ambiguities here.

8 I guess I would ask Mal, what was your reading of
9 the use of the word "rely"? How -- was it real precise, or
10 --

11 MR. MURPHY: If they're going to offer it as
12 evidence in the licensing hearing. Or if it's cited. You
13 know, if they're going to offer a document in the
14 adjudicatory hearing on hydrology and there's another
15 document cited in that document to support it, then it's --
16 then you're relying on it, but -- yeah.

17 MR. FRISHMAN: Or if you were going to propose
18 your potential exhibits beforehand and have an exhibit set.

19 MR. MURPHY: But if it's not -- if you're not
20 going to use it or cite it in the licensing hearing, doesn't
21 seem to me you're relying on it. That's the way I'm going
22 to -- that's the way we're going to operate.

23 MR. CAMERON: Any comments on that?

24 CHAIRMAN HOYLE: This isn't a comment. I guess
25 it's a question.

1 Claudia, you said you're going to make all of the
2 material that you described earlier in thousands of
3 documents and millions of pages on -- make it available on
4 your web site?

5 MS. NEWBURY: In essence, what we'll make
6 available generally on our web site would be the document
7 itself and anything that we cited within it, which is your
8 documentary material. If -- and we may be citing things
9 that we are not -- that do not support it, as well as things
10 that do support it. So part of the second one is there as
11 well.

12 But when the second clause says "Any material or
13 other information that is relevant to," again, that becomes
14 much broader than just reports. So they'll be a larger
15 subset of information in that that is not a document, I mean
16 not a report or study, unless you really meant that reports
17 or studies that don't support. So tell me what you mean.
18 What is meant by "material"?

19 CHAIRMAN HOYLE: I was just wondering, are you
20 capturing that material anyway?

21 MS. NEWBURY: We are capturing that material
22 anyway.

23 CHAIRMAN HOYLE: You're capturing that material.

24 MR. MURPHY: Are you --

25 CHAIRMAN HOYLE: The issue is whether or not

1 you're putting it into your available database.

2 MR. MURPHY: Claudia, are you asking for a
3 definition of the word "material"?

4 MS. NEWBURY: In this sense, yeah. It's because
5 it starts off "Documentary material means any material."

6 MR. MURPHY: Uh-huh.

7 MS. NEWBURY: "Or other information that we intend
8 to rely and/or cite cite in support. And that would be a
9 finished report or study. For the most part, we probably
10 would not be citing something that was not published.

11 But the second clause says "Any material or other
12 information that is relevant to but does not support that
13 material or information or that party's position." And I'm
14 asking again, does that mean a report or study, or does that
15 just mean --

16 MR. CAMERON: I think that's --

17 MS. NEWBURY: -- anything under the sun?

18 MR. CAMERON: I think that's broader. For
19 example, if you were using a study to support the license
20 application. Okay? That would be in. Say there was an
21 internal document within DOE that questioned the validity of
22 that study. That's not a study, it's a memo on that. That
23 would be the type of thing that I would think you would have
24 to put in there.

25 MS. NEWBURY: Let me take it even down way

1 farther, because I'm sort of a geologist.

2 We get -- we collect a lot of data that goes into
3 a model, which will turn into a total system performance
4 assessment way up here. Okay?

5 MR. CAMERON: Yeah.

6 MS. NEWBURY: Some of that data we will be using.
7 Some of that data has glitches in it. The machine went off
8 or there are spikes related to power surges or something.
9 That data's no good. Well, we collect that anyway and we
10 keep it in our records and it says why we didn't use it.
11 You want to see that too?

12 MR. MURPHY: I don't, that's for sure.

13 MR. FRISHMAN: Given current circumstances, yeah,
14 because we have --

15 MS. NEWBURY: You might.

16 MR. FRISHMAN: We had a case right now --

17 MS. NEWBURY: You might reinterpret it.

18 MR. FRISHMAN: -- where you didn't use data for
19 other reasons and it turned out you should have used it.

20 MS. NEWBURY: That's quite possible. So all that
21 information is there. And again, it's not a report, it's
22 not a study, it's information.

23 MR. MURPHY: But I mean any -- we can't write a
24 rule that's detailed enough and lengthy enough to take care
25 of every conceivable question.

1 MS. NEWBURY: I'm not arguing that all that
2 doesn't -- isn't in that second part. And we like the first
3 part and the second part. I just didn't like the third
4 part.

5 MR. MURPHY: Well, you know, no, I understand.
6 But just, you know, the interchange between you and Steve
7 and myself I guess, I mean we -- it seems to me that we have
8 to -- and that's -- this is why we're going to have a
9 pre-license application presiding officer to handle disputes
10 like this. But I mean I'm willing to rely on the
11 department's deciding that a data run where the power went
12 out, or there was a spike in it or whatever, I mean for a
13 legitimately technical reason the data is garbage. You
14 don't put that in. But if you decided not to use it for
15 some other reason like Steve cited, then you need to put
16 that in. And we have --

17 MR. FRISHMAN: Your QA program is supposed to have
18 documented all this anyway.

19 MS. NEWBURY: It's supposed to be doing it, right.
20 And it does.

21 MR. MURPHY: Well, yeah. Yeah.

22 MR. FRISHMAN: So what are you afraid of?

23 MS. NEWBURY: I'm not afraid of anything. I'm
24 just asking what volume of material is included in this
25 definition.

1 MR. FRISHMAN: Well, let me offer a semantic way
2 to get over your problem about documentary material. Why
3 doesn't the rule define a document as "anything that,"
4 rather than "documentary material means" --

5 MS. NEWBURY: Any material.

6 MR. FRISHMAN: Yeah, "any material or other
7 information upon which" -- "Document means anything upon
8 which a party --

9 MS. WINSBERG: Well, actually there is a
10 definition of document in the rule already. And it says --

11 MR. MURPHY: Yeah.

12 MS. WINSBERG: -- "Document means any written,
13 printed, recorded, magnetic" --

14 MR. MURPHY: Right.

15 MS. WINSBERG: -- "graphic matter or other
16 documentary material, regardless of form or characteristic."
17 So --

18 MR. CAMERON: Does that take care of your point,
19 Steve, or is there still something that we should be
20 considering changing?

21 MR. KRAFT: No. I think Steve's point is in that,
22 in the modified definition of documentary material, strike
23 "any material or other information." So it would read
24 "Documentary material means that," need "that" to be added,
25 "upon which a party relied," et cetera, et cetera,

1 et cetera.

2 I mean you could even strike the word
3 "information." I mean just leave -- just get those words.
4 There's a standard way of writing definitions in regulations
5 and statutes that's being used here that I think is leading
6 to the confusion. Question I would ask is what's the
7 difference between material and information. I don't know
8 that there is one.

9 MR. MURPHY: Well, one way to approach it would be
10 to just use the word "document." "Documentary material
11 means any document," because document is defined in the
12 rule.

13 MS. NEWBURY: Yes, but --

14 MR. MURPHY: And it's a definition that you're
15 going to retain, isn't it?

16 MS. NEWBURY: Right. But there is other
17 information other than documents. The, you know, core
18 samples and I don't know what other technical information.

19 MR. MURPHY: That's true, yeah. No, that's right,
20 yeah.

21 MR. FRISHMAN: And that's why I started thinking
22 you can go back and just means anything.

23 MR. KRAFT: Yeah. No, I agree with that, because
24 you could say that the scientist looking at it relied on the
25 fact that the sample looked a certain way. And in that

1 scientist's judgment, it meant something. That sample, and
2 now in the sample management facility archive, is something
3 that was relied on. So I mean I think that's what -- I
4 think you -- it's a -- I think in reality it's a semantic
5 problem. The issue of course is how you get that rock in
6 the database, but that's another --

7 MR. MURPHY: No, no, the rules covered it.

8 MS. NEWBURY: But that --

9 MR. KRAFT: Yeah, photos.

10 MR. MURPHY: The rule --

11 MS. NEWBURY: But that -- we took care of that.

12 MR. KRAFT: Photos, yeah.

13 MR. MURPHY: The rules cover that, yeah.

14 MS. NEWBURY: That's in the sample management
15 facility.

16 MR. MURPHY: You just tell them where the rock is
17 and tell them what time of day you come look at it.

18 MS. NEWBURY: Right.

19 MR. KRAFT: I -- that, I'm just saying that that's
20 -- you eliminate --

21 MS. NEWBURY: Assuming it still exists and you
22 didn't crush it.

23 MR. KRAFT: It's traditional drafting to say
24 "Document material means material that." I mean but if
25 that's causing the confusion, just strike those extra words.

1 MR. CAMERON: Is it, just to make sure that we get
2 the suggestion right, can a few of you just, over lunch,
3 just get together and give us a markup? I mean it may be
4 really simple and I'm just missing it, but if we had a
5 markup we would know. Can you do that?

6 MS. NEWBURY: Sure.

7 MR. GRASER: Steve and I were agreeing that just
8 use the word "anything."

9 MS. TREICHEL: Means anything. And then take out
10 that whole other line, "which a party, potential party or
11 interested party."

12 MR. CAMERON: "Documentary materials means" --

13 MS. TREICHEL: Anything.

14 MR. CAMERON: "Anything" --

15 MR. MURPHY: "Upon which a party, potential party
16 or" --

17 MR. CAMERON: Upon that, where is the "that" part?

18 MS. NEWBURY: I think you need to look at how it's
19 used in the rule before you just change it.

20 MS. WINSBERG: Just "anything upon which," I mean
21 rather than that.

22 MR. GRASER: Can't you -- you've got the sense of
23 what the group is wanting to do with this; right? You don't
24 need to hammer out the exact --

25 MR. KRAFT: Also, there's a question of whether

1 you're going to undo the striking of the phrase "likely to
2 lead to discovery." I don't know whether that was settled.

3 MR. GRASER: It's going back in.

4 MR. KRAFT: All right. So you've got to rewrite
5 this to fix that.

6 MR. CAMERON: Yeah. We got that one. Anything,
7 just like that word "thing."

8 MR. KRAFT: Well, again, no. Again, you're
9 raising issues as to what does "thing" mean. If you just
10 say "Documentary material means that which was relied on."
11 The pronoun "that" refers to to what happens later in the
12 sentence, meaning "was relied on." You rely on it. You
13 rely on the rock, you rely on the calculation, you rely on
14 the computer code, you rely on information from some other
15 scientist. Whatever it is, you relied on it.

16 MR. MURPHY: So it's -- so in other words, you
17 relied on -- you go back to the word "material." I mean you
18 got to use a word, an English word somehow to describe the
19 concept.

20 MR. KRAFT: Material, document material is
21 anything you relied on.

22 MR. MURPHY: I don't know, to me, material is as
23 good a word as any.

24 MR. KRAFT: But this -- the semantic problem is
25 you're repeating it in the definition, which raises does it

1 mean something else --

2 MR. CAMERON: By saying "document" --

3 MR. KRAFT: -- which confused the hell out of me,
4 as to what that meant. So you clean it up by just maybe
5 making it less words than normal.

6 MR. CAMERON: All right. Well any mark-ups would
7 be appreciated, but I think we get the sense that something
8 needs to be changed. All right?

9 CHAIRMAN HOYLE: Kathryn, do you have more?

10 MS. WINSBERG: I don't have anything more on the
11 definition, unless there's anything anybody else wants to
12 say.

13 CHAIRMAN HOYLE: The area that you have been
14 focusing on, I take it, is the 2.1001 definitions --

15 MS. WINSBERG: Uh-huh. Yeah.

16 CHAIRMAN HOYLE: -- for documentary material.
17 Okay. Well, I echo what Chip said. If there's anyone who
18 would propose over the lunch break some specific words, it
19 would be greatly appreciated.

20 MR. CAMERON: I think we're ready --

21 CHAIRMAN HOYLE: For lunch?

22 MR. CAMERON: -- for the lunch break.

23 CHAIRMAN HOYLE: Do I hear a second for lunch?

24 MS. WINSBERG: I second.

25 CHAIRMAN HOYLE: All right. Let's break for lunch

1 right now, and come back please in one hour. It will be
2 five after 1:00. Five after 1:00.

3 [Recess.]

4 CHAIRMAN HOYLE: Good afternoon, everyone.
5 Welcome back. We'll begin the afternoon session at -- but
6 first, though, I would like to let Claudia invite us to our
7 tour for tomorrow. So, Claudia?

8 MS. NEWBURY: Tomorrow morning, if people would
9 like to, we have available a tour of our records processing
10 center. You can see how we're taking our seven hundred and
11 something thousand documents, scanning them, and turning
12 them into full text with headers, if you so choose. The
13 building is out in Summerlin at our facility on Town Center
14 Road. And if anyone's interested, I can get maps and
15 directions and a time based on I suppose when we get done
16 with our formal meeting here. Is there anybody that would
17 like to go and --

18 CHAIRMAN HOYLE: I would like to go.

19 MS. NEWBURY: Okay.

20 MR. MURPHY: Do we get to see material as well as
21 documents while we're there? There's a bunch of things --
22 there's things in there.

23 MS. NEWBURY: Well, only if they're on paper, Mal.

24 UNKNOWN SPEAKER: Disappearing ink.

25 MR. MURPHY: I like the stuff is (indiscernible).

1 CHAIRMAN HOYLE: Okay. Thanks, Claudia. There
2 are several of us who would like to go. Before beginning
3 the cost and equity concerns issue with Dan Graser, I was
4 going to ask Chip Cameron if there's something further on
5 the definition of documentary material we could perhaps
6 clear up.

7 MR. CAMERON: Well, Steve Frishman took a look at
8 the definition of documentary material and we talked about
9 it. It looks like defining -- if you look at the definition
10 which is in 2.1001, we were going to say that documentary
11 materials means any information upon which a party or
12 interested governmental participant intends to rely rather
13 than any material or other information. And, of course, we
14 would add in -- again, subject to the commission's approval,
15 and I -- the ore is likely to lead to (indiscernible). Does
16 that help at all, that taking out the material?

17 CHAIRMAN HOYLE: So you took out three words?

18 MR. CAMERON: I mean this -- using the phrase
19 material, other information goes way back to when we
20 originally did this rule to how documentary material was
21 defined. I'm not sure that -- why the words material is
22 material.

23 UNKNOWN SPEAKER: Well, if you look at how it's
24 used over on the next page in 2.1003. It looks as though
25 it's anything that can be put on paper.

1 MR. CAMERON: So, if documentary -- if document is
2 defined in the rule as anything to be -- that can be put on
3 paper, but I guess document is defined as anything that's
4 recorded. That couldn't mean on --

5 MS. NEWBURY: Well, if you look at (b)(1) it says
6 -- oh, I hate to get picky here. In (b)(1) it says,
7 "Graphic oriented documentary material that includes raw
8 data, computer runs" --

9 MR. CAMERON: Yeah.

10 MS. NEWBURY: So documentary material includes
11 things that I would never cite in a license application like
12 raw data.

13 UNKNOWN SPEAKER: Where would you cite it?

14 MS. NEWBURY: I wouldn't be citing the raw data
15 directly. I would be citing the (indiscernible) references
16 (indiscernible) that information. So -- sounds like you
17 need to work on this definition. I just wanted the last
18 clause taken out, that's all I want.

19 MR. CAMERON: I know. I know. You started on it.
20 Well, if -- and I would just ask all of you in your written
21 comments if you have some suggestions about how this might
22 be made. I don't think we're talking -- this particular
23 issue is not really a substantive issue. It's more the --
24 is it the proper way to phrase it issue. So if you have any
25 suggestions -- how's that?

1 CHAIRMAN HOYLE: Okay. That's fine. Thank you.
2 Okay, then, let's move into the afternoon session with the
3 cost and equity concerns. Our discussion leader is Dan
4 Graser.

5 MR. GRASER: Thank you, John. As John just
6 indicated, this is really a discussion topic and I have just
7 gone through some of the operationally focused issues that
8 could potentially translate into dollar and cent sorts of
9 issues for the participants. And as we touched on this
10 morning, could possibly also raise some issues in terms of,
11 well, exactly who has access to which information at which
12 point in time. In terms of going through this, I just
13 simply tried to contrast some thinking points that should
14 trigger you to grasp on something and then launch into a
15 discussion on that.

16 So let's go into the things that I pulled out
17 here. In terms of the old -- or the current rule -- and we
18 should probably clarify this. It's the current rule and the
19 proposed version of the rule, in spite of what my handout
20 says. In the current version of the rule, the
21 responsibility for design of the system would have been
22 vested with the Department of Energy. Under this approach,
23 there is a potential for more latitude that participants
24 that -- who would bring up their own web site could have the
25 potential for having different hardware, different software,

1 different user interfaces. And we touched on this morning
2 that that could pose an issue that might have to be worked
3 out in some technical level of detail. In terms of whether
4 or not people wanted to have one search, have one look and
5 touch and feel in terms of the interface screens. And it
6 may be appropriate for a technical group to go off and focus
7 on those particular issues, if they are a particular
8 concern.

9 The -- another aspect is that in the current rule,
10 we could have anticipated that when the system came up, the
11 system came up. And since there was a unified system, the
12 date came up was a single, unitary event. The rule -- in
13 the proposed rule, different participants may, because of
14 schedule and funding resource type issues, have opportunity
15 to bring their systems up at different points in time. And
16 it may be something that the panel wants to look at in terms
17 of saying, is that acceptable or do we want to say a no
18 later than date or everybody should try to bring it up by a
19 fixed date.

20 So right now, there's nothing definitive we could
21 really say in terms of a date on which all of the
22 collections would all be coming up for the participants and
23 then general public have access to the information. And if
24 that is a concern, that should be something that the panel
25 probably wants to look at and determine whether or not some

1 further guidance needs to be given to the system developers
2 to try to get a schedule consolidated.

3 Under the old -- the current version of the rule,
4 the LSS administrator would have had an operation that would
5 have been responsible for doing scanning of the bit-map
6 images, OCR conversion, and document cataloging for some of
7 the potential parties' collections. If those parties -- the
8 rule gave them the option of submitting the paper and the
9 conversion would have been done under the auspices of the
10 LSS administrator. And unless some agreements are reached
11 otherwise, we need to look at this new environment. If we
12 were to say that all the parties were going to be
13 responsible for their own web site, there's an implication
14 there that you would also be responsible for your conversion
15 and processing costs, and unless some other sorts of
16 understandings are reached, that this could be a potential
17 cost impact on the participants and it's something that the
18 members of the panel might want to look at very closely.

19 Under the current rule, the nuclear regulatory
20 commission would have essentially been responsible for the
21 long term system operation, and under the proposed rule, the
22 long term system operation again becomes a question of
23 individual responsibility for those cost items. And I raise
24 that point because this is a long term commitment and I'm
25 presuming that once you would bring your site up, you want

1 to make sure that you don't run out of funds and have to
2 bring the site down. We haven't even thought about what
3 that would mean if somebody, because of financial resources,
4 had to essentially pull the plug on their access to their
5 collection simply because they couldn't find the long term
6 resources to fund that. So there's some long term
7 commitment issues that you want to look at in terms of this
8 approach.

9 Under the current rule, the design of the system
10 would have taken care of the issue of processing duplicate
11 documents and keeping duplicate documents out of the system.
12 This had some performance issues and some user satisfaction
13 issues in terms of saying, if that document happened to have
14 been put in not just by the author of the document but it
15 was included as an attachment to somebody else's document,
16 the LSS administrator would have been responsible for
17 pointing all of the documents toward one version of it so
18 that we didn't have six different -- six versions of the
19 same document floating around in the system. And we
20 wouldn't want to have the users getting retrievals back with
21 the same document over and over and over and over again.

22 If, in fact, there are going to be multiple
23 collections, we would have a situation where each party
24 would be responsible for taking a complete package and
25 making it available on its home page or web site. And if

1 that's the case, then you could expect that some documents
2 that show up in every collection will have to be processed
3 multiple times. And from a search and retrieval point of
4 view, if you did a broad search across the -- all of the
5 collections, you potentially would get that same document
6 back a few times.

7 I haven't done any analysis of how big that
8 problem could be. I don't think anybody has really looked
9 at the issue of cross-coverage in various collections yet.
10 But it's a potential issue and I'm just raising it to your
11 attention.

12 The other sorts of things the LSS administrator
13 would have performed would have been to go through and look
14 at attachments and cross-references and so forth and set
15 those cross-references and attachment pointers so that we
16 had only one version of documents and didn't have all that
17 duplication. And as I indicated, essentially each web
18 collection would have to be self-referencing of everything
19 that you're putting to support your collection of materials
20 so those duplicates would be in there as attachments. And
21 the participants would be responsible for maintaining those
22 pointers, cross-reference, attachments, however it's handled
23 technically.

24 There's a fair amount of cost involved with doing
25 that sort of a technical operation. In the current rule

1 under Central Unitary System, the LSS Administrator would
2 have been responsible for insuring doing quality assurance
3 on the completeness of the data and insuring that technical
4 standards were adhered to, and there is a potential in a
5 distributed sort of environment that the various
6 participants would then be responsible for quality
7 assurance, not just in terms of the accuracy of the text
8 conversion or whatever it may be, but also making sure that
9 the database collection maintains its integrity, its
10 internal integrity, that backup procedures are there. So
11 there's a whole raft of technical issues in terms of making
12 sure that these collections maintain their -- an acceptable
13 level of usability when it comes time to use those
14 collections.

15 In the current world, the LSS Administrator would
16 be responsible for insuring that the system was available,
17 and that if by monitoring the system, the LSS Administrator
18 found that we were getting much more system usage, or
19 response time was slowing down, we needed more storage, we
20 needed faster computers, bigger telecommunication lines,
21 that would have been the responsibility of the LSS
22 Administrator, to identify and anticipate that those
23 resources would be necessary, and to fix the problem, so
24 that if you had a performance issue, it was one-stop
25 shopping. You could go to the LSS Administrator and get

1 those things straightened up.

2 And the availability and access to more resources,
3 bigger computers, more disk storage, and so forth, in a
4 distributed environment, that would then become the
5 responsibility of each of the home page owners.

6 Now, all of these issues really point toward the
7 question of -- which are the bottom line bullets on the
8 handout I put out there -- these all point to the issue of
9 funding and having access to a fairly steady stream of
10 money, once you do make the commitment to go in that
11 direction, to be sure that long-term commitment and the cost
12 of putting the systems up, and maintaining the systems, and
13 making sure that they are usable to the users.

14 In the current version of the rule and the
15 discussions we had had with the Department of Energy and had
16 presented to the ARP a couple years back, we had gotten to
17 the point where we felt that a memorandum of understanding
18 could have been established between D.O.E. and the Nuclear
19 Regulatory Commission, to make operating funds available to
20 the LSS Administrator, and since it was a single point of
21 management administration of the system, the throw of money
22 via this memorandum of agreement or memorandum of
23 understanding would have sufficient to cover all of the
24 operational concerns and contingencies, and obviously under
25 an approach where the various parties may undertake to

1 maintain their own collections on their machines, it then
2 comes back to a question of, "Well, how does the money then
3 get channeled?" And grappling with that issue may cause
4 some discussion about, well, okay, are there other
5 opportunities, or is there a potential, for example, DOE and
6 NRC to play host, if you will, to the collections of other
7 participants, and try to minimize this potential financial
8 funding issue,
9 so, you know, I raised those points as discussion points for
10 the group, and depending on the situations and the
11 sensitivities, you know, I feel whoever has some particular
12 items that they'd like to hone on in, that may appear to be
13 a cornerstone or a keystone issue, that we'd want to
14 entertain the discussion at this point on these sorts of
15 issues, and if you had other thoughts that I didn't cover
16 here, but have come out in earlier discussions today, by all
17 means, you know, throw those out on the table as well.

18 So that is essentially the sorts of issues that I
19 was looking at from an operations point of view that would
20 be different from the current version of the rule versus
21 what's in the proposed rule, and some of those ramifications
22 that we don't think all the way through, where there is some
23 potential here -- I believe all of them could be addressed
24 with, you know, some teams that are focused on solving these
25 problems and exploring what can be done to overcome these.

1 I don't think any of them are insurmountable, but certainly
2 a large number of ways to skin the cat here, and I think
3 that's the sort of feedback we're looking for. If anybody
4 has thoughts about what the issues are and what might be
5 feasible, we'd certainly like to hear your discussion on
6 that issue at this point. That's basically all I had on it,
7 John.

8 CHAIRMAN HOYLE: Okay. Thanks, Dan.

9 Discussion? Steve?

10 MR. FRISHMAN: It should be obvious that we have a
11 real concern about being able to have plenty of indians, and
12 I recall way back at the beginning, there was a provision,
13 Intensive R-60, that allowed for protective states to get
14 grants from the NRC for oversight, and that was removed from
15 the understanding was that the Department of Energy would
16 take its responsibility, and would be responsible for that,
17 so the NRC doesn't do that any more. Now, we may need
18 something in this room to assure that at least the named
19 parts, if they do not receive the money sufficient to
20 participate in the LSS, and that's not just hardware and
21 software, but it's people being able to (indiscernible) it,
22 if that money is not sufficient or available from the
23 Department of Energy, from the (indiscernible), then the
24 party should be funded by the NRC out of its
25 (indiscernible). I don't know how long we're going to

1 continue to be harassed and isolated, but my guess is, that
2 I would assume (indiscernible).

3 MS. WINSBERG: Well, we did have in the
4 supplementary material for this proposed rule, the provision
5 about -- that we mentioned earlier, that the parties could
6 provide their documents to the NRC if they were not able to
7 maintain availability themselves.

8 MR. FRISHMAN: It's more than obvious -- from the
9 parties' side, it's more than just putting a stack of paper
10 in the mail. Somebody has got to keep track of what it is,
11 you've got to have an ongoing operation if you're going to
12 be a party, and in our particular case, we're a named party
13 already, and the state is not going to look favorably on
14 having to spend the kind of money that it takes, not only
15 just to participate in this, but to participate as a party.
16 The state is not going to be pleased to have to spend that
17 kind of money for something that we never asked for in the
18 first place, and that's a (indiscernible) in the Nuclear
19 (indiscernible) Police Act. It's just that there are people
20 who prefer to not believe that an imposition like this is
21 okay. So I -- I'd just make the case that somewhere in this
22 world, it's got to be more than just if a party can't do the
23 hardware and software, that you can send your paper to the
24 NRC and they'll do that hardware, because there's way more
25 to it than that.

1 MR. THOMAS: Well, I think the same argument
2 (indiscernible) for the public, where, you know, obviously
3 the public isn't named as a party, but various individuals
4 or organizations could wind up qualifying as a party when it
5 came down to it, but in an ongoing sense, the public is
6 always fighting to keep up, and has sort of an adversarial
7 relationship with any of the government agencies, and I
8 can't imagine, by any stretch of the imagination, that the
9 public would agree in any way to send stuff that they
10 thought was extremely important to the NRC and the DOE,
11 because you see them both as people that are entities that
12 are fighting for their own safety, well-being, whatever. So
13 with something like this, it becomes rather (indiscernible).

14 Well, the point -- this is a point that holds true
15 for everybody. The possibility of sending the documents to
16 NRC or DOE to have a little portion of that web site for
17 Nevada or whomever, that doesn't really solve the problem.
18 I mean, there may be reasons why people don't want to have
19 the NRC or DOE have their documents; therefore, there should
20 be -- consequently, there should be funding to put together
21 these web sites for people, and I guess I'd like to hear
22 from other potential parties around the table.

23 I just would note that one of the things that we
24 always run into with the NRC is the prohibition in our
25 Appropriations Act against funding of intervenors, which is

1 read very, very broadly, so that's something that we need to
2 throw into the whole mix here about how do we accomplish
3 that. But, I don't know, Pete, Dennis, do you, you know,
4 have any thoughts on this issue?

5 MR. BECHTEL: I think it's a -- there's always a
6 question about insuring that all parties are -- the parties
7 who think they're (indiscernible) are able to participate,
8 and that, of course, would entail funding, and if they don't
9 have funding, they can't do it, so I -- I mean, I don't know
10 what the proper mechanism is, but that enters into the mix
11 of, you know, things that need to be considered.

12 MR. CAMERON: In the City of Las Vegas, we're not
13 directly funded by the federal government. Our grant was
14 from the State of Nevada, but they're out of money and now
15 our county's helping us out to help defray overhead costs.
16 I think I probably agree with Dennis, they're might need to
17 be a mechanism somewhere to help defray the costs of setting
18 up a web page specifically for entry of documents in this
19 whole process. I mean, we probably already have web pages
20 already in existence, but they've kind of like -- you know,
21 they talk about the city, they don't talk about this issue,
22 so I would foresee the city having two positions -- having
23 two web pages, if we actually ever got into this, as a
24 participant and wanted to enter documents. I don't know how
25 we'd do that, based on the money that we get now.

1 FEMALE VOICE: We also don't all have web pages.
2 We don't all have web pages.

3 CHAIRMAN HOYLE: Tom Bound? Any comments from
4 (indiscernible) county's perspective on this?

5 MR. MURPHY: Well, you know, I think that the
6 issue that Steve raises is probably, you know -- is
7 legitimate. It goes deeper than just a web page. I think
8 what Steve is referring to is the ability to participate
9 effectively in the licensing processing, not just the web
10 page, and we recognize that the NRC has had the restrictive
11 language in the corporations goes (indiscernible) against
12 funding in arrears. It's a legitimate, serious issue for
13 all of us. I mean, we were lucky enough to get our funding
14 restored, the state did not, so we don't have an immediate
15 standing in that regard, I guess, which -- but it's
16 something -- certainly something that we are all concerned
17 about, and it would be nice if we could (indiscernible)
18 that, especially over the long term. If we have to maintain
19 these web sites, for example, for 50 or 100 years of a
20 post-licensing performance confirmation period, and yet the
21 oversight funding gets cut off on the day the license is
22 issued, those are matters of some concern.

23 MR. CAMERON: This is a matter -- this issue has
24 broad implications. The cost -- the price of getting into
25 the licensing procedure here in this case is to have this

1 web page. Somewhere along the line, at least when you want
2 -- when the license application is filed, you have to have
3 your documents up electronically, and otherwise you can't
4 participate in the licensing proceeding, and we're moving,
5 and I think that the gentlemen that are here from the
6 licensing board now could attest to this, is that we're
7 moving more and more to requirements to submit
8 electronically, to participate in a particular proceeding.
9 These are costs that it's sort of an assumption that people
10 that will want to participate in litigation are going to
11 have to bear these types of costs. There's a broader,
12 underlying issue going on here that we need to address. I
13 don't know. Tony, do you want to make any comments? You
14 don't have to, if you don't want to make any comments on
15 this particular issue.

16 MR. COTTER: On the web page, you mean?

17 MR. CAMERON: On the whole -- the broader issue of
18 what costs are litigants having to assume to participate in
19 litigation now that's more electronically oriented.

20 MR. COTTER: Well, my impression is that they're
21 not significantly greater, because most people are equipped
22 with personal computers, and in those instances where there
23 are (indiscernible) --

24 MR. CAMERON: I'm not going to get into this.

25 MR. COTTER: My impression in general is that the

1 costs are not considerably greater because of the -- I think
2 a number of people with a computer at home is going from 11
3 million to 36 million these days. In those instances where
4 large cases are being handled by electronic filing, the
5 costing factor can go down because the cost of duplicating
6 and mailing is eliminated, if it's done electronically.
7 (Indiscernible) which we just began, a (indiscernible)
8 storage case involving the application for a license to
9 store temporary (indiscernible) depository on
10 (indiscernible) Indian land in Utah, and in that case, the
11 board, as a matter of convenience, has asked all the courts
12 to file and serve all their pleadings by e-mail, and that's
13 been a relatively no cost device which has saved a great
14 deal of time, because you don't -- it eliminates all the
15 time that's required for service of documents that require
16 two subpart (g) rule builds in "x" number of days or weeks,
17 or whatnot, for the exchange of documents, so it can be a
18 benefit.

19 MR. THOMAS: That's when you're talking about
20 parties as government agencies, whether it's local,
21 regional, national, but it becomes very elitist when you're
22 talking about the people out there, and I'm familiar with
23 the (indiscernible) case, and I'm familiar with tribal
24 members, who are being excluded, some of it because of
25 tribal rule or regulation, tribal set-ups, where their own

1 tribal rules are lousing them up, but also were they not,
2 they have a hard time getting an answering machine in a lot
3 of cases, so this thing does tend to, I suppose, look to
4 some members of the public that see themselves getting
5 further and further and further split off from a system, as
6 -- you know, you read more and more about people just plain
7 getting angry and backing off of the whole thing, and
8 figuring there's a conspiracy out there to get them, and a
9 lot of that kind of thing comes from this, and they're not
10 going to trust DOE to be their representative or to be their
11 -- you know, their party that they deal through. They're
12 not going to trust the NRC. They've got to have people whom
13 they trust, who they feel truly represent them, to be able
14 to do that sort of thing, but it becomes extremely divorced
15 from the person out here that's got a job, a few kids, maybe
16 he has a computer and maybe he does not, to people who get
17 paid, and there's anybody around this table not getting paid
18 to be here, it just becomes something that I don't feel has
19 any sort of relevance to how we say we operate our
20 government and its positions.

21 MR. GREEVES: At some point in time, there's going
22 to be a situation where the official docket exists, and
23 everybody's going to have to rely on that process. I mean,
24 there's actually -- the way the rule is set now, it's the
25 secretary who maintains that file, not the staff, it's the

1 secretary. So there's going to come a point in time where
2 you do have to trust something, and it's going to be
3 maintained by the secretary as part of this process, so
4 would that not provide some relief at some point in time in
5 terms of people maintaining web pages, if this material is
6 docketed? Is that a question?

7 MR. CAMERON: The file that the secretary is going
8 to maintain is -- will be composed of that much smaller set
9 of documents that have been allowed into evidence, but in
10 order for, for example, Judy's group to participate in the
11 licensing proceeding, they will need to make their documents
12 available. In other words, their documentary material will
13 have to be available to other parties in the proceeding, and
14 that would not be a cost or a function that would normally
15 be borne by the secretary. Now, you know, we might say
16 that --

17 CHAIRMAN HOYLE: They're the same.

18 MR. CAMERON: What is the same, John?

19 CHAIRMAN HOYLE: To the extent that they are the
20 same --

21 MR. CAMERON: Yeah, but they probably have a --
22 they will have to be in electronic form for discovery
23 purposes before they're even proposed as a potential
24 exhibit, and -- I mean, there may not be. I mean, we don't
25 know, with the proceeding, when this finally gets close

1 enough to be a reality, we don't know what the proceeding
2 might be. There might be a coalition of environmental or
3 activist groups that decide to pool their resources to be
4 parties; okay? And they might have research studies that
5 they've done, whatever, and when you have that coalition of
6 parties do the -- if we assume that all the documents of all
7 the documentary material of those parties would have to be
8 in the system, so, I mean, it could be -- it could be
9 costly, and right now it seems like there are three options
10 that we've identified.

11 One is the proposed -- the option in the proposed
12 rule, which is send them to NRC or DOE, and we'll take care
13 of that for you, and keep sending them throughout the -- you
14 know, how many years this whole business is going take,
15 through closure, the depository, or whatever. Judy and
16 Steve both have, I think, brought up some points that would
17 mitigate against someone wanting to do that.

18 The other option, and this is perhaps what Tony
19 was saying -- not espousing, but what he was referring to,
20 which is -- is that this is not a great cost, an
21 extraordinary cost, a cost that parties would incur anyway,
22 just in terms of keeping track of their documents.
23 Therefore, this is the price of participating in this
24 litigation; okay?

25 We've also heard some points about that particular

1 option.

2 The other option is, is let's provide -- let's
3 make sure that there's funding available for this, and I
4 guess that's the one that would -- might be -- it certainly
5 wouldn't be the easiest necessarily, but it would seem to
6 answer all the objections to the other options, but people
7 might have objections to that option just in and of itself.
8 I don't know how we would go about doing that, if funding
9 wasn't available to do this. What would that mean in terms
10 of the licensing proceeding? Would the funds only go to
11 certain parties, or would they go to all parties, and --
12 Steve?

13 MR. KRAFT: As you catalog all these questions,
14 I'd recommend again, you go back to the fundamental precepts
15 that were in the original rule. You're not trying to change
16 those, and they are based on some fundamental precepts in
17 subpart (g) that you're not trying to change, you're just
18 trying to make it easier to do certain things in the context
19 of the repository program; okay?

20 Earlier in the day, John pointed out where the
21 public's rights are and aren't. The public, per se, is not
22 a party to any proceeding. There is a price to enter a
23 proceeding, whether you are under subpart (g), subpart (j),
24 or any other subpart of any other regulation, and those,
25 according to what we just heard from Tony, they might be

1 less expensive in the electronic world than in the
2 non-electronic world. So those are the things -- I just --
3 without taking positions on any of these things, just -- you
4 don't allow yourselves, as you rewrite the rule, to get
5 merely across what you're trying to get, you know,
6 technologically in tune here, as opposed to where we were 10
7 years ago, have to rethink all of the fundamental precepts
8 that were in the original rule, unless the technology that
9 you want to change to requires that. I mean, the public is
10 -- in the old system -- on the old system -- I mean, if
11 someone didn't want to deal with the NRC because they didn't
12 trust them, they had to deal with them on the old system.
13 The NRC was going to put (indiscernible) in the old system.
14 You weren't going to put them in yourself, you were going to
15 send it to the NRC, weren't you? You had to send certain
16 formats, but NRC was going to put them in. Why is it
17 different now that it's a disbursed system versus a
18 centralized system?

19 MR. THOMAS: People went to their reading room.

20 MR. KRAFT: They can go to their reading room now,
21 but you set it internal, instead of in front of a library
22 shelf. The public's not being denied any rights it had
23 under the original version of (j) or any right it had under
24 (g), as far as I can figure out.

25 Now, the question of funding that Steve raised,

1 that's a very real question. You know, I can't offer a
2 solution to that at this point. This Congress is the one
3 that's telling us how that's getting done, but that's a very
4 real question.

5 The question I asked before, about the level of
6 sophistication and resources, I -- during the morning
7 discussion, I wrote down a phrase here on my pad, "We're in
8 a free agent system now." You know, the party that can buy
9 the best and the biggest system, you know. You're going to
10 be the New York Yankees or you're going to be the Kansas
11 City Royals. No one's going to be the Cleveland Indians.
12 Don't worry about that. But my point, that's where I got
13 concerned, that the fact that you -- now, with the
14 centralized system, it leveled that playing field. You had
15 to provide a document, in a certain format, electronically,
16 and the LSSA handled it from there. I mean, you had certain
17 access with terminals and what have you. Well, the world
18 has marched on. It's not a disbursed system, and in these
19 -- this list is a very good list. I mean, there's probably
20 more we can think of, and I worry, as much as I support the
21 change in the technology, I worry about raising licensing
22 issues in the proceeding as to whether or not this
23 difference prejudiced certain parties that will become
24 issues in of themselves. It had to be adjudicated in the
25 proceeding. That's what I was getting at before, and I

1 think that (indiscernible) did a great job on that, and very
2 good points were raised by Steve.

3 CHAIRMAN HOYLE: Loretta?

4 MS. METOXEN: Well, I should jump in here. I just
5 have a very short comment. I want to thank Judy for her
6 observation in terms of what would be available to tribes to
7 participate, and my main concern -- and I've said this to
8 others -- is that -- is one of equity in the participation,
9 and I would be afraid also of problems arising after the
10 fact of installing something where tribes would not have
11 equitable access.

12 MR. CUMMINGS: Yeah. I would think that you would
13 have the same -- it would have the same kind of equity
14 concerns, and it's interesting to think about what Steve was
15 saying about the existing rule and the level playing field
16 provided by a centralized system. Under the existing rule,
17 the NRC, in terms of the other parties, not in terms of DOE,
18 but in terms of the other potential parties, the NRC,
19 through the LSS Administrator, was going to take all of the
20 -- at least the backlog; okay, and make sure it was in the
21 system electronically. For records and documents, stuff,
22 things, whatever was going on, that were created after a
23 potential party had access to the LSS, the cost of putting
24 that into electronic form would be borne by the party; okay?
25 It would be sent to the LSS Administrator for loading.

1 Under the proposed version of the rule, basically
2 we're saying that if you don't want to create your own web
3 site, that you can send it to the NRC much the same as under
4 the existing rule, where you send your documents to the
5 LSSA, to load it into a central system. So I'm not sure
6 that this isn't -- this is not despondent of anything, but
7 I'm not sure it's going to be much difference in this regard
8 between what's in the existing rule and what's in the
9 proposed rule.

10 CHAIRMAN HOYLE: Yeah. I appreciate that
11 explanation, Chip, but I guess I do want to comment that, I
12 think what Judy is saying is, maybe as the technology has
13 changed over the years, people's perception of NRC has
14 changed over the years, and maybe they're not so willing to
15 follow the old rule, and give the NRC the documents, so
16 that's probably something that has happened, too, with our
17 own credibility, but, yes, basically the -- we're not
18 changing the rule in that regard.

19 MR. THOMAS: Yeah. I'm not sure that they would
20 be unwilling to do that. I don't know. I was just
21 surmising, but if other parties were playing in a bigger
22 way, it would seem as though the public was at a
23 disadvantage.

24 MS. NEWBURY: John? If I might remind people,
25 there is a Pre-License Application Presiding Officer who is

1 there to protect, if parties are giving material to the NRC
2 or the DOE, to protect those people's rights, in a sense,
3 because he knows that you've given us the documents, and
4 they better be up wherever they're supposed to be. There's
5 no -- no hiding anything any more.

6 MR. CAMERON: Is there anything that we need to do
7 to the presiding officer provisions in the rule to provide
8 more assurance to people that provide their documents to the
9 NRC for loading? It may be that we have everything there,
10 but that's a good point. I mean, there's is some protection
11 through the independent (indiscernible) function.

12 MR. KRAFT: Well, you moved on. That's fine.

13 CHAIRMAN HOYLE: Are we off that?

14 MR. MURPHY: I want to talk about something else
15 that's on this list, but I don't want to cut off this --

16 MR. KRAFT: I wanted to ask Judy a question. It's
17 not -- I'm having a hard time understanding. The public --
18 you seem to be -- you seem to be positing the idea, the
19 public is going to feel somehow left out or mistreated
20 because everybody else or parties in the process have all
21 these great electronic systems in order to do the back and
22 forth and the docket, and they will have -- be able to read
23 it in some manner, through either perhaps their home PC, or
24 certainly the one at the library. I'm having a hard time
25 understanding how that is any different, if this technology

1 never existed and we were back in the paper system. The
2 public would still have to go to a library and read the
3 paper. They'd still be subject to not being a party the way
4 everyone else is a party. They still would not have the
5 lawyers and engineers and scientists. I mean, I just -- I'm
6 not sure -- I understand the point you're making about the
7 parties being treated differently because of the resources,
8 but I don't understand the public. The public is the same,
9 and I can even argue that they're somewhat better off,
10 because some of them have home PC's they can tie into the
11 system, and sit at home and read the documents rather than
12 go into the local library, but I can't understand how the
13 public -- unless the public somehow is now fearing the
14 electronic aspect of it more so than it feared the paper
15 aspect of it. I'm sorry, I mean, that's the question I
16 have. I don't know why the public is being portrayed
17 differently under this circumstance than they would have
18 been under a paper circumstance.

19 MR. CAMERON: We still need to get to this public
20 access issue, but I wasn't sure that Judy was talking about
21 the public from that point of view, but just in terms of
22 people in the public who wanted to be parties to the
23 hearing, but you did raise an interesting point in that
24 regard, is that the benefit of this system to a party is
25 that they will have electronic access, full text search

1 capabilities, to all the documents of the other parties and
2 the license applicant and NRC, instead of having to stand
3 the great amounts of money that are required to do hard copy
4 discovery, so that actually the costs of building your part
5 of the system may greatly be outweighed by the access that's
6 given electronically to the other parts of the system, and
7 that's another thing to --

8 MS. TREICHEL: Well, yes. I guess it's going to
9 come back to access, because you're right, it's not
10 substantially different from other licensing situations
11 where there's always been problems in my mind with the
12 importance, or lack thereof, given to public opinion, and we
13 don't solve that here. That's just an inherent part of the
14 problem that's already there, but then we're going to come
15 down to the access question, I guess, later, so that's fine.

16 CHAIRMAN HOYLE: Okay. Mal?

17 MR. MURPHY: I just wanted to make a couple of
18 brief comments on the problem of duplicates that Dan
19 referenced. I don't particularly see that as a significant
20 problem. I don't see, for example -- I don't read the rule
21 as requiring Nye County, if we were going to rely on or use,
22 in the licensing, the (indiscernible), or documents, and we
23 will use many of them. I don't see this rule requiring Nye
24 County to re-input the same DOE documents or NRC documents
25 that the DOE has put it in, so -- everybody's going to rely

1 on, you know, in one sense of the word, what we're going to
2 use in licensing the TSPA and probably the IPA and from the
3 NRC, and those kind of things, but I don't see any need in
4 this rule for Nicon to re-input the TSPA. So I don't think
5 there will be that much duplication, and if there's some, so
6 what? Big deal. Sometimes two versions of the same
7 document are even critically significant in litigation. I
8 don't -- you know, I know that you want to -- in the old
9 days, we wanted to sort of cleanse the system of having
10 everybody submitting the same pieces of correspondence, and
11 the same copies of NRC reports, and CMWRE stuff, and I don't
12 think we're going to be doing that too much, and what little
13 there will be, I wouldn't spend any NRC resources worrying
14 about it, if I were you guys.

15 CHAIRMAN HOYLE: I think perhaps we were referring
16 to the inadvertent duplication. I know you -- I think
17 there's going to be so little of that.

18 MS. NEWBURY: If there's an overall --
19 (indiscernible) documents that are going to be going into
20 this monster, one monster and nine little ones, I don't
21 know, whatever, but even in terms of the total documents, I
22 think the number of real (indiscernible) is going to be
23 relatively insignificant. I just don't think we should
24 worry too much about it.

25 CHAIRMAN HOYLE: Yeah. I think that's a good

1 point. I have a feeling that there are already duplicates
2 in our own systems. I think --

3 FEMALE VOICE: We're doing our best to get rid of
4 them, but there are --

5 CHAIRMAN HOYLE: Yes. I think we're all into
6 that.

7 MR. MURPHY: But it would cost more to go in and
8 find those duplicates and get rid of them, than it would be
9 to just pump those suckers through a scanner and get them
10 into the system. You know what I mean? You'd spend
11 thousands of dollars looking for duplicates, hundreds of
12 thousands of dollars looking for duplicates that have no
13 effect on the licensing process. The heck with it. Let
14 them go.

15 CHAIRMAN HOYLE: Okay. Any other points on the --
16 any other discussion of the constant equity concerns? Yes?

17 MS. NEWBURY: On the multiple system coming
18 on-line on different schedules, since you've clearly defined
19 the period in which this occurs, which is the -- now defined
20 as a pre-license application that starts with the site
21 recommendation going from the President to Congress, isn't
22 that the point at which all the systems would come online,
23 if people had agreed that they were going to be parties? So
24 there really isn't a --

25 MR. GRASER: Well, if you look at the exact

1 language of that, it says, "beginning with the pre-license
2 application phase."

3 MS. NEWBURY: Right. And if we all know we're
4 parties, you would think that we would come online then,
5 unless for some reason they haven't cited? I'm wondering if
6 it's a problem, or what?

7 MR. GRASER: It would be beginning in that point
8 in time. You know, you shall make it available to other
9 potential parties. We have to have a point of entrance.

10 MR. FRISHMAN: The way I see it, it has to --
11 everything has to be there at the time of the license
12 application.

13 MR. CAMERON: Otherwise, you don't get access to
14 any of the other nodes, but you can still come in the
15 compliance later, so that you can participate in the
16 licensing.

17 MR. FRISHMAN: At a later time.

18 MR. CAMERON: Right.

19 MS. NEWBURY: But is it perceived as a problem, or
20 is it just an, "Oh, by the way, this is going to happen"?

21 MR. GRASER: Well, I just wanted to make sure that
22 people understood, that there was a potential for pieces of
23 the system to be coming up on slightly different schedules,
24 and the (indiscernible) and the populating of those
25 databases could be coming up, perhaps, at slightly different

1 points of time, and if there's not a particular issue to
2 anybody, that's fine. I just wanted -- it is a distinction
3 from saying I have a centralized system, and starting on
4 this day, we start business because one person can say,
5 "Flip on the switch," and you're in business. If, in fact,
6 you have a couple of different systems comprising the
7 megasystem, some of the little nodes down here may be
8 popping up, not at exactly the same time, and it may be a,
9 "No, never mind," but I just wanted to raise the issue.

10 MR. FRISHMAN: Here it all is, the different
11 license applications.

12 MR. GRASER: That was true under the old one as
13 well. It was going to be continually updated for that time.

14 MR. MURPHY: More likely, it's the day it's
15 docketed. I mean, because the NRC has to look at it, and
16 we're going to talk about this under compliance, I think --

17 MR. GRASER: Right.

18 MR. MURPHY: But at some point in time the
19 Director of NMSS can say, "Nope. You guys aren't ready.
20 I'm not going to docket the license application because your
21 LSSN is not ready."

22 CHAIRMAN HOYLE: Chip?

23 MR. CAMERON: I don't want to forget that, as part
24 of this, the reason we moved this discussion up earlier is
25 to talk about the whole distinction or difference between

1 what the public gets pre-license application, what the
2 parties get, but I don't want to start with Judy not being
3 here. But this discussion gives me an opportunity to ask
4 did we pick the right point in time. I mean, there's
5 various points. There's the -- when the recommendation goes
6 from DOE to the President; there's the NRC comment on the
7 suitability of the site; there's the viability assessment,
8 which is, you know, too early perhaps. But did we pick the
9 right point in time for this? I think Katherine referred to
10 some of the rationale for picking this time was that it
11 would mean people wouldn't waste a lot of money bringing --
12 putting together the systems for a repository that might not
13 actually be the subject of the license application.

14 So I think it would be useful just for us to hear
15 some comments on this timing issue. Is that the right
16 event, the one we have in the proposed rule?

17 MR. FRISHMAN: I think, for appearances, it
18 probably is not the right event. The right event is when
19 the state's objection is disposed of by Congress in either
20 direction. Because if you take the date of the President's
21 recommendation, what you're doing is presupposing that the
22 state's objection is going to be overwritten.

23 MR. KRAFT: That's just later in time, though.

24 MR. MURPHY: Right. Yeah.

25 MR. CAMERON: So, I mean, if we use the rash --

1 MR. FRISHMAN: In fact, I can't remember what the
2 period of time is. That's a short period of time during
3 which Congress must act.

4 MR. MURPHY: Yeah, it's 30 days or 60 days or
5 something. That just gives everybody an additional period
6 of time to get up and running, right?

7 MR. KRAFT: You don't have to --

8 MS. NEWBURY: But --

9 MR. KRAFT: -- be up and running by this point.

10 MR. MURPHY: No, no, no, no, but to get --

11 MR. KRAFT: It has to be --

12 MR. FRISHMAN: It says you don't have to start
13 until that point.

14 MR. MURPHY: No, no, no, no.

15 MR. KRAFT: A statement was made earlier that --
16 by Katherine, you would hope --

17 MS. NEWBURY: You don't have to flip the switch.

18 MR. KRAFT: -- that they're going to -- the
19 statement made by Katherine, just repeated and -- this date
20 has no legal significance in this context. It's just sort
21 of a bogey. I mean, the date that Steve just cited has no
22 legal significance either. I mean, there may be a date that
23 you guys will determine has some legal significance. The
24 current rule has the six months before something happening
25 LSSA has to certify, and that was so everyone knew, okay,

1 we're on this track as opposed to the other track, and
2 that's where we're going to go. The two -- these two
3 period, either this one or the one Steve cited, are moving
4 targets at best. You don't know when they're going to
5 happen. You don't know how they're going to happen. And
6 you've got to have something in place by that moving target;
7 you're never going to hit it. So, I mean, I suggest picking
8 something that's less moveable and then there has to be a
9 time period, either -- after which. In other words, you're
10 not going to know whether NRC will have accepted the license
11 application by any particular day. They could accept it the
12 day after it's sent in, which is unlikely. It could be six
13 months later, two years later. They could go back and forth
14 a couple of times. You don't know when that is. So at some
15 point in time, you'll say, okay, now we absolutely know
16 we're entering this proceeding, then people are going to
17 have to start using that system.

18 MR. MURPHY: But under this rule, the NRC doesn't
19 accept the license application unless and until DOE can
20 demonstrate that its LSSN is available.

21 MR. KRAFT: So at what point then do you want DOE
22 to start having this LSSN ability?

23 MR. MURPHY: You ought to pick a date. You know,
24 one day -- I mean, Steve's approach is perfectly reasonable,
25 it seems to me. Use the date that Congress, you know, or 10

1 days following the day that Congress acts on the notice of
2 disapproval or pick the date that the President submits the
3 recommendation to Congress. I mean, you're only 30 or 60
4 days apart, somewhere like that. I don't remember. It's
5 not a very long time. But you've got to pick a date.

6 MR. KRAFT: What happens on that date?

7 MS. NEWBURY: Those aren't dates. Those are
8 events.

9 MR. MURPHY: Events, right.

10 MR. KRAFT: Well, what happens at that time?

11 MR. MURPHY: You'd have to have your LSN -- LSSN
12 available so that people can start looking for and
13 downloading documents from it.

14 MR. CAMERON: That's the legal significance.

15 MR. FRISHMAN: That's the day the pre-licensing --
16 or the pre-license application presiding officer goes to
17 work.

18 MR. KRAFT: So the LSSN has to be available prior
19 to?

20 MR. MURPHY: Right.

21 MR. CAMERON: And the question is is how much of
22 this goes to -- some of this question relates to the public
23 access discussion that we're going to have. Other parts of
24 it relate to the function -- how much of a function should
25 the LSS serve to help prepare people for hearing. In other

1 words, how long is there going to be between these events
2 and when the license application comes in so that people can
3 actually be using all of the material that's in the DOE
4 portion of this. In other words, if it's a -- if you have
5 to have a system up to get access to DOE's system, I mean,
6 you probably want to -- I mean, how much time do you need?
7 How long do you want to be able to take a look at the
8 system?

9 MR. MURPHY: Well, remember -- keep in mind what
10 this whole exercise is all about beginning in 1985, and that
11 is to give the NRC some semblance of a possibility to arrive
12 at a licensing decision within three years or four years,
13 you know. And the quicker you -- and we don't care, you
14 know. My county has no institutional interest in having
15 that license decision made within three years, at least not
16 right now we don't, you know. Who knows, but state of
17 Nevada certainly has no institutional interest in having a
18 quick licensing decision. So one of the fundamental
19 decisions we made early on in negotiations was that the
20 earlier people had access to an LSS, the more likely it
21 became that the interests of DOE and the NRC and the
22 utilities would be served by increasing the possibility of a
23 three- or four-year licensing process. The later you give
24 people access to the LSS, the longer the licensing process
25 is going to take. So it takes seven years. Lot's next to

1 us. We don't care. Steve might care. He's not in the
2 room.

3 MS. TREICHEL: Oh, he wouldn't mind if it was --

4 MR. MURPHY: DOE cares. Claudia cares.

5 MS. TREICHEL: That would be good.

6 MR. MURPHY: Judy doesn't care.

7 MS. TREICHEL: No.

8 MR. CAMERON: But your point is right on.

9 MR. MURPHY: Yeah.

10 MR. CAMERON: It's -- we should pick a date that
11 allows us to achieve that objective but is still practical
12 from the point of view of people having their system --

13 MR. MURPHY: All I'm saying is that you can push
14 back the date or event on which Nye County and Clark County
15 and the State of Nevada are required to have an LSSN
16 available as far as you want. Just keep in mind that the
17 farther back you push it, the least -- less likely you're
18 going to have to accomplish the goal of getting a three- to
19 four-year licensing process.

20 MR. CAMERON: And why don't you put a finer point
21 on that one. Why would that occur?

22 MR. MURPHY: Because, if we -- any participant
23 worth their salt, if we don't have a year, 18 months, 2
24 years, whatever it is, to play with Claudia's material on
25 the LSSN --

1 MR. CAMERON: The information.

2 MR. MURPHY: -- then we're going to start --

3 CHAIRMAN HOYLE: I thought we were playing
4 already.

5 MR. MURPHY: -- we're going to start doing
6 traditional sort of discovery stuff. We're going to start
7 taking depositions and doing all sorts of stuff, and it's
8 going to slow the whole process down.

9 MR. CAMERON: Well, I think what we would -- if we
10 would -- I think the point is here is that you would say
11 that you're -- the traditional discovery rights that you
12 were supposed to have were not being given to you.

13 MR. MURPHY: Well, we've still got some of them
14 left even under this rule. We take depositions.

15 MR. CAMERON: Right.

16 MR. MURPHY: We can take depositions till the
17 pre-licensing -- or the licensing -- you know, the Atomic
18 Safety and Licensing Board tells us to stop because we're
19 becoming redundant. I mean, obviously they're -- you know,
20 they have some control over it, but the point I'm making is
21 that the longer the parties have to see and use and
22 assimilate and analyze the, you know, the material, the
23 data, the information, the stuff, whatever we want to call
24 it that's going to be in the DOE -- and this is the
25 important one, let's face it. I mean, what we put in our

1 web page and what somebody else puts in their web page is
2 not -- the critical information is what DOE puts in. And
3 the longer we have -- and we're not even a critical time
4 path because we're so close to the process. But the longer
5 some other local government or the longer a member of the
6 public, an intervening organization has to use, assimilate,
7 analyze, you know, DOE's data, the more likelihood there'll
8 be that you'll be able to achieve that three-year licensing
9 process. But that's not our problem. I mean, we don't
10 care. We don't care if it takes you --

11 MR. CAMERON: Well, I appreciate your concern.
12 You're not holding back are you, Mal?

13 MS. NEWBURY: We didn't have any problem with when
14 it goes from the President to Congress and --

15 MR. CAMERON: Do you still -- you think that's the
16 best --

17 MS. NEWBURY: I think it's a reasonable time. You
18 know, there are various events that you could choose, but,
19 in that particular case, what we have is we know what our
20 license application's pretty much going to look like at the
21 time the site recommendation goes forward, and we're pretty
22 much complete because there is such a short window between
23 the site recommendation and a license application. We'll
24 have to have it pretty much done. And, at that point, we'll
25 be able to tell you what we're going to be citing and what

1 we're going to be using as supporting information and give
2 you a reasonable basis on which to start judging.

3 MR. CAMERON: Well, you know, it's interesting
4 that -- what you said about, that it's not going to be that
5 long a period between when the recommendation --

6 MS. NEWBURY: Well, by law, who knows how long
7 it'll really be.

8 MR. CAMERON: Well, I'm just wondering, is going
9 back to Mal's point of giving people sufficient time to do
10 document discovery during this period. Is there sufficient
11 time between -- would -- it's the President's recommendation
12 now, not the recommendation from DOE to the President. How
13 much time is there between when the President says, "This is
14 great," and when the license application is going to show up
15 on our doorstep? Maybe it should be when DOE sends the
16 recommendation to the President. I mean, how much time are
17 we talking about?

18 MS. NEWBURY: That's another alternative that
19 would be probably okay. I don't know how long it will
20 bounce back and forth between DOE and the White House before
21 it would finally go through -- forward as well, so --

22 MR. MURPHY: Site characterization would happen on
23 the same day, I think.

24 MR. KRAFT: The day after.

25 MS. NEWBURY: I believe it's a 90-day window. If

1 everything went perfectly, which it won't because Steve's
2 going to make sure it doesn't, so talk to him about the
3 length of time it will take.

4 MR. FRISHMAN: I appreciate your confidence.

5 MS. NEWBURY: If everything went perfectly, it
6 would be a 90-day window from when the President sent it to
7 Congress to when we would have to have something in hand to
8 give to the NRC, but that still is not --

9 MR. MURPHY: Ninety days is not going to cut the
10 mustard.

11 MS. WINSBERG: That's not right.

12 MS. NEWBURY: Isn't that right?

13 MS. WINSBERG: I think that's not right because
14 it's 60 days until -- if the state does not file an
15 objection, it's 60 days before Congress. If --

16 MS. NEWBURY: Okay.

17 MS. WINSBERG: And then you have 90 days --

18 MS. NEWBURY: After that.

19 MS. WINSBERG: -- after that --

20 MS. NEWBURY: Okay.

21 MS. WINSBERG: -- to submit the application. But
22 then, if the state submits it objection, then that whole
23 procedure of considering it, you know, will take however
24 long it takes. It has to be 90 days before -- uninterrupted
25 session before Congress and who knows when, you know, when

1 there will be 90 consecutive days of session. And then --

2 MS. NEWBURY: Okay, that's the 90 days, yeah.

3 MS. WINSBERG: -- DOE has 90 days after that to
4 submit the application. So we were kind of thinking that it
5 would be at least six months at least.

6 MR. FRISHMAN: Well, I only made my suggestion to
7 help you guys save face. If you want to be out there having
8 prejudged that the state's objection is going to be
9 overridden, that's up to you.

10 MS. WINSBERG: It's not prejudging that, it's
11 trying to give the most availability of the documents,
12 balancing, you know --

13 MR. FRISHMAN: But if you don't know there's going
14 to be a license application, why would you do it?

15 MS. WINSBERG: Well, then do you want to wait
16 until there is a license application to have access to the
17 documents? I mean, that whole purpose of the --

18 MR. FRISHMAN: No, I just didn't want you on
19 record setting a date where you assume that there's going to
20 be a license application that is prior to the state having
21 exhausted its remedies under the act itself. What we do
22 after that is entirely new world, but --

23 MR. KRAFT: If that's your concern, that they not
24 be embarrassed, well they can write a paragraph and state
25 considerations and that problem goes away. If the issue is

1 that the potential parties want access, hell, make it
2 tomorrow. It doesn't matter. The issue here is when does
3 Claudia have to have the data on the web for the potential
4 parties to start studying it. Now, everyone at this table,
5 if they're -- most people are -- represent potential
6 parties. You mean you're not studying -- you're purposely
7 not studying it now? You don't know what these documents
8 say to the extent that they're available now? The VA, which
9 is not compliance document but gives you the first insight
10 into where they're going is going to be on -- you don't have
11 to have your own web site to read theirs. So, I mean,
12 docket it today. I mean, just get on with the process. I
13 mean, it doesn't really matter.

14 All I was saying about legal significance is that
15 there's nothing legally requiring you to have the
16 preliminary period begin on any of those events. You're
17 looking for a convenient event. Want a convenient event?
18 Tomorrow's February 25th. That's a convenient event. I'm
19 just -- I'm being flip to try and make the point. It's not
20 a reasonable discussion. Claudia's going to have this
21 information available as it becomes available. All you're
22 really asking is when are the other parties going to have to
23 have their stuff on -- up and running?

24 MR. CAMERON: Then they have to -- you know, in
25 order for them to get --

1 MR. KRAFT: Right.

2 MR. CAMERON: -- access to the non-public part, if
3 -- we still need to have this discussion, okay.

4 MS. NEWBURY: Right.

5 MR. KRAFT: But, Chip, what I'm trying to get is
6 that the issue is that -- not when Claudia at the beginning
7 has to have it available. It's when everyone else has to,
8 as a drop dead date, have it available. And if the State of
9 Nevada doesn't want to have to have theirs available until
10 the absolute last day, that's their choice.

11 MR. CAMERON: And I also think that -- I mean, the
12 NRC -- by setting a date for when people should have access
13 to this before the license application says that they can
14 start getting prepared, NRC isn't making any judgment at all
15 about what Nevada wants to say about the repository. I
16 mean, if you guys come in and object to it and Congress, you
17 know, wipes the slate clean, I mean, you know, that's not
18 consequence to the, you know, to the NRC. We just won't get
19 the license application. That's all.

20 MR. FRISHMAN: Well, my only point is that it has
21 the -- if you use that date, it has the appearance of being
22 a decision date, and it makes it look as if they -- the
23 license application is going to be submitted even though the
24 last step in the process under the statute has not been
25 completed. We have a little problem --

1 MS. NEWBURY: I don't think you've got anywhere
2 around that.

3 MR. FRISHMAN: -- with inevitability around here,
4 and that just feeds it.

5 MS. NEWBURY: Steve, I don't know how you're going
6 to get around it even if we had it like before with six
7 months prior to license application. You have to assume a
8 date for a license application and you're saying we can't do
9 that because we don't know how long it'll take for your
10 litigation, and that's true.

11 MR. FRISHMAN: No, I'm saying you're running your
12 program --

13 MR. MURPHY: You're not talking about --

14 MR. FRISHMAN: -- and you can assume any dates you
15 want to. I don't want to see a presumption that the state
16 is going to be overridden in its objection written into a
17 Nuclear Regulatory Commission rule.

18 MR. MURPHY: Yea, but you're not talking about
19 litigation. You're just talking about Congressional action
20 on the notice of disapproval, right?

21 MR. FRISHMAN: That's all I'm talking about.

22 MR. MURPHY: Yeah. And that's pretty much a date
23 certain. Once the President submits the recommendation to
24 Congress --

25 MR. FRISHMAN: It's over 90 days.

1 MR. MURPHY: They don't -- they've got 90 days to
2 -- it's a fast track. They've got 90 days to -- and if they
3 do nothing, if Congress can't meet the 90 days, it's
4 automatically approved, as I recall. Is that right?

5 MR. FRISHMAN: No, the --

6 MS. NEWBURY: No.

7 MR. FRISHMAN: If Congress does not act in 90
8 days, the state's objection prevails.

9 MS. NEWBURY: Right.

10 MR. MURPHY: That's right, yeah.

11 MR. FRISHMAN: And the state has 60 days to --

12 MS. WINSBERG: There's a big difference.

13 MR. MURPHY: That's right, yeah.

14 MR. FRISHMAN: -- make its objection.

15 MR. MURPHY: But there are no filibuster --
16 there's no filibuster available or anything like that.

17 MR. FRISHMAN: Ninety continuous days of session
18 to act. And if they fail to act, that means they like us way
19 better than we thought.

20 MR. CAMERON: So your --

21 MR. MURPHY: We don't care. I mean, we could care
22 less. You got to pick a date. You got to pick an event.
23 Some -- I mean, the hearing officer's got to have something
24 to enforce. Without having a deadline saying, "All right,
25 that event has passed. You people are now out of

1 compliance, or you're now in compliance." You have to have
2 something, a bright line. Where you put that bright line is
3 immaterial to me.

4 MR. CAMERON: And what you're saying, Steve, just
5 so that we -- I want to make sure, is that, if you put that
6 bright line anywhere before the Congressional review of the
7 state disapproval, that it presumes that the state is going
8 to be overridden?

9 MR. FRISHMAN: Yeah.

10 MR. CAMERON: Okay.

11 MR. FRISHMAN: And just for -- if it's strictly a
12 political observation, and that what you're doing is
13 presuming foreclosure of the statutory process before it's
14 closed.

15 CHAIRMAN HOYLE: Would that apply, Steve, if we
16 found value in a phased activity whereby we would say, "All
17 right, DOE, you have to put yours in. Yours is the largest
18 database, therefore, yours has to be ready earlier than the
19 others"?

20 MR. MURPHY: That's a good idea. Make DOE put
21 theirs in by next --

22 CHAIRMAN HOYLE: By a certain date. NRC by a
23 certain date.

24 MR. MURPHY: You know, by October 1.

25 MR. FRISHMAN: Well, theirs --

1 MR. MURPHY: October 1, '98, and then we've all
2 got until Congressional action to make our --

3 MS. NEWBURY: So who's going to look at it?

4 MS. WINSBERG: Yeah.

5 MR. CAMERON: See, here's -- that's the whole --

6 MR. MURPHY: Well, you know who's going to look at
7 it? You actually have to have it -- you have to have it
8 there for the secretary's recommendation to the President
9 because, otherwise, that data has got to be at least in the
10 hands of the NRC prior to that because, otherwise, the NRC
11 can't do its job to make its statement on the sufficiency of
12 data for a license application. So it seems to me you've
13 got -- DOE's stuff has got to all be there in some
14 accessible form before any of these dates we're talking
15 about.

16 MR. CAMERON: That's true.

17 MR. FRISHMAN: It's got to be there at least by
18 the time of the secretary's recommendation minus whatever
19 time NRC needs to review it.

20 MR. MURPHY: That's true.

21 MR. CAMERON: And it'll also, because of the NRC
22 review, this will be part of, you know, part of the
23 documents that will be available to the public. Maybe we
24 better have this discussion right now because, you know what
25 a lot of this relates to is there's some distinction between

1 what the parties can see and what the public can see. Are
2 we ready for -- ready to start that?

3 CHAIRMAN HOYLE: Yeah, I think so. You look like
4 you're about ready to peel out. I didn't announce any --

5 MR. CAMERON: Go right ahead.

6 CHAIRMAN HOYLE: All right. Let's talk about
7 public accessibility versus participant accessibility.

8 MR. CAMERON: Okay. Just to reiterate some of the
9 things we said before, the existing rule makes a distinction
10 in the pre-license application phase between what the public
11 has access to and what the potential parties have access to.
12 And there might be a lot of documents -- the party -- or the
13 public would have access to only the headers of the
14 documents in the LSS pre-license application. Parties would
15 have full-text access to all of the documents. And one
16 reason for that was, well, that's how we're going to get
17 everybody to put their own documents into the system because
18 then they would have access to it. Theoretically, that if
19 you -- if everybody had access to it, why would they
20 worry -- to access to DOE, why would they worry about
21 putting their own documents in. And, also, it was going to
22 be a centralized system so that, even though a member of the
23 public could go into the DOE public document room or the NRC
24 document room and take a look at those document collections,
25 here was one place where you could not only look at all of

1 these documents but also have full-text search capability of
2 them.

3 Do we really -- do we need to maintain this
4 public/private distinction in the pre-license application
5 phase in order to encourage Nye County, the State, people to
6 put their documents -- their documentary material up on a
7 web site electronically available to us, I guess is what the
8 key is. And the second thing, as Claudia mentioned this
9 morning, is that there was one portion of the table of
10 contents, the indices, that you were not planning to make
11 available to the public but would be available to potential
12 parties in the licensing proceeding.

13 MS. NEWBURY: Right. That would be essentially,
14 as we're talking about, the information that is potentially
15 relevant, in essence. I would like to keep a certain part
16 of it separate and only available to parties. Certainly the
17 headers are available, and through FOIA, the Freedom of
18 Information Act, the public does have access after a
19 fashion. It takes a while longer, but it is there, and it
20 will, I think, provide a little carrot to people to
21 participate in an LSS-type system, LSS and LSN whatever.

22 CHAIRMAN HOYLE: Claudia, you have your own rules
23 for making documents available to the public, do you not,
24 and you have a public reading room?

25 MS. NEWBURY: We do have public reading rooms,

1 yes. And we do have a web site and we do have listing of
2 documents, and we do provide them to people on a regular
3 basis.

4 CHAIRMAN HOYLE: On a regular basis you're
5 releasing documents everyday?

6 MS. NEWBURY: Well, I don't know about everyday,
7 but we're releasing them regularly, yes.

8 CHAIRMAN HOYLE: Where are your public document
9 rooms located?

10 MS. NEWBURY: There's one in DC, I believe. There
11 is one at the Hill -- no, Town Center in Las Vegas, and I
12 believe there's one in Nye -- is there one in Nye County?
13 Beatty actually is our major distribution point. And there
14 are other DOE public reading rooms around the country that
15 would be available.

16 CHAIRMAN HOYLE: NRC, likewise, releases documents
17 on a daily basis, so we're talking about documents that
18 would not normally be in the release -- in the routine
19 release category?

20 MS. NEWBURY: Right.

21 CHAIRMAN HOYLE: That participants would be
22 allowed to have access to but not the public, okay.

23 MR. FRISHMAN: Well, I don't -- this is the place
24 where I think the technology does make the difference
25 because the reason for using the internet is for speed and

1 access. The public has the same machines that we have, if
2 they want to buy them. And there's absolutely no reason why
3 the entire file that's available to participants can't be
4 available to everybody else when the technology exists in
5 everybody's hands to have that happen, and it's certainly no
6 extra cost or effort on the part of the department. This
7 idea of if they want it let them foya (phonetic), well,
8 that's just the same contempt that agencies have for the
9 public all the time. Why would you want to force the public
10 to have to go through what is essentially an adversarial
11 proceeding to get the same information that somebody else
12 can get off the network?

13 Also, if you want -- how are you going to protect
14 it from the public? You're going to give the participants a
15 password? Well, just last week, I got a password from
16 somebody who said, "You need to see what's on this site.
17 Here's the password. Use it."

18 MR. CAMERON: You'd have bus loads of people
19 pulling up to your place.

20 MR. FRISHMAN: No, but this is one place where the
21 technology makes it available to everybody who has the
22 technology, and there is absolutely no reason to make it
23 unavailable to a sector when it costs nothing, requires not
24 extra effort on the part of the DOE.

25 MS. TREICHEL: Well, it's not going to work.

1 That's the bottom line. It just plain won't work because
2 you've got people that come and go from -- and you're
3 talking about so many years of this stuff. People work for
4 NRC. People work for DOE. Around this place, you know,
5 you've got a revolving door over there. People come and
6 they go from all these various things, and, if it's there,
7 they're going to know it. Somebody will get it and, if they
8 think it's a real jewel, they'll publish it like Dan Elsborg
9 (phonetic) did the Pentagon Paper. Not that any of this is
10 that exciting, but I just don't think it's --

11 MR. KRAFT: I thought maybe I was missing
12 something.

13 MS. TREICHEL: Hey, you haven't seen that juicy
14 stuff. No. I think really all you're doing is making
15 enemies. They've selected us to not tell us what this thing
16 is. I mean, you know, this is silly.

17 MR. KRAFT: The issue of legitimate public access,
18 and I -- you know, I find myself agreeing with Steve and
19 Judy again. It's not going to matter. It's not going to
20 matter. The issue of legitimate public access, that is
21 different than the question -- and I completely agree. I
22 don't care. Let everyone read it. I mean, this is an
23 example of where the change-over into technology I believe
24 legitimately calls into question one of the early precepts
25 in the rule, one of the very few. And I -- it's fine. It's

1 not going to change anything one wit. So you ought to do
2 it.

3 But the question Chip asked was, is making public
4 access more of less either way going to encourage potential
5 parties to want to become potential parties. That was the
6 question you asked. You said, "That's why we did it in the
7 first place."

8 MR. CAMERON: Okay.

9 MR. KRAFT: No, it doesn't matter. Parties will
10 be parties. You know who they are within 10 percent. Maybe
11 there's going to be an individual citizen, by nature of
12 where they live, would be -- qualify as -- I don't qualify
13 as a party. I live in Bethesda, Maryland. People who live
14 out here may -- there'll be a couple of people. I mean,
15 it's not going to change that much. We said all these
16 things in all the meetings 10 years ago. Okay, the only
17 difference then was you had a technology that you couldn't
18 make it work with. So my view is that give the public
19 access. It doesn't matter. You're going to have to do some
20 work in creating the fire walls to protect so your data
21 doesn't get mucked up and so is NRC.

22 But the real question you asked, is it going to
23 more or less encourage people? No, it has nothing to do
24 with it.

25 MR. CAMERON: Just to think out loud about the

1 practical aspects, I -- a lot of good points have been made
2 here about this distinction is no longer viable or
3 necessary. If we require that to be a party to the
4 proceeding you have to have met the requirements when you
5 come into the proceeding of the LSN, okay. You have to have
6 your documentary material available for discovery purposes.
7 Now, in going back to Mal's point about the three-year
8 business, if DOE and NRC have their material available in
9 the pre-license application phase, that's what, 90 percent
10 of the document?

11 MR. FRISHMAN: At least. Maybe more than 90.

12 MR. CAMERON: If Judy, the State, Nye County, they
13 don't get their web sites, I mean, who cares about, you
14 know, the date that they're web sites are up. To be a
15 party, they have to have their material available, okay.
16 They -- formal notice of hearing is issued after the
17 docketing of the license application. You all want to come
18 in to be parties and the board is going to look to see
19 whether you've met the LSN rule.

20 What are the implications of that for the
21 objective of expediting the review of the license
22 application by getting document discovery into the
23 prelicense application, period. I mean, are we going to end
24 up if -- in other words, if we don't use the access to DOE's
25 documents as a -- as leverage to get people in the

1 prelicense application to get their documents available,
2 what's that going to do to the whole game in terms of
3 document discovery? I mean -- and I would look to those of
4 you with litigation experience to give us a read on that.
5 Mal, what -- you know, what happens under those
6 circumstances?

7 MR. MURPHY: I think it would do very little --
8 would have very little if any effect because as a practical
9 matter I can't see DOE ever asking for a continuance of the
10 adjudicatory hearing because they didn't have access to some
11 of our documents. I think DOE's -- DOE's interest in
12 getting the hearing when their case is prepared, they're
13 ready to go. They're anxious to getting to hearing, getting
14 the hearing underway and completed and a license app -- or a
15 construction authorization issued as quickly as possible, is
16 so overriding that, you know, I think any problems they
17 might have in discovering some other party's documents,
18 other than the NRC's documents, would be insignificant.

19 MR. CAMERON: Say NRC's documents are there,
20 documentary material, DOE's documents are there and they
21 have been there since the site suitability request to NRC,
22 would someone come into the hearing -- would you come into
23 the hearing for example and say not -- you know you were
24 looking at it from DOE's point of view that we request a
25 delay in the hearing while we can do electronic document

1 discovery of Nevada's documents that just came in? Do you
2 think there's going to -- I mean is this going to -- I'm
3 trying to figure out if this is a big deal or not.

4 MR. FRISHMAN: They'd just as soon we weren't
5 there at all.

6 MR. MURPHY: I don't think it's a big -- what?
7 What's that?

8 MR. FRISHMAN: They'd just as soon we weren't
9 there at all.

10 MR. MURPHY: I don't --

11 MR. FRISHMAN: What do they care --

12 MR. MURPHY: I don't see that as a -- I mean that
13 is not going to be the controlling factor in DOE's mind, I
14 don't think. Now, if during the course of the hearing the
15 State of Nevada, or Clark, or Nye, or anybody else shows up
16 and wants to submit a document in evidence, or call as a
17 witness the author of some report that they've never heard
18 of, at that point in time they're going to say, "Hey, hold
19 it here. We need a recess."

20 MR. CAMERON: So the important point is, is
21 that --

22 MR. MURPHY: But getting the --

23 MR. CAMERON: -- those documents be made available
24 at the beginning of the process so there's no surprise.

25 MR. MURPHY: I think. I think.

1 MR. CAMERON: And that shouldn't delay this.

2 MR. KRAFT: You deal with that -- the old rule
3 dealt with that. You had to have your stuff available by a
4 certain point, didn't you? Isn't that the that --

5 MS. NEWBURY: Everybody did.

6 MR. MURPHY: Yes. Uh-huh, yes. Everybody did.

7 MR. KRAFT: I hear two problems: one is that
8 there's this clandestine group out there that is
9 masquerading as the public, reading everyone's web site and
10 not identifying themselves yet as a party. They're sitting
11 there with a whole army of scientists we have never heard of
12 analyzing the hell out of this stuff, and they're going to
13 roll in at the date of the hearing and say, "We want to be a
14 party too." And they're going to have a web site prepared
15 the size of DOE's that we all have to stop for three years
16 and read.

17 MR. MURPHY: That's not going to happen.

18 MR. KRAFT: Absolutely.

19 MR. MURPHY: Not going to happen.

20 MR. KRAFT: I mean that's -- I made it ridiculous
21 but that's -- but the other part of it is perhaps more
22 important, that people who will be parties, are potential
23 parties, may come in late with their documents, for whatever
24 reason, funding constraints, whatever they are. You have to
25 deal with that in the rule. I mean you can't be a party

1 unless you abide by certain things. And that certain thing
2 could be some date certain, X months after an event. It's
3 got to be after because you don't know when these events
4 will occur, but if you want to be a party, you want to be a
5 party at a prelicensing -- whatever that's called, you have
6 got to have met your requirements. DOE, NRC can be caused
7 in this rule to meet the requirements way earlier. The
8 whole idea of this thing is openness anyway. I mean, if
9 this was a private proceeding and it was a private
10 applicant, yeah, you protect your stuff until you get in --
11 you know, till you file the license application. That's the
12 nature of the proceeding. But this is supposed to avoid all
13 that. So DOE and NRC puts all their stuff in. All other
14 parties can do it earlier but by a date certain, a time
15 certain, after an event. I mean, deal with it that way.

16 MALE VOICE: No later than.

17 MR. MURPHY: No later than, yeah.

18 MR. KRAFT: I mean, that's all you have to do.

19 Because there isn't this clandestine group out there. We've
20 decided that that's pretty ridiculous --

21 MR. CAMERON: And there's no -- there will be
22 no --

23 MR. MURPHY: Well, there may be a mystery group
24 out there, but they aren't going to have a database as big
25 as DOE's. I mean, they're going to have a handful of

1 documents. We could get a --

2 MS. WINSBERG: How key are --

3 MR. MURPHY: No, we could get a some last-minute
4 intervening -- intervenors, but --

5 MR. KRAFT: Isn't there -- is there something in
6 the rule now that says what you do with documents that were
7 not put up in time?

8 MR. MURPHY: Yeah.

9 MR. KRAFT: Maybe there needs to be something --

10 MR. CAMERON: It said if there's something found
11 that should have been in there, then there's provisions to
12 take care of that. I guess there's -- you know, there's
13 always -- you know, you have to anticipate -- we have the
14 presiding officer -- prelicense application presiding
15 officer to rule on disputes over documents in the prelicense
16 application phase, presumably get all those things out of
17 the way. Now, if you're assuming that most of the disputes
18 are going to be about DOE and NRC documents, then all that
19 stuff will be done. Will there -- how much -- I'm just
20 trying to figure, just so that we have it pinned down, how
21 much delay is going to result in the hearing itself from
22 arguments over document discovery about the other parties
23 besides DOE and NRC in -- Mal, you seem to be saying --

24 MR. MURPHY: Not much.

25 MR. CAMERON: Not going to be a big deal.

1 MR. MURPHY: Not significant, no. I don't think
2 it's going to be a big deal.

3 MR. CAMERON: Okay. Any --

4 MR. MURPHY: We give all of our stuff to everybody
5 already anyway. I mean, they're -- you know.

6 MS. NEWBURY: Can I point out one other thing with
7 the public access, because it was just handed to me? The
8 way you design the system will change in effect because with
9 the public in general coming in and getting a lot of hits on
10 the system, you conceivably could have someone downloading
11 huge amounts of data continuously and it would slow the
12 response time for the people who are parties and do care
13 about getting some real research done. And so it's not a
14 matter of whether or not you allow the public to have
15 access, but at what level -- in this particular issue, what
16 kind of speeds are you willing to lose if you don't have a
17 separate kind of a parties' system?

18 MR. MURPHY: We can just have two doors, and the
19 parties go through one door and the public goes through
20 another door.

21 MR. GREEVES: Well, our priority process, if
22 you --

23 MS. NEWBURY: We only have one -- how many
24 computers do you want me to buy?

25 MR. MURPHY: Oh, you guys got so much -- oh,

1 Claudia, come on. You're crying poor while Steve over there
2 eating black beans and bread because he's not been funded by
3 Congress?

4 MR. GREEVES: I thought about it earlier but I
5 didn't want to bring it up. But that's an advantage
6 potentially of being a party that the electronics would set
7 up -- that you would get priority.

8 MR. MURPHY: Sure. Yeah. That's one way to do
9 it.

10 MR. CAMERON: So that's some -- there's some
11 incentive.

12 MR. GREEVES: The system could go on overload, but
13 if you're a party --

14 MR. FRISHMAN: I'm sure this is going to be a real
15 hot number for the public.

16 MR. MURPHY: Yeah, right.

17 MS. TREICHEL: The porno people are going right
18 out of business because this is going to -- yeah, this is
19 going to take over everybody's --

20 MR. MURPHY: Not that you can cut them off.

21 MR. FRISHMAN: There are going to be --

22 MR. CAMERON: Let me ask -- let me ask Judy a
23 question.

24 MR. FRISHMAN: There are people who are going to
25 be very intensely interested, but you're not going to have

1 even 100 people at a time trying to climb on it.

2 CHAIRMAN HOYLE: Or mischief makers.

3 MR. FRISHMAN: Right. And if the system is so
4 fragile that it's going to get significantly slowed down by
5 a handful of people, then you'd better unfragile your
6 system.

7 MS. NEWBURY: It's not a fragile system, it's
8 knowing that there are people who stick their hands in
9 concrete and sit in front of low-level waste trucks as they
10 come into the site. There are people who will actively try,
11 I am sure, to slow this system down as much as possible.

12 MS. TREICHEL: And you think if you've got a
13 zealous person who really wants to do that, that you're
14 going to be able to prohibit it?

15 MS. NEWBURY: I can't prohibit it, but I can make
16 it a little more difficult so that it's easier for us.

17 MS. TREICHEL: Well, I doubt it. I think you're
18 -- you know I think you're --

19 MR. FRISHMAN: I think you're fishing for excuses
20 for something you're not willing to explain to us.

21 MS. TREICHEL: Yeah, you're making it way harder
22 on yourself. You know it's -- it's just not that big a
23 deal. People don't amuse themselves that much, and the
24 people who really are interested generally rely on
25 organizations like mine, or there's -- I don't know there's

1 more than 10 organizations that are going to really be
2 paying close attention to this and are not playing games and
3 will not bollux (phonetic) up the system. Sure, there's
4 loonies out there, but I -- if we try and prohibit or
5 discourage people like that, you're just encouraging --

6 MS. NEWBURY: Well, all I'm saying is that there
7 are people who will slow down the system in that way. So if
8 there is a separate access for parties, so that we can make
9 sure that no matter what happens on the visible side,
10 that --

11 MS. TREICHEL: I just don't think it's going to
12 work. And there are going to be people that lie down in
13 front of those trucks, there's no doubt about that. There's
14 going to be all kinds of stuff that goes on, sure.

15 MR. MURPHY: Or spend a little bit of money and
16 put a second door in, if you're really worried.

17 MS. NEWBURY: That's what we're talking about
18 is --

19 MR. CAMERON: I think that's what we're exploring,
20 is the use of the second door.

21 MR. MURPHY: But not to do it, to give the public
22 access to a lower class of documents than the parties, it
23 just creates -- just adds to the already insurmountable
24 levels of suspicion and ill-will --

25 MR. CAMERON: Public has access to the same.

1 MR. MURPHY: -- and, you know, it's just -- it's
2 not worth it. To me, if I were in DOE's or the NRC's shoes,
3 you know, boy I'd spend the extra money to make sure
4 everybody has got access to the same documents.

5 MR. FRISHMAN: It also makes it very difficult for
6 the state if the state has more access than its citizens do.

7 MR. MURPHY: Yeah, or us.

8 MS. TREICHEL: That's right.

9 MR. FRISHMAN: That's why we don't do closed
10 meetings.

11 CHAIRMAN HOYLE: Well, that -- seems to me that
12 could be something that a work group could discuss and work
13 out some details.

14 MR. CAMERON: I think that's a pretty profitable
15 discussion because it seems like -- except for perhaps some
16 discomfort that Claudia might have about -- I mean, you
17 know, what we're talking about here is that everything that
18 is documentary material --

19 MS. NEWBURY: Well, you still have --

20 MR. CAMERON: -- is going to be open to everybody.

21 MS. NEWBURY: Yeah, but you still haven't told me
22 when.

23 MR. CAMERON: Told you when?

24 MS. NEWBURY: You haven't told me when it's going
25 to be available. The last I heard I've got until sometime

1 in 2002.

2 MR. MURPHY: Let's make it on the first day of the
3 new millennium.

4 MS. TREICHEL: Right when her computer crashes.
5 Let's make it the day before the first day of the
6 millennium.

7 MR. MURPHY: And see what happens the next day.

8 CHAIRMAN HOYLE: The proposed rule says to begin
9 on the date that the president submits the site
10 recommendation to congress. I also heard someone suggest
11 how about when the site suitability request goes to NRC.

12 MR. CAMERON: We were thinking maybe of a double
13 system where DOE and NRC have their material available at an
14 earlier time, like site suitability, and that the other
15 parties to the proceeding -- or potential parties have to
16 have their stuff available at the date that congress makes a
17 decision on the state objection if there -- you know, if
18 there is a state objection.

19 MS. TREICHEL: Well, but you would assume, then,
20 that you would do it as soon as possible and you're just
21 having your cut-off date, so it -- like doing homework, it
22 serves you better to have gotten as much done before the
23 deadline. Okay.

24 MR. CAMERON: So two date and two doors.

25 MS. NEWBURY: So this is the proposal that DOE and

1 NRC share data when we ask for your comments for
2 sufficiency?

3 MR. CAMERON: Well, let me check that out with
4 Joan. I mean I was just -- in looking through, you know,
5 the program, I was looking at various dates, and you know,
6 of course we haven't discussed this internally or anything,
7 and that was just one date that seemed to -- one event,
8 rather, that popped out.

9 MS. WINSBERG: When is our system going to be up?
10 I mean, we're talking --

11 MR. CAMERON: Dan said he could do anything.

12 MS. NEWBURY: Hey, if we have to do it tomorrow --

13 MR. GRASER: Well, the server will be up, but --
14 in November. Not guaranteeing there will be any documents
15 on it, but the system will be up.

16 MR. CAMERON: When is the -- what is that step
17 formally called when you do -- the first time that NRC is
18 really going to get a look at this? Is, what, the site
19 suit?

20 MR. MURPHY: The statute doesn't say -- there's no
21 date or anything in the statute.

22 MS. NEWBURY: No. No. There is no --

23 MR. CAMERON: There's an event --

24 MR. MURPHY: It just says the site suitability
25 recommendation to the president has got to be accompanied by

1 a whole bunch of things, one of which is this --

2 MS. NEWBURY: Comments on sufficiency.

3 MR. MURPHY: -- statement from the NRC that the
4 site characterization was sufficient.

5 MS. NEWBURY: And that was going to be based on a
6 certain set of documents, as I recall.

7 MR. MURPHY: But that's between you two.

8 MS. NEWBURY: Right.

9 MR. GREEVES: I think we probably ought to talk
10 and then just -- later decide what that is.

11 MR. MURPHY: It's up to -- seems to me that's up
12 to the NRC staff to tell DOE what it is you need to give me
13 before I'm willing to give you a statement.

14 MALE VOICE: For the early date.

15 MR. MURPHY: Yeah, for the early date.

16 MS. NEWBURY: So then --

17 MR. GREEVES: It's just sequential topics.

18 MS. NEWBURY: And then --

19 MR. GREEVES: Secretary can't go forward until he
20 gets the NRC's comments on the recommendations.

21 MALE VOICE: We need to talk about how that
22 sequence plays out. I don't want to try to do it here from
23 memory.

24 MS. NEWBURY: That's the DOE -- whatever that is,
25 that's the DOE, NRC trade information point. And then the

1 other parties -- this is what I think I heard come in after
2 congress as acted on the state's notice of disapproval.

3 MALE VOICE: They have to have it up by that time,
4 doesn't mean they can't go up earlier.

5 MS. NEWBURY: That's right. Okay.

6 MR. CAMERON: Okay.

7 CHAIRMAN HOYLE: I think I'd like to call a recess
8 and then start on the compliance issues when we come back.
9 Let's come back at 3:15.

10 [Recess.]

11 CHAIRMAN HOYLE: I think everyone is back so let's
12 begin again please. And the issue we'll talk about now is
13 compliance, and our discussion leader is Chip Cameron of the
14 NRC. Chip.

15 MR. CAMERON: Okay. Thanks, John. I wanted to
16 just basically go over some of the changes to the compliance
17 aspect of the -- proposed changes to the compliance aspects
18 of the existing rule.

19 Under the existing rule, there was going to be an
20 evaluation of DOE compliance at six-month intervals by the
21 licensing support system administrator, and potential
22 parties could comment on those reports. Under the proposed
23 rule, there's no longer any periodic evaluation. The
24 provision that we all focus in on is not the periodic
25 evaluation but the fact that the license application can't

1 be docketed under the -- this is under the existing rule --
2 unless the administrator, Moe Levin, the administrator,
3 certifies that DOE is in substantial compliance. And
4 there's a provision also for a petition to the pre-license
5 application presiding officer, I believe, of that
6 determination. But, under the existing rule, if there's no
7 certification forthcoming from the administrator, DOE has
8 two choices. They can wait until they come into substantial
9 compliance and then doc (sic) -- file the license
10 application, or they can file the license application and
11 say we're going to go under sub-part G of the rules.

12 Now, proposed rule, NMSS has the authority to not
13 docket the application if, based on a determination of the
14 secretary of the commission, John Hoyle -- John, do you
15 think you'll still be the secretary at that time?

16 CHAIRMAN HOYLE: I don't know about that. I'm
17 aging even now.

18 MR. CAMERON: Okay. So that answers that
19 question. NMSS can not docket if the secretary of the
20 commission determines that the license application can't be
21 effectively accessed through the electronic docket, okay.
22 And I think that there's some phrases in there that we need
23 to discuss in terms of what that actually --

24 MR. LEVIN: Yes, there are. Correct.

25 MR. CAMERON: -- means. Right. And under the

1 proposed rule, the alternative of filing under sub-part J is
2 removed.

3 MR. LEVIN: Sub-part G.

4 MR. CAMERON: Sub-part G, sorry, is removed. Now,
5 in terms of -- that's the DOE portion. In terms of the
6 parties, you can't be a -- an individual or an organization
7 can't be a -- admitted as a party to the licensing
8 proceeding unless they are in substantial compliance with
9 the rule, and there's an initial certification to the
10 presiding officer in the pre-application phase that they are
11 in compliance, and the presiding officer can request
12 additional certifications if needed. And the presiding
13 officer resolves disputes over documents. And also, still
14 under the proposed rule, resolves disputes over the advice
15 of the LSSARP, okay.

16 So I guess some of the questions here is what does
17 electronic access to the license application mean in terms
18 of DOE compliance? Do we still need any periodic evaluation
19 of DOE as there is in the existing rule? Should there be a
20 presiding office review of the DOE compliance decision? And
21 those are just some of the questions that might be raised.

22 Mal, do you want to --

23 MR. MURPHY: Yeah, I -- the problem I have with
24 the proposed rule is the use of the word "it," because if
25 you read that sentence strictly, it tells me that the

1 director of NMSS can refuse to docket the license
2 application if the license application can't be assessed.
3 And I can see circumstances where the LA could be assessed
4 -- or accessed through the electronic docket while DOE was
5 still not in compliance with all the other requirements of
6 the rules, such as the environmental impact statement, the
7 -- you know, all of the other things that we have to have
8 access to.

9 MR. CAMERON: Well, that, in --

10 MR. MURPHY: So I would just suggest that -- and I
11 think I -- I think the language in the current rule, if you
12 just retain certain language in the current rule -- I put
13 this in my preliminary comments. If you retain the current
14 language of 2.1011(d)(6) and (7) and move them into 21012,
15 you come up with the -- it has the effect of saying the
16 director of NMSS can refuse to docket the license
17 application, essentially if all of the requirements of the
18 rule are not met. I think that's what you're trying to get
19 at anyway.

20 MR. CAMERON: Well, yeah, but I think that this
21 strays in addition to the -- if I understand you -- where it
22 says, "In addition to the requirements of 2.101(f)," isn't
23 that the general docketing authority of the director of the
24 office in terms of whether --

25 MR. MURPHY: I think so.

1 MR. CAMERON: -- the license application is
2 complete, et cetera, et cetera?

3 MR. MURPHY: Right. Right. Yeah.

4 MR. CAMERON: I think we still have that in there.
5 It's just a question of --

6 MR. MURPHY: But there -- but, again, that's
7 referring just to the license application.

8 MR. CAMERON: Okay.

9 MR. MURPHY: The license application is only part
10 of what we have to have access to through the electronic
11 docket.

12 MR. CAMERON: I see what you're saying. You're
13 not talking about other aspects, the technical aspects of
14 the license application.

15 MR. MURPHY: Right.

16 MR. CAMERON: You're talking about electronic
17 access --

18 MR. MURPHY: Other --

19 MR. CAMERON: -- to other documents.

20 MR. MURPHY: Other documentary material, other
21 stuff.

22 MR. CAMERON: Well, see, this is why -- this is
23 the question is that if Claudia's license application has
24 hyperlinks to everything else in the world, then, you know,
25 you could just use license application, but this does not

1 say -- other than that, this does not say that the license
2 application can't be docketed unless DOE is in substantial
3 compliance with the documentary material requirements of the
4 rule.

5 MR. MURPHY: Well, that's not what this says
6 though.

7 MR. CAMERON: Right, it doesn't, and that's the
8 question for the group.

9 MS. NEWBURY: Doesn't this just say that if you
10 can't put it in your docket that it's not docketed? This
11 has nothing to do with DOE. It's if it can't be effectively
12 accessed through the commission's electronic docket, which
13 is, if I hand it to you and you can't put it in the system,
14 then you don't docket it.

15 MR. CAMERON: That's another reading of it.

16 MR. MURPHY: Do you want the docketing of your
17 license application to depend on Dan Graser or do you want
18 the docketing of your license application to depend on --

19 MS. NEWBURY: Well, this is --

20 MR. MURPHY: -- the completeness of your own work?

21 MS. NEWBURY: I'm going to give them an
22 application.

23 MR. MURPHY: Yeah.

24 MS. NEWBURY: All right?

25 MR. MURPHY: Yeah.

1 MS. NEWBURY: And, at that point, if they say they
2 can't docket it through the -- or can't access it through
3 their electronic docket, we have to work on something. I
4 don't think that's an appropriate --

5 MR. MURPHY: No, but under --

6 MS. NEWBURY: Once I've handed it to you, it's
7 your problem.

8 MR. MURPHY: Under your approach, you could give
9 them a perfect license application and a perfect, you know,
10 DOE web site that would allow everybody in the world to
11 access every scrap of information pertaining to that license
12 application and Moe would say, "Well, Chairman Jackson
13 didn't give me enough money. My system isn't any good; I
14 can't access it; therefore, we're not going to docket your
15 license application."

16 MS. NEWBURY: Well, that's what I'm reading here.

17 MR. MURPHY: That's not what you're asking for
18 though, is it?

19 MS. NEWBURY: No, I don't want that.

20 MR. MURPHY: Of course not.

21 MS. NEWBURY: But that's what this is.

22 MR. MURPHY: Well, I don't think that's what this
23 says. I think this -- I read this to say that, if you don't
24 have the information -- if you don't have your job done,
25 we're not going to docket your license application.

1 MR. CAMERON: And I think at a minimum that's what
2 it says, okay, and I need to ask Katherine if she can shed
3 any light on what the intent of that provision was because
4 the existing rule doesn't just focus on the license
5 application. It focuses on substantial compliance with the
6 documentary material submission requirements of the rule.

7 MR. MURPHY: Right. Right.

8 MR. CAMERON: Now, proposed rule narrows that a
9 lot and maybe you can tell us what was going on?

10 MS. WINSBERG: I think that the intention was just
11 to focus on giving an additional grounds in addition to the
12 completeness of the application, the ability -- its ability
13 to be handled electronically. In other words, if it's
14 submitted in a form that is compatible and able to be, you
15 know, put in our electronic docket. And I think that was
16 all that was intended.

17 MS. NEWBURY: So that's exactly what it says, I
18 have to hand you something that you can put in your
19 electronic docket.

20 MS. WINSBERG: That's -- that is that -- this was,
21 I believe, what was intended --

22 MS. NEWBURY: That's the items.

23 MS. WINSBERG: -- what was intended there. And,
24 since we had taken out the certification, you know, six
25 months before the application, we weren't trying in that

1 provision to incorporate any of the compliance issues with
2 the -- in the pre-application phase.

3 MR. CAMERON: It's sort of interesting that we
4 have or seems like we have a requirement in the proposed
5 rule that states that you can't be a party to the proceeding
6 unless you're in compliance with the rule, but, as far as
7 DOE, the license applicant, is concerned, we're only
8 focusing on this electronic access to the license
9 application. I mean, it just seems like we might have
10 disconnect --

11 MS. WINSBERG: Uh huh.

12 MR. CAMERON: -- there.

13 MR. KRAFT: Is a license applicant not a party?

14 MR. CAMERON: The DOE is a party.

15 MR. KRAFT: Well, so they're covered by both
16 parts.

17 MS. NEWBURY: So we get it under B.

18 MR. KRAFT: They're covered by -- they have to be
19 a party.

20 MR. CAMERON: So we could say that they were
21 covered by the other --

22 MS. NEWBURY: Uh huh.

23 MR. KRAFT: Well, they're a party so they're
24 covered by --

25 MR. MURPHY: Well, but they could -- but the NRC

1 can say you guys are a party, but are -- remember, docketing
2 the license application is significant because that's when
3 the time clock starts to run.

4 MR. KRAFT: Well, I'm not questioning what you
5 said being true; I'm just answering Chip's question. DOE is
6 not exempted from the party requirements because they are --

7 MR. MURPHY: No, no. No, no. But --

8 MR. KRAFT: I agree with you, this is -- I think
9 this is clearly intended to be both that part of your system
10 is up and running and NRC can, in fact -- now, it's an
11 interesting question if NRC's system is not working for some
12 reason, what happens? Docketing is his function. This is a
13 permissive. Docketing is your function, right? You decide
14 whether it can be docketed; this is a permissive. You
15 cannot make that decision unless you meet -- these
16 requirements are met.

17 MR. MURPHY: They're additional.

18 MR. KRAFT: So what happens if there's a glitch on
19 the NRC side electronically, you're fine. Just say, yeah,
20 this is good, let's docket it. Then what happens, the whole
21 world come to a screech? Is there a liability issue that
22 Dan was talking about?

23 MR. MURPHY: Well, what would happen I suppose is
24 that somebody would appeal that to the SLB or the presiding
25 officer. I mean, if the director of NMSS says, even though

1 the parties cannot access all of your relevant -- you know,
2 all of your stuff, I'm going to go ahead and docket your
3 application because I have the ability, the discretionary
4 authority to do that, I imagine there'd be some discussions
5 about that before the presiding officer. I think that would
6 be the next step.

7 MR. KRAFT: But the whole process revolves around
8 the belief that there'll be a functioning electronic docket,
9 right?

10 MR. MURPHY: Yeah.

11 MR. KRAFT: We'll blame it on Dan.

12 MR. MURPHY: Can't cover every base.

13 CHAIRMAN HOYLE: Secretary will blame it on Dan
14 and have him fix it in four hours.

15 MR. MURPHY: And go to sub-part G.

16 MS. NEWBURY: We can't go to sub-part G anymore.

17 MR. KRAFT: Can't go to sub-part G, man, you fall
18 off the face --

19 MR. FRISHMAN: Well, maybe you need that bail-out
20 provision?

21 MR. MURPHY: There is no -- there's no sanction
22 against the NRC. If the NRC screws up and doesn't have it's
23 electronic docketing capability in place in time, you know,
24 we can't write a rule saying that, well, we're going to take
25 the licensing authority away from you and give it to the

1 NAS's board on radioactive waste management. I mean, at
2 some point in time, we just have to assume that somebody's
3 going to do something right.

4 MR. KRAFT: No, I --

5 MR. MURPHY: But we do have a hammer over DOE, and
6 that is, I'm not going to give you a docket.

7 MR. KRAFT: Well, we're in agreement on a couple
8 things. first of all, this paragraph is not written right.
9 Secondly, I'm merely asking the question, given the
10 situation that we hit upon, there has to be something -- DOE
11 -- NRC can't function unless this thing is running, right?
12 Then the question only arises is that, if it takes them a
13 month or some significant amount of time in the licensing
14 process to get it running, is it docketed or not because,
15 you're right, time clocks begin. That's an interesting
16 point.

17 MR. MURPHY: But it's a point that your side has
18 to argue because you're the side that has an interest in DOE
19 is the side that has the interest in getting --

20 MR. KRAFT: Yeah. Right, no, DOE and other
21 supporters would, right.

22 MR. MURPHY: We don't care.

23 MR. KRAFT: It's a practical matter, isn't the
24 system up and running before this?

25 MR. MURPHY: Yes. Yeah, it's a practical matter.

1 They aren't going bring it up and give it to you until you
2 call them up and say, "We're ready for it."

3 MR. KRAFT: Okay.

4 MR. CAMERON: I think that we can -- you -- we can
5 -- we should clarify in the supplementary information that
6 the material in the procedures -- where is that -- 2.1009
7 procedures is meant to and can be read -- should be read to
8 include all parties including DOE and that they can't --
9 that would say they can't be a party to the licensing
10 proceeding unless they're in substantial compliance. Now, I
11 don't like the -- you know, I don't think that they should
12 be able to -- should you have a separate provision saying
13 that they should be able -- is it conceivably possible that
14 the license application can be docketed without DOE having
15 met the requirements to be a party to the proceeding?

16 MR. MURPHY: Dockets or license application, we're
17 going to hearing a month from next Wednesday --

18 MR. CAMERON: And, by the way, you can't be a
19 party.

20 MR. MURPHY: -- and, by the way, you can't be a
21 party. You know, we're not going to listen to you.

22 MR. CAMERON: There's a lot of burden on you,
23 John, your staff, to -- as the NRC is a party to do this.
24 Now, that doesn't make -- I mean, there's a disconnect
25 there.

1 Claudia?

2 MS. NEWBURY: Well, the second part of this, yeah,
3 we'll be in compliance with 2.1003 if I have anything to do
4 with it, and I may be retired by then, who knows.

5 MR. CAMERON: I just --

6 MS. NEWBURY: That second part is very different,
7 and it only -- and it's talking about electronic information
8 -- integrated electronic information, which is different
9 from your electronic docket.

10 MS. WINSBERG: That's right.

11 MS. NEWBURY: Right. So I have no -- yeah, we'll
12 do (b)(1). Will you do (a)? Will you ensure that you have
13 an electronic docket that can read, tell me how you want it,
14 and read the license application that we are submitting so
15 that I don't get caught in this duloop (phonetic) if the
16 secretary of the commission determines it can't be
17 effectively accessed through the commission's electronic
18 docket, because I can't docket unless you can show that you
19 can read it. So --

20 CHAIRMAN HOYLE: You're saying you want some
21 different language here?

22 MS. NEWBURY: Well, no, just a promise that it'll
23 be there an ready.

24 MR. CAMERON: But there's no dispute around the
25 table is there that --

1 MS. NEWBURY: No.

2 MR. CAMERON: -- DOE needs to be in substantial
3 compliance with the requirements of the rule?

4 MR. MURPHY: Well, yeah. Yeah.

5 MR. CAMERON: Okay. We just need to fix all this.

6 MS. WINSBERG: Well, it could be fixed by saying
7 -- I mean, even -- it does --

8 MR. CAMERON: Just explaining.

9 MS. WINSBERG: It does apply to DOE and just
10 saying that it does.

11 MS. NEWBURY: Uh huh.

12 MS. WINSBERG: They're not excluded.

13 MR. MURPHY: No, but that's not my problem. My
14 problem is making it apply to more than the license
15 application. I want it to apply to the EIS. I want it to
16 apply to everything else that DOE has got a requirement to
17 put in the --

18 MS. WINSBERG: But this requirements here is about
19 access to the information.

20 MR. MURPHY: Right.

21 MS. WINSBERG: So that is all the information. It
22 applies --

23 MR. MURPHY: Well, but that --

24 MS. WINSBERG: -- to all parties including DOE.

25 MS. NEWBURY: Now the EIS is included with the

1 license application, of course, as part of it, so all that
2 information is also in.

3 MR. MURPHY: Well, it accompanies it; it's not
4 part of it under the statute. The license application has
5 to be accompanied by an EIN.

6 MR. CAMERON: Shouldn't we put license application
7 and accompanying documents or --

8 MR. MURPHY: Sure. Whatever. I mean, just don't
9 limit it to just the license application.

10 MR. KRAFT: Is the EIS documentary material under
11 the definition that we're throwing around?

12 MR. MURPHY: Yeah, because it's -- because --

13 MR. CAMERON: It should be swept in.

14 MR. MURPHY: Yeah, under the topical guidelines,
15 it's brought in.

16 MR. KRAFT: Then it's there. It's 2.1009(a)(3).
17 If DOE is subject to procedures, then it's got to get the
18 documentary material. So, I mean, it's there. All you have
19 to really do is say that, on the -- in compliance, (a) that
20 DOE meets the requirements of being a party, covered back
21 here, which solves those problems and gives it to you in a
22 form that you can, as NRC, get it in your system. What we
23 still haven't solved yet is a failure of the DOE -- or the
24 NRC electronic system. That's the reliability issue that's
25 central. If you're system's not running, doesn't matter

1 what other people have on their web sites.

2 MR. CAMERON: And that's -- I don't think that
3 there's anything -- I mean, we need -- the rule already
4 states -- assumes that we have to have this system, and, you
5 know, if that's what we're required to do, then that's what we
6 need to do. I mean, I don't think there's anything else
7 that needs to be --

8 MR. MURPHY: Well, I think the parties have to
9 protect their own interests in that case. If the system
10 isn't available for us, then we have to go to the presiding
11 officer and say don't start the time clock running on this
12 licensing process because the NRC won't -- their system
13 isn't any good. I mean, we -- you know, our --

14 MR. CAMERON: Yeah.

15 MR. MURPHY: When push comes to shove in any
16 litigation, the parties have some responsibility to protect
17 their own interests.

18 CHAIRMAN HOYLE: Okay.

19 MR. CAMERON: I don't have anything more, but I
20 don't know if anybody around the table has anything on
21 compliance.

22 MR. KRAFT: Well, there -- in computation of time,
23 2.1017, the last sentence reads, "If the electronic docket
24 is unavailable for more than four access hours of any day,
25 that would be counted in computation of time of that day --

1 that day will not be counted in the computation of time," so
2 you're covered right there. If the document shows up on how
3 many -- I don't know what form, whether they're just going,
4 you know, electronically give it to you or show up with
5 laser disks or whatever they're going to do, and you can't
6 load it in, if you're down for more than four hours, the
7 time clock doesn't start of docketing no matter what because
8 it says right here you cannot compute (sic) -- you cannot
9 compute time if you go down more than four hours.

10 MR. MURPHY: Well, what are your reading from?

11 MR. KRAFT: 2.1017, computation of time.

12 MR. MURPHY: In the existing rule?

13 MR. KRAFT: It's in the propose rule but a real
14 minor change from existing. It's just a little --

15 MR. MURPHY: Okay, I got it now.

16 MR. KRAFT: I'm reading the line in line out which
17 isn't an exact version because I think you made changes to
18 the Rick's notice, but it's a little easier to follow it.
19 You see what I'm saying?

20 MR. MURPHY: Yeah.

21 MR. KRAFT: I think that covers the issue.

22 CHAIRMAN HOYLE: Uh huh.

23 MR. MURPHY: Well, you may be right.

24 MR. KRAFT: So you D -- you NRC can't docket,
25 can't count time, can't count days if your system is not

1 operating, which is as it should be.

2 CHAIRMAN HOYLE: Uh huh.

3 MR. MURPHY: Yeah, I think you're right.

4 MS. NEWBURY: That raises another interesting
5 point. What if it isn't working at the other end? What if,
6 for some reason, all DOE's computers are down?

7 MR. KRAFT: Well, you have to be in substantial
8 compliance which means your system needs to be operating.
9 The substantial compliance --

10 MS. NEWBURY: Right. But if I'm down -- if the
11 NRC system is working fine and everyone else has access to
12 it but mine's down or the lines blew down to Nye County or
13 we're flooded or whatever, and Mal can't get -- excuse me,
14 you're up in Washington -- can't get access, does he have
15 extra time?

16 MR. CAMERON: This computation of time provision
17 was meant to apply to after the license application --

18 MS. NEWBURY: Right.

19 MR. CAMERON: -- was submitted. And that's when
20 you're running on electronic docket of the NRC.

21 MR. KRAFT: We're talking --

22 MR. CAMERON: So you shouldn't need to worry about
23 that. All our stuff is going to be in the electronic
24 docket.

25 MR. MURPHY: But I think Steve is correct that it

1 can apply -- to that initial --

2 MR. KRAFT: The initial period.

3 MR. MURPHY: -- the initial computation, you know,
4 the three- to four-year period of time. You can read that
5 language to apply to that. You could say, if on the day
6 they drop the license application in your lap, you don't
7 have, you know, the electronic docket is unavailable, then
8 we're not going to start counting the -- I mean, you can
9 read it that way.

10 MS. NEWBURY: Uh huh.

11 MR. MURPHY: Clock's not going to start running.

12 MR. CAMERON: Yeah. I mean, that's --

13 MS. NEWBURY: Well, it doesn't anyway.

14 MR. CAMERON: I don't think that that's a --

15 MR. MURPHY: And that's the only real significance
16 of the docket number is whether or not the clock starts to
17 run. I don't care if there's a number on it as long as the
18 clock isn't running if it's not complete.

19 MR. CAMERON: Yeah, I'm not -- I don't think --
20 right. I mean, if we --

21 MR. MURPHY: It's not going to happen.

22 MR. CAMERON: -- we don't have it --

23 MR. MURPHY: Trust us, we're the government.

24 MR. CAMERON: No, no, no, no. If we don't have
25 it, we're in trouble.

1 MR. KRAFT: Well, but then Claudia asked a
2 question, what happens if any party's system is then down
3 and you can't read --

4 MS. NEWBURY: After it's been docketed and you're
5 doing these interactions.

6 MR. KRAFT: Right. And then you can't read theirs
7 or they can't read yours because your system is down. Well,
8 on this cost and equity concerns, old rule/new rule deal,
9 and this is one of the -- this is a problem I have is QA is
10 up the party, which means you have to act in your own
11 enlightened self interest, which means you've got to make
12 sure that you're up -- that you are up and running. You --
13 whoever it is -- whoever the part is, I don't think gets a
14 gimme in this because, "Well, hey, whoa, my system's down.
15 Hold the phone here," because you can artificially cause
16 that to happen. It is in your enlightened self interest, if
17 you're going to be a party, to have the reliability in the
18 system. I know that you all are doing that. I mean, you
19 guys are doing a lot along those lines.

20 MS. NEWBURY: Uh huh. Yeah, I'm just -- it was
21 one of the questions that actually one my lawyers put in is
22 what does that mean by unavailability, whose unavailability?

23 MR. CAMERON: In the original rule, and this still
24 applies to 2.1017, it says that this down time does not
25 include periods of LSS unavailability due to a malfunction

1 of LSS participants' equipment or to the operation of that
2 equipment. So if your stuff isn't working and you can't get
3 in, hey, that's your tough luck.

4 MR. MURPHY: Well, but --

5 MR. CAMERON: If that's the question.

6 MR. KRAFT: That's not the question.

7 MR. MURPHY: Well, but I think the rule itself --

8 MR. KRAFT: Where does it say that?

9 MS. NEWBURY: It doesn't say it anymore.

10 MR. MURPHY: The rule answers the question though.

11 MR. CAMERON: Existing rule.

12 MR. MURPHY: It says if the electronic docket is
13 unavailable, the electronic docket is the one that resides
14 in the --

15 MS. NEWBURY: Right.

16 CHAIRMAN HOYLE: That's mine.

17 MR. MURPHY: It's John's.

18 MR. KRAFT: Right.

19 MR. MURPHY: And if Claudia's system goes down,
20 that's not the electronic docket.

21 MR. CAMERON: That's right. And if she can't get
22 in the electronic docket, she can't --

23 MR. MURPHY: That's not the electronic docket.

24 MR. CAMERON: -- get in the electronic docket, she
25 can't come in and say, "My system's not working; I can't get

1 into your system that's operating" --

2 MR. MURPHY: That's not the electronic docket.

3 MR. CAMERON: Yeah.

4 MR. KRAFT: All right.

5 MR. CAMERON: We'll have to -- there may be some
6 of this --

7 MR. KRAFT: So there's no automatic relief, but
8 she could seek release through -- relief through --

9 MR. MURPHY: Sure, yeah.

10 MR. KRAFT: -- the presiding officer?

11 MR. MURPHY: That's right. That's why --

12 MS. NEWBURY: Assuming that she knew that she'd
13 gotten an E-mail.

14 MR. MURPHY: Right.

15 MR. CAMERON: All right.

16 CHAIRMAN HOYLE: Okay. Any other compliance
17 matters? All right. Let's try --

18 MR. KRAFT: Wait a minute, I've got a question.

19 CHAIRMAN HOYLE: Excuse me.

20 MR. KRAFT: Hold it a second. I've been relying
21 on secky (phonetic) 97154 because I thought the line in
22 line-out was easier to follow. Is attachment two the
23 existing rule showing changes you're proposing?

24 MS. WINSBERG: With some changes.

25 MR. KRAFT: Changes since based upon the

1 commission's notations and stuff?

2 MS. WINSBERG: Right.

3 MR. KRAFT: Okay. So it says here that attachment
4 two is a copy of sub -- part two, sub-part J, showing
5 proposed changes. And I agree there's a couple of minor
6 things that aren't there. The language you just read about
7 a participant's machine not working is not in this. What
8 did that come from?

9 MR. CAMERON: That's in the supplementary
10 information --

11 MR. KRAFT: Oh, supplementary information, okay.

12 MR. CAMERON: -- to the original rule.

13 MR. KRAFT: I'm sorry.

14 MR. CAMERON: And it just reminded me that maybe
15 we need to think about what things we need to carry over --

16 MR. KRAFT: I thought you were reading something
17 out of computation of time.

18 MR. CAMERON: No, no. I'm sorry. I should have
19 identified that.

20 MR. KRAFT: Because now, if you're going to go to
21 a disbursed system, that's something you have to think --
22 again, it's part of the burden of being a party. You've got
23 maintain your systems to be as reliable.

24 CHAIRMAN HOYLE: Uh huh.

25 MR. KRAFT: I mean, I don't know to what degree,

1 but -- and I know that's not cheap to do.

2 CHAIRMAN HOYLE: Okay. Okay, let's move on. LSS
3 administrator function, discussion leader, the LSS
4 administrator.

5 MR. MURPHY: Don't need one.

6 MR. LEVIN: I handed out this morning. Should
7 have been at your -- in front of you -- something labeled,
8 "Need for LSS administrative function." And all I did was
9 kind of repackage the functions that were in the existing
10 rule that the LSS administrator was supposed to do. And I
11 grouped them kind of functionally. I thought that might aid
12 the conversation. But obviously if there is not a
13 centralized LSS, if there isn't an LSS, we don't need an LSS
14 administrator. That doesn't mean that we might not need
15 some other position. The LSN administrator or the LSN
16 coordinator. It's just we have to rethink it because, as
17 the discussion has developed over the day, it's obvious
18 there are a lot of things that still need to be decided.
19 There's a I think a danger, a real danger of something
20 falling through the cracks if there isn't one somebody
21 responsible for seeing that all the loose ends get tied up.
22 But the point is, obviously, it can't be an LSS
23 administrator as envisioned in the original rule. But then
24 what is it? And that's what the discussion is.

25 MR. BECHTEL: I would have a tendency to agree

1 that the -- my first thought was that when you have a
2 distributed system, it would appear to be more relevant to
3 have an administrator than maybe even a centralized system.
4 I mean, it's more important. But just in looking through
5 some of the activities from your sheet and from even the
6 equity and -- cost and equity concerns, there just seems to
7 be a lot of things that somebody would need to watch, and
8 whatever you call that person I guess. Administrator I
9 guess is as good as anything. But if you don't have that --
10 I mean, if something goes wrong, you're going -- I mean,
11 there may be amount -- considerable amount of time before
12 you find that out just kind of, you know, knocking about I
13 guess. But maybe the function itself is even more of an
14 audit function than a, you know -- I mean, there are certain
15 things the administrator wouldn't be doing under the new
16 rule, and appropriate because technology has changed. But
17 auditing things may be most important thing for that
18 individual or section of NRC to do.

19 So I think I make a pitch for, you know, bringing
20 that back in, whatever you call it, but I think it's needed.

21 MR. MURPHY: I agree with what Dennis said, and I
22 think we still need some -- we need to put back into our
23 thinking some sort of compliance assessment program similar
24 to or -- you know, the one we talked about back in '95.
25 And, as Dennis said, somebody's got to be -- within the NRC

1 has got to be responsible for watching over this baby and
2 making sure that it's -- everybody's doing what they're
3 required to do. Now, whether or not, you know, I have no --
4 I don't care whether or not that's in an LSS in office or
5 whether it's a -- within NMSS or, you know, those are
6 internal organizational questions that the NRC can deal
7 with, but as long as those functions of overseeing the
8 system and somehow assuring or auditing compliance are
9 carried out, it can just as easily be done within NMSS I'd
10 imagine as it can be done under an LSS administrator's
11 office. But that's an internal questions.

12 CHAIRMAN HOYLE: But you do see it as an NRC
13 function?

14 MR. MURPHY: Oh, yeah, absolutely.

15 CHAIRMAN HOYLE: Uh huh.

16 MS. NEWBURY: I hate to be in violent agreement on
17 the whole side, but I think that there should be someone who
18 is doing something to keep an eye on this process, make sure
19 that everyone is working toward the same goal and that we
20 all know what it is we're doing and get to the same place at
21 about the same time, so.

22 MR. CAMERON: Do we need everybody that is in
23 agreement on something here and now use the term to watch
24 over this baby, and Claudia said something, I think there
25 needs to be someone there to do something or whatever, but

1 do we need to specify what -- and, you know, Mal mentioned
2 compliance, which is sort of a different thing than system
3 development and system problems. And some of that has been
4 given to the presiding officer. Some of this is under
5 secky's responsibility for the electronic docket. Would it
6 help to -- if we could, even in broad categories, just
7 specify what we think the administrator or the coordinator
8 should do?

9 MR. MURPHY: From my perspective, I want a phone
10 number -- a name and a phone number and an e-mail address,
11 somebody I can call up and crank on. And I don't care where
12 that is. That's, you know, an NRC internal business. And I
13 want -- well, look -- take this as a hypothetical. Wouldn't
14 anybody rather -- you know, when you get your web site up
15 and running or whatever we're going to call this thing,
16 wouldn't it be better for everybody if we had somebody to
17 call in the NRC and say, "We've got our site ready. We
18 think we're in compliance. You know, check it out for us."
19 Rather than have someone else say, you know, a year later, a
20 year and a half later, "Well, the license application's been
21 docketed, but you guys are out of compliance. Sorry, you're
22 not a party."

23 MR. CAMERON: So have someone to come out and say
24 that, you know, your site is --

25 MR. MURPHY: Yeah, some ability to audit

1 everybody's, you know, system, make sure you're in
2 compliance. If you aren't in compliance or if you need some
3 technical assistance or whatever it is, point you in the
4 right direct, get you -- you know, get you underway so that,
5 on that critical date or event, whenever it is, if you put
6 in any effort and you've taken -- you know, you've done the
7 responsible things as a potential party, that you're going
8 to get -- your system is going to be in compliance.

9 MR. CAMERON: And I guess a related point would be
10 to coordinate the development or implementation of the
11 technical issues, for example, this whole search engine
12 issue --

13 MR. MURPHY: Sure.

14 MR. CAMERON: -- even though that might be done
15 through a working group. I would imagine we need someone to
16 coordinate that. That could be another function.

17 MR. BECHTEL: Things like standards, you know,
18 what sort of standards should everybody adhere to, parties
19 adhere to.

20 MR. KRAFT: It goes a long way in dealing with
21 some of the issues I've been pointing to which is issues
22 that would come up in the licensing hearings if someone
23 claiming they didn't have the right access or something and
24 -- but there's an LSNA process that said, "Oh, no, no. You
25 were in compliance and your system was just fine." I mean,

1 you can't claim that you were not -- it could go to that.
2 Plus, I think the standards issue on the search engine is
3 probably a good one. But it sounds like you're trying to
4 get away from sort of the policing aspect that was in --
5 that was inherent in the original design.

6 MR. CAMERON: Yeah. That's right.

7 MR. MURPHY: Yeah, if you remember the original
8 concept of the compliance assessment program, it was a
9 rather involved program. Every six months we were going to
10 all the parties' sites, and we were doing audits of
11 relevance -- if all the documents were being entered the way
12 they should be. And, I mean, it was a very, very involved,
13 like you say, policing type action.

14 MR. KRAFT: Why wouldn't -- even though it's a
15 disbursed system now, Mal, why would -- just out of
16 curiosity, why wouldn't you do that now? Just because it's
17 a disbursed system, what makes that any less important? It
18 might even be more important because you will not get your
19 hands on the documents for entry prior to putting it in the
20 system. See, there was a -- in the original concept, there
21 was a natural process where a document would come to you in
22 electronic form. You had the opportunity to review the
23 procedural -- I'm not saying you're reviewing the document,
24 but you're reviewing how the document is formatted. And you
25 can go back to that party and say, "Love to put it in, but

1 you need these 15 things you haven't done. Until you do
2 them, I can't put it in." And it got done. Now, it's going
3 -- people are going to maintain their own systems, do their
4 on QA, going to go in the system. I almost think it's more
5 important, although I agree with -- I mean, it's not an
6 office of investigations action, right. I mean, it's a
7 little different but, nonetheless, still important.

8 MR. CAMERON: Yeah, some of those -- if I remember
9 those documents that we worked up on the compliance program
10 was --

11 MR. LEVIN: They were very, very involved, very,
12 very detailed, very auditing-type activities.

13 MR. KRAFT: That's because the documents were
14 coming in your hands, having to meet a very highly specific
15 set of requirements to go into your system. That -- this is
16 a different deal.

17 MR. LEVIN: Yeah, well that's the whole point.
18 Seeing that things have changed, this has to be addressed in
19 light of new developments. And one of the things we have to
20 determine is what does it mean to -- as far as compliance.
21 In other words, what are the things that the LSN
22 administrator or whoever this person is would be looking
23 for? Would they be looking for just availability of the web
24 site to make sure it's available on a sampling basis. They
25 could check availability. Check response time. Do some

1 kind of a check against the documents to certify that, once
2 a document was listed or posted on the web site, it hadn't
3 changed, subsequent to the first time it was presented. The
4 timeliness --

5 MR. GRASER: Yeah, that documents are getting --

6 MR. CAMERON: But the flavor would be a helpful
7 presence rather than an enforcement-type presence.

8 MS. NEWBURY: Whoever come in and visit for a few
9 days, check and make sure we're doing everything right.

10 MR. MURPHY: Well, but with some -- there has to
11 be some minimum level of enforcement authority at some --
12 you know, you got --

13 MR. LEVIN: Well, yeah, that's the whole point, so
14 we do all this. Is this a support function or is this
15 really a function that has some kind of leverage that says,
16 if you aren't -- what happens if this person does this and
17 finds things wrong? Does -- do we just say --

18 MR. GRASER: Then you go to the presiding
19 official, right?

20 CHAIRMAN HOYLE: I think this is an important
21 point. Otherwise we're going to need an LSSNA office as big
22 as the one that you had, Mal, at one point.

23 MR. CAMERON: At one point.

24 CHAIRMAN HOYLE: And I don't think -- we need to
25 be very clear on what we can do, how much of a policeman are

1 we. Do we just blow the whistle, as you say and punt over
2 to the pre-licensing application board?

3 MR. CAMERON: That's a good statement of the
4 issue, I think. What's the relationship division of
5 authority or responsibility?

6 CHAIRMAN HOYLE: Well, the consensus that I get,
7 though, is that this is needed, that there is --

8 MR. MURPHY: Something is needed.

9 MR. KRAFT: At some level.

10 CHAIRMAN HOYLE: A coordinator or administrator is
11 needed.

12 MR. COTTER: Could I speak to that, John?

13 CHAIRMAN HOYLE: Yes, sir.

14 MR. COTTER: I --

15 CHAIRMAN HOYLE: Tony, step forward.

16 MR. COTTER: Swear to tell the truth. You're
17 giving me an ulcer. The purpose that we're all here for is
18 to take care of the exchange of information and the saving
19 of time. And we're going to do that by replacing a known
20 system which has three responsibility points in it: the
21 person with the information, the person who wants the
22 information, and the person who can rule on whether or not
23 it's been delivered properly. You're taking an order to
24 achieve the savings of time, and you're achieving them in
25 four different areas. You're achieving them in the

1 furnishing of the information to support the application
2 before it gets to the commission. You're using it -- the
3 system to exchange information among the people who are
4 going to litigate over it. You're using it as a vehicle for
5 making the decision after the license has been filed. And
6 you're using it for litigation purposes.

7 Now, you're taking a known system and you're
8 replacing it with a system which is being created as we
9 speak and with which none of us have any experience. And I
10 would say that the logic of doing it in that fashion is just
11 asking for disaster unless you do something to put someone
12 in charge of building it so that everyone agrees with what
13 is being built and being created. Now, you had that in the
14 LSS administrator. And what happened to the LSS
15 administrator was, when the decision was made to abolish it,
16 it was made on the grounds that building a system as
17 contemplated of full text and image documents would cost
18 \$200,000,000 because it costs so much to capture the images
19 and because it costs so much to store it. And that
20 assumption is gone. We don't have that assumption anymore
21 because it doesn't cost that much. That's where the
22 technology overcame things, not really in the way that
23 you've been discussing the technology today.

24 When you took out the LSS administrator, you then
25 said, "Okay, under this proposal, we will take the new

1 unknown system that we're developing and we'll distribute it
2 and we'll put nobody in charge and nobody will be
3 responsible, and we'll do it starting now that we've arrived
4 at real time in the next 18 months to 2 years." Now, unless
5 you put somebody in there who, by consensus or whatever the
6 method is that you arrive at their duties, you're going to
7 be having this conversation 18 months from now. We'll just
8 be sitting here doing the same thing all over again. And I
9 think that's a formula for disaster.

10 I think the LSS administrator you need is a person
11 -- I'm talking off the top of my head now, reacting to the
12 conversations around the table. But the LSS administrator
13 you need is a person who has specific authority under the
14 regulation to do the specific things that you agree that
15 that person should have. And they should not be someone
16 anywhere in NRC because that's where Moe is. And what
17 happened to Moe is that he got OBE, as they say in the Navy.
18 He got overtaken by events. There was a major new statute
19 came in. There was a major reorganization within the
20 agency. There were all sorts of things that had greater
21 demands on his time than being an LSS administrator. And so
22 that's what got us where we are here.

23 You need to have an LSS administrator who has a
24 defined responsibility that you can all agree on, who has
25 the responsibility that has been delegated or designated to

1 them by the commission and who is -- has -- whose purpose is
2 to take care of this need full time for a period of four
3 years. You can put a sunset provision in it. You won't
4 need the LSS administrator essentially after this litigation
5 is either initiated or about half way through it because, at
6 that point, most of that function will be taken over by some
7 kind of a hearing body, presiding officer. But until you
8 get to that point, you won't get to that point.

9 MR. MURPHY: Well, if it -- if this administrator
10 or coordinator, whatever -- and I agree with most of what
11 you said. But if this function does not reside in the NRC,
12 where does it reside?

13 MR. COTTER: No, sure. Put it in the NRC,
14 absolutely.

15 MR. MURPHY: Well, I thought I heard you say don't
16 put it in the NRC.

17 MR. COTTER: No, I said don't put it somewhere in
18 the bowels of the organization.

19 MR. MURPHY: Oh, I see.

20 MR. CAMERON: Well, basically, when you said
21 outside the NRC --

22 MR. COTTER: If I did, I misspoke. I meant to say
23 outside of other duties or responsibilities within the NRC.

24 MR. CAMERON: Okay. So not just make it a
25 collateral responsibility --

1 MR. COTTER: Right.

2 MR. CAMERON: -- for someone who's a deputy CIO or
3 whatever?

4 MR. COTTER: And the logic of it, as far as I'm
5 concerned, is that you've got a 30 billion dollar train
6 coming down the track, and you're not willing to put a
7 nickel into seeing whether it's going to get from one
8 segment of the track to the next segment of the track, and I
9 think that is irresponsible.

10 MR. LEVIN: And one of the problems has been,
11 we've all been kind of laying in wait to see how things
12 develop. I mean, we never were sure when we were going to
13 need it. As a matter of fact, the LSS office, when it first
14 started off years ago, had a staff of eight and was a
15 separate office. Over time, that has been, you know,
16 whittled down, and now it is a part time -- one of my
17 part-time duties and right now I virtually have no staff for
18 the LSS because what was there for me to do in the last
19 year, for instance, and we have to make effective use of our
20 resources. But now, if this is going to be real, as Tony
21 says, and we have to really get this up in a relatively
22 short period of time, it's like any project; you need a
23 dedicated project leader. You need somebody whose full-time
24 responsibility is to worry about it and make it happen,
25 otherwise it's not going to happen.

1 We've been trying to manage the LSS and keep it
2 going through the LSS senior management team, kind of a
3 triumvirate. But here again, nobody -- it was nobody's
4 full-time job. It was less than a part-time job, and nobody
5 was sitting there day in and day out worrying about this.
6 And now I guess is the time that we need to do that. If
7 it's going to be real, we have to treat it as real.

8 MR. CAMERON: And as I would like to just get --
9 it seems like from the comments and from there being no
10 objections, that everybody agrees with the need that we have
11 discussed here so that that should be -- I just want to make
12 sure it's an emphatic point for the commission when we go
13 back. And I guess I also take it that this would not be a
14 -- an appropriate function for someone in the adjudicatory
15 role of pre-license application presiding officer either.

16 MR. COTTER: Off the top of my head, I don't think
17 so.

18 MR. CAMERON: Okay. Did the court reporter get
19 that last --

20 COURT REPORTER: I don't think so.

21 MR. COTTER: Off the top of my head, I don't think
22 so. We've always qualified.

23 MR. CAMERON: Okay.

24 CHAIRMAN HOYLE: Okay. Any other comment? Thank
25 you, Tony. Very eloquent. This brings us to the role of

1 the LSSARP. The posed rule, as you know, has posed two
2 alternatives regarding the activities of the advisory review
3 panel. One is to continue the panel essentially as it is
4 but renaming it and rechartering it so that it advises the
5 secretary of the commission regarding standards and
6 procedures for electronic access to documents and for
7 maintenance of the electronic docket instead of advising NRC
8 generally and DOE on design and development of LSS. The
9 alternative to that would be setting up a more information
10 users' group that would essentially be comprised of the
11 same, if not the same people that we have here today, at
12 least the same organizations represented, whereby the same
13 kinds of things could be discussed and agreed upon. And so
14 that's essentially the two proposals that are before. I
15 think both Dennis and Mal have indicated their view that a
16 formal panel should continue to exist. And I guess I would
17 ask you then why you think the informal would not be able to
18 do the job; what's lacking there?

19 MR. BECHTEL: I don't know, from my experience,
20 informal groups have a tendency to kind of drift away or --
21 you have a formal -- formally-defined group, I think the
22 people have more of a potential commitment to what's being
23 done, and I think that's important in the case of this, you
24 know, building and maintaining this system.

25 MR. MURPHY: Well, I agree with that. I think it

1 works two ways. I'm just as concerned with the -- if it's a
2 formal committee or panel, whatever you want to call it, the
3 commission makes some commitment to listen at the same time
4 that we make a commitment to participate and share our
5 views. And that's just as important as the first one. But,
6 again, as I said in my comments, I don't -- I'm not hung up
7 on the Federal Advisory Committee Act. I mean, if Chip and
8 Katherine can figure out some way to get around the Advisory
9 Committee Act while still maintain the formality and stature
10 within the commission's, you know, view of the ARP, that's
11 fine. I don't care whether it's under the -- if you want to
12 get OMB off your back and you can do that, I don't know
13 whether you can or not. But if you want to get OMB off your
14 back by not calling this a formal advisory committee, that's
15 fine, as long as it's still a formal advisory committee.

16 CHAIRMAN HOYLE: A difficult chore. But Katherine
17 and Chip have taken on similar kinds of projects, I take it.
18 Any other comment on the status of the panel?

19 MS. METOXEN: John:

20 CHAIRMAN HOYLE: Yes.

21 MR. MURPHY: Oh, there -- go ahead.

22 MS. METOXEN: I have a comment on it. I was
23 reading over the comments for Clark County, and they have
24 some definite ideas about this, and it seems like there are
25 10 counties that have been identified as being -- having

1 been affected?

2 MR. BECHTEL: Yeah, by the Department of Energy.

3 MS. METOXEN: By the Department of Energy?

4 MR. BECHTEL: Yeah.

5 MS. METOXEN: And there is -- I -- as far as I
6 know, 26 tribes of Indians in the state of Nevada. Now, I'm
7 not for very, very large boards of any kind. They're
8 unwieldy and sometimes are counterproductive, but I would
9 think that, again -- I'm for the formal presentation of this
10 kind of committee. It says advisory, but I can see in all
11 of the past history that it's been more than advisory
12 because the advice and the work is taken very seriously and
13 is incorporated into the rules and other things. So I think
14 it's more than advisory even though you have an advisory act
15 to go by. And I'm in favor of that kind of activity that
16 things get done and proceed. Again, I'm talking for equity
17 because I think that tribes should be equited (sic) --
18 equitably represented and they should also be identified as
19 having been affected if, indeed, they are. And I'm not
20 familiar with the identification by the Department of
21 Interior as to who is identified as a tribe, whether it's
22 treaty tribe or executive order tribe. The Department of
23 Interior recognized them all as tribes. But it seems like
24 every law that comes out, there's a new definition put in
25 that law for specifically for Indians as to their definition

1 instead of a pan definition for all law. So --

2 MR. CAMERON: I -- go ahead, I'm sorry.

3 MS. METOXEN: So that's my position on that.

4 MR. CAMERON: I think Loretta raises a really
5 important point that goes to the issue of membership
6 composition of the advisory committee, and we started off
7 here discussing should there be an advisory committee, and I
8 think we're ready to move into the composition issue because
9 there's a couple of issues that come up there. One of the
10 things that I wanted to just get on the record before we do
11 that is Commissioner McGaffigan (phonetic) was curious about
12 how many of the representatives on the ARP would support an
13 informal users' group. It's sort of a different way of
14 asking the question that we would be -- that we've been
15 discussing where people say that, well we don't want an
16 informal users' group. Is there -- now I feel like we need
17 to do this poll. Is there anybody on the panel now that
18 would support an informal users' group as opposed to the
19 formal advisory review panel? I mean, isn't that the
20 question, John, is that McGaffigan posed?

21 CHAIRMAN HOYLE: Yeah, it is. I would broaden it
22 though just to include the part that we haven't discussed
23 yet, and that is membership on it. Would the membership
24 matter? In other words, if we could broaden it to include
25 those that Nye -- that Clark County would like to include,

1 and I think you supported that as well, and other
2 representation of proper representation of the tribes.
3 Would that matter whether we're informal or formal by
4 broadening the membership? So I think McGaffigan would ask
5 that too. I mean, not just the present limitation of
6 membership.

7 MR. MURPHY: Well, I don't think it matters in the
8 sense that I think -- and I'm just going to speak for our
9 county. I don't want to speak for anyone else. But it
10 doesn't matter to us in the sense that we think as the situs
11 jurisdiction recognized as such by Congress that Nye County
12 is entitled to its own individual seat on whatever panel the
13 NRC uses, informal or formal, and that the rule needs to
14 recognize that separateness of Nye County. Dennis makes the
15 same point with respect to Clark County and then Lake Pine
16 is here somewhere. They, you know -- I can't speak for
17 other counties, but I'm saying that Nye County needs it's
18 own individual representation, certainly more than others
19 even because we have special statutory status under the act.

20 But, you know, in my mind again, the difference
21 between a users' group and some sort of advisory panel, you
22 know, informal, formal -- I mean, again, I'm not hung up
23 with the statutory authority. But the difference between a
24 users' group and an informal panel and an advisory panel, it
25 seems to me, is that one looks at matters of policy and

1 management and administration and compliance, et cetera, and
2 an informal users' group would tend, in my experience, to be
3 populated with technical people who talk about, you know,
4 who use acronyms that I'm not even familiar with, and they
5 talk about servos and servers and all this kind of stuff.
6 And I would prefer -- I think our viewpoint is that we'd
7 prefer to be -- to continue to be involved in the policy and
8 administration of whatever we're calling this thing rather
9 than just giving technical advice on how to use it.

10 MR. KRAFT: You're probably going to need both.

11 MR. MURPHY: We had both at one time. We had a
12 technical subcommittee or something.

13 MR. LEVIN: And the technical committees are going
14 to even be more critical now. There are still a lot of new
15 issues to address as far as standards and procedures and
16 things. And so that has to exist.

17 MS. NEWBURY: I just don't think we're ready for
18 an informal group yet. There are still too many issues that
19 aren't resolved. We're still working about what is the word
20 of the rule that we're dealing with, and, at that point, an
21 informal techie users' group is not the right forum.

22 MR. CAMERON: And I think, John, we can do this
23 without sort of mixing the composition issue up into it now,
24 although we do need -- I think that's the next thing we need
25 to discuss is -- I mean, just frame it in a properly

1 representative advisory review panel is preferable -- is it
2 preferable to an informal users' group, and I think people
3 are going on record that, so far, that an informal users'
4 group would not be preferable at this point. And I don't
5 know if -- we haven't heard from Steve and Judy and Steve on
6 this issue. I saw Pete shaking his head in agreement that
7 an informal users' group would not --

8 MR. CUMMINGS: Too soon in my opinion. Maybe a
9 couple years down the line perhaps.

10 MR. LEVIN: Yeah, and I think --

11 MR. COTTER: But for right now, it's too soon.

12 MR. LEVIN: If you think about it, just by the
13 term user group, it implies you have something to use, and I
14 don't think we're there yet, so maybe it's a little
15 premature.

16 MR. CAMERON: Future -- how about a future users'
17 group? The FUG if we're going to get into those acronyms
18 that you don't understand.

19 MR. LEVIN: Careful.

20 MR. CAMERON: Yeah, we've got to get off this.
21 Right. Steve, Judy?

22 MR. FRISHMAN: Yeah, I just wanted to say that I
23 agree that it needs to be a formal group. I agree that it's
24 -- a users' group is premature and probably not very useful
25 right now. I also see that another purpose for this group

1 and that's that, with the pace in the program as opposed to
2 the pace in technology, we may find ourselves in another two
3 of three years having to go through, well, does this role
4 really work, in terms of interfacing with the real world.
5 So I think, at least during the time of development and for
6 whatever schedules are out there, I think it's important
7 that there be a formal group where, if we see things on the
8 horizon knowing that the LSS is going to be needed for -- or
9 the information system is going to be needed for quite some
10 time, if it's needed at all, then this would be the group
11 that I think could move a recommendation to the commission
12 to start thinking again. And an informal group can't do
13 that or can't effectively do it.

14 MR. CAMERON: Okay. Any --

15 MS. TREICHEL: No. I agree with that, and I'm
16 grateful to be here as a public representative.

17 MR. CAMERON: I guess, if I could use that to
18 segway (phonetic) into the next -- to the composition issue.
19 There's a number of composition issues that have been
20 raised. Go ahead.

21 CHAIRMAN HOYLE: Before you do that, Judy has
22 reminded me that I didn't really properly recognize that
23 this is the first meeting that she's attended, and --

24 MS. TREICHEL: At the table.

25 CHAIRMAN HOYLE: Pardon me?

1 MS. TREICHEL: At the table.

2 CHAIRMAN HOYLE: Yeah, at the table. And I
3 greatly appreciate your being here and glad that you've
4 taken the opportunity to join.

5 MR. CAMERON: And that ties into the -- let me
6 just use this as an example. I think the proposed rule uses
7 some language of -- it still uses this language of coalition
8 of national environmental groups, okay, which may not be
9 appropriate, okay. I mean, we wanted to make sure that we
10 have a person on here who can represent the interests of
11 environmental and activist groups who might become a party
12 to the proceeding, and that can be -- to me, it's more
13 appropriate to have that be someone who is closer to the
14 site than perhaps the inside the beltway groups. I just
15 didn't -- I didn't, you know, I mean, obviously we need to
16 discuss this. I didn't like the coalition of national
17 environmental groups.

18 MS. TREICHEL: We don't have enough chairs for a
19 coalition.

20 MR. CAMERON: Right.

21 MS. TREICHEL: You need a representative of that,
22 and I, within the last month, was asked to serve as the
23 coordinator for the Nuclear Race Citizens' Coalition, which
24 is a coalition of groups including the inside the beltways,
25 the public citizens nears, and then it's right now got 18

1 member groups that are out there everywhere, many of them on
2 corridors, in corridor cities, some reactor communities, and
3 then the national groups that pay particular attention to
4 this. So what I get from here will go back to that
5 organization and others, anybody who asks.

6 MR. CAMERON: So that maybe that language needs to
7 be -- that specific language in a proposed rule needs to be
8 broader than what it is now.

9 MS. TREICHEL: Yeah, representative of.

10 MR. CAMERON: Okay. And Loretta's point about
11 tribal representation, we always have tried to -- and maybe
12 perhaps we have taken advantage of National Congress of
13 American Indians too much in this respect. But we always
14 have looked to them to sort of represent the various tribal
15 groups, mainly for the reason that you brought up, Loretta,
16 which is that things get very unwieldy. And, you know, NCAI
17 has always been very careful to say that they don't speak
18 for the tribes too. And they've given us very great
19 representation though of tribal interest over the years that
20 we've been doing this. I guess that we need to -- in terms
21 of rule language, we need to think about what description we
22 use and also, in terms of just solidifying the composition
23 if the commission chooses to go with advisory review panel,
24 whether we should have NCAI and a member of the -- some
25 tribal membership from the Nevada area.

1 MS. METOXEN: They have an intertribal council, do
2 they not, Nevada Intertribal Council, some such organization
3 I believe.

4 MR. FRISHMAN: Yeah, it's the Indian Environmental
5 Coalition.

6 MS. METOXEN: Indian Environmental Coalition.
7 That would be appropriate. I think they have a intertribal
8 council as well but for other purposes. And I would solicit
9 or at least communicate with them on that whenever the
10 composition is solidified.

11 MR. CAMERON: Okay. And that just reflect -- I
12 mean, the fact that -- using coalitions is a way to balance
13 the problem of many numbers of people still being
14 represented at the table by one or two people, and that gets
15 us over into the coalition of affected local governments
16 issue, and we've always tried to deal with it in sort of
17 from a coalition standpoint. And then there's the separate
18 issue of Nye County as the status county -- situs county and
19 status county, right. I'm sorry. But, being represented by
20 -- at a -- with a single seat at the table. And I guess
21 that's sort of a run through of, you know, stream of
22 consciousness on issues going through my mind on this, and
23 Mal has already spoken to the Nye County issue. Loretta has
24 spoken to the tribal issue, and Judy has just spoken on --
25 in terms of the environmental issue. Dennis or Pete, do you

1 want to talk about the units of affected local government
2 issue?

3 MR. BECHTEL: Yeah, I think -- thinking back, I
4 think when the term coalition was introduced, I think there
5 were just three counties. I think there was Nye, or course,
6 and then there was Lincoln and Clark. and I think we kind
7 of -- Lincoln we kind of sat down informally and, at the
8 time, I was I guess got the short straw or something, long
9 straw, and was on the committee. But I think each of the
10 counties were duly designated as affected, and we're in the
11 law, in the Nuclear Waste Amendments Act. And I think
12 there's enough of a difference -- there's definitely an
13 urban/rural difference from say Clark County and maybe eight
14 of the other counties at least. That I think it warrants
15 consideration of an offer for each of the counties to be
16 members. From our -- I think we feel -- we're not the situs
17 county, but I think we feel that we could be greatly
18 affected as kind of the driver in Nevada by this program.

19 So I think -- I feel very strongly that Clark
20 County needs a role. And I'm sure the other counties feel
21 the same way. And I think it's maybe a little more apparent
22 this year than other years, but it's probably difficult for
23 a consensus to be built with the eight counties. So I think
24 the issues are enough different that I think warrant
25 consideration of each of the counties being members. Not a

1 practical level. I don't think you're going to see each of
2 -- in fact, you might even want to ask them if they want to
3 still participate.

4 But at a practical level, I'm not sure all of them
5 will want to participate, but, you know -- so, I mean,
6 you're not going to have hoards of people -- hoards of
7 counties here, I guess, or something. But we do feel
8 strongly that we should be involved, and I think we've been
9 active in this to warrant participation. And not to
10 preclude the others, because, you know, there's different
11 levels of resources and the negative of Las Vegas it's
12 harder to get to so, you know, I need to ask them as well.
13 That's my --

14 MR. CAMERON: How many --

15 MR. BECHTEL: There's 10, well including Nye
16 County. There's nine other affected counties, one in
17 California and eight in Nevada.

18 CHAIRMAN HOYLE: Dennis, even though you say you
19 might have drawn the wrong straw, you've been a good
20 spokesperson for the counties, and I have felt over the
21 years that you've been the spokesman for the whole
22 coalition, even though perhaps you didn't poll every member
23 every time. But I appreciate your participation here, and
24 I'm sorry that Brad isn't here today because Brad Mettam
25 also has been a very active participant, and you all usually

1 sing the same song. So I'll believe that, even though his
2 county perhaps is not as urban as yours, his approach has
3 been the same. But I do greatly appreciate your
4 participation. And, yes, we'll take this back and consider
5 what you've proposed.

6 Pete, do you want to add anything about the city?

7 MR. CUMMINGS: I think I'd go along pretty much
8 with what Dennis has said about the diversity of the
9 counties and maybe it's -- they should be at least extended
10 the offer to become members of the panel. The City of Las
11 Vegas is the only municipality represented. Initially when
12 this committee was formed, we were one of those charter
13 members, and I think we were asked to participate because it
14 was a three-county coalition and there were no city
15 representatives of any of the major cities. And, as the
16 largest incorporated city in Las Vegas, I think that offer
17 was extended then. And, although I don't have a lot to say
18 at these meetings, I would like to continue at least as some
19 sort of city representative. I'm not sure it's appropriate
20 that we go any farther with it, but, I mean, it's something
21 the panel may want to consider. I mean, there's Henderson
22 and North Las Vegas, and there's other cities that are all
23 going to be impacted I think in one way or the other, but I
24 don't have a problem being the city representative here for
25 the rest of those municipalities under the current

1 structure.

2 CHAIRMAN HOYLE: Chip, do you have anything
3 further? And, Pete, I also appreciate your coming
4 frequently. I don't know that you've missed any of our
5 meetings actually. And, again, I appreciate that.

6 MS. METOXEN: Could I add one more thing on what I
7 hence said about the tribes? This is their indigenous area,
8 by and large. And most tribes identify with sacred places
9 in their territory. And two examples I can give you are
10 Blue Lake for the Taos, Pueblo in Ectous (phonetic), and
11 16,000 was returned to them by Congress because it was
12 identified as a sacred site to them and someplace where they
13 regularly worship the creator. And another place would be
14 the Black Hills of South Dakota for the Sioux who have not
15 accepted their settlement that Congress appropriated for
16 them years ago because they will not sell a sacred site.
17 And that may come up. And I don't -- I hadn't heard
18 anything in the discussion or in this reading that I have or
19 anything previous that discussed any of those things like
20 natural medicines and those kinds of things which -- in the
21 rain forest, we're fighting across the globe to save because
22 those are medicines down there that haven't even been
23 identified yet. We have some of those right here. And
24 those things need to be taken into consideration. And I
25 think that, have -- if you would have tribal representation,

1 more than myself, that these kinds of things would be
2 brought to the surface and discussed. And they're extremely
3 important. It's soon -- it's like other things that you
4 talked about today, that it's better to discuss them and
5 come to some common understanding before rather than later.

6 MR. CAMERON: Yeah, I think that with the NCAI
7 participating before, they've brought up the general issue
8 of the importance of cultural and religious issues and
9 native medicines. And we have that I think incorporated in
10 the topical guidelines through the environmental impact
11 statement, types of considerations. But I think your point
12 is, by having tribal representatives who are from this area
13 is that they can put a finer point on specifics around those
14 particular issues.

15 MS. METOXEN: And I hadn't mentioned something
16 else too that's on my mind because I'm -- don't know enough
17 about it, just recently. But years ago there was a video --
18 a movie. It was actually a movie production, documentary,
19 award-winning documentary put out by -- produced by Robert
20 Redford, and he narrated it. And it's called Broken Treaty
21 at Battle Mountain. And I'm not sure that the land issues
22 in the state of Nevada are settled yet. They may not be
23 settled, for millions of acres of land may not be settled
24 yet. And I hadn't heard that they were, but I knew about
25 the ancient story that -- and this is an issue between those

1 tribes and the United States of America because that's where
2 the treaty -- those -- the treaty is between the United
3 States and the particular tribe for others to cross their
4 lands and they -- not to have seeded their lands, and that's
5 the issue. United States said, "You seeded it," and the
6 tribe said, "We did not. We gave you permission to cross."
7 And so it's still at issue as far as I know for millions of
8 acres.

9 MR. FRISHMAN: It's just about to reopen again, I
10 think probably Thursday.

11 MS. METOXEN: Is that right?

12 MS. TREICHEL: It's the treaty of Ruby Valley and
13 it's --

14 MR. FRISHMAN: It's the treaty of Ruby Valley.

15 MS. TREICHEL: Yeah, and it's just never been
16 resolved sufficiently.

17 MR. FRISHMAN: And there's a BLM order that
18 they're going to try to enforce on Thursday on people who
19 have been contesting 25, 30 years --

20 MR. CAMERON: Is this the Donna (phonetic)
21 sisters?

22 MS. TREICHEL: Dann (phonetic).

23 MR. FRISHMAN: Dann sisters. Yeah, they're after
24 them again.

25 MR. MURPHY: And if I remember correctly, Yucca

1 Mountain is part of the disputed --

2 MR. FRISHMAN: Part of the treaty area.

3 MR. MURPHY: land, isn't it?

4 MS. TREICHEL: Uh huh. And the Dann sisters are
5 across Indian country in the United States and Canada are
6 heros to every Indian tribe.

7 MS. METOXEN: Well, they were given the right
8 livelihood award in Sweden or Noway, isn't it, alternative
9 Nobel Prize. They're renowned.

10 MS. TREICHEL: Yes. But that --

11 MS. METOXEN: The possession of title or whatever
12 it's called in the act is going to be very difficult to
13 prove with all of this stuff going on.

14 MR. CAMERON: Thank you.

15 CHAIRMAN HOYLE: Thanks, Loretta.

16 MS. METOXEN: Major issues.

17 CHAIRMAN HOYLE: Have we heard from Steve?

18 MR. CAMERON: No, we haven't.

19 CHAIRMAN HOYLE: Steve, do you want to speak to
20 the coalition issue or the representation issue?

21 MR. CAMERON: And we've always had you
22 representing the industry for --

23 MR. KRAFT: The only thing that's -- and this goes
24 back to the original negotiated rule making committee. We
25 raised a question and complained formally -- goes back a lot

1 of years -- suggesting that the -- that we were being
2 treated differently because we were single-point
3 representation as opposed to a coalition and we had less
4 than equal membership on that original rule making body in a
5 sense that we really represented, I forget how -- you know,
6 at the time we had whatever the count was, 45 utilities, 71
7 sites, 37 states, I don't know how many rate payers, tens of
8 millions of rate payers involved. That was denied, and we
9 didn't appeal it. We just said, "Well, okay, we just wanted
10 to make the point." So, you know, we've always been
11 comfortable with the idea that we provide -- that there is a
12 difference in the way you think about a coalition versus a
13 -- what is another word to use that fit category that we're
14 in --

15 MR. MURPHY: Representation?

16 MR. KRAFT: What?

17 MR. MURPHY: Representation?

18 MR. KRAFT: Something like that. Some term like
19 that, Mal, that's right. And, you know, that's fine. We're
20 comfortable doing it the way we continue doing it. I mean,
21 the question -- if you remember the question we had, there
22 were voting coalitions and all those sorts of issues that
23 came up back in the negotiated rule making days.

24 MR. CAMERON: Yeah, that's -- and that's when we,
25 you know, were dealing with the second repository so that we

1 had not only coalitions but we had first tier representation
2 and second tier representation.

3 MR. KRAFT: Right. We threatened to show up with
4 75 people at the table and all that stuff.

5 MR. MURPHY: Well, if you go back even further, if
6 I remember correctly, there was some discussion -- some
7 people didn't think you deserved to be -- utilities deserved
8 to be represented at all because they weren't going to have
9 standing in licensing; they weren't going to be parties in
10 licensing and, therefore, they --

11 MR. KRAFT: Yeah, we had a -- there was a meeting
12 in Reno. There was a meeting in Reno, I recall, where we
13 had that discussion that would we, in fact, have standing.
14 And we have not spent any time or effort over all these
15 years doing legal research as to whether or not we felt we
16 did or we didn't have standing. I have no idea whether we
17 could prove it or not prove it. But I believe that there
18 was a genuine desire on the part of the members of the
19 committee of the rule making negotiation group at the time,
20 you know, to open it up to that point of view, representing
21 that, and that's fine for us. And I still don't know
22 whether we would even seek to be a party now. It's not --
23 that's a decision to come some time in the future.

24 MR. CAMERON: That's right, but I remember it was,
25 you know, it was almost amusing that some didn't think the

1 utilities, whose money we were spending or talking about
2 spending, should have even been at the table because they
3 weren't going to be parties to --

4 MR. MURPHY: Which I personally think is a
5 preposterous notion, but, you know.

6 MR. KRAFT: But that -- and, you know, as I recall
7 that meeting, sitting there with a lawyer and an electronic
8 systems expert at the time, having that discussion on the
9 basis that what's the definition of party arises by the
10 nature of the site, you know, and all that sort of stuff.
11 And, you know, if we generally wanted to be a party, when
12 the time comes, we'll look into how we go about --

13 MR. CAMERON: And, you know --

14 MR. KRAFT: We're comfortable the way it is not.

15 MR. CAMERON: In the meantime, you can sit there
16 and we'll call on you when we want to hear from you, Steve.
17 Well, I think we've --

18 MR. KRAFT: You know, I've never noticed that
19 being a problem.

20 MR. CAMERON: I think we --

21 MR. MURPHY: When we need a little more money,
22 we'll, you know --

23 MR. CAMERON: We appreciate the fact that -- I
24 mean, that the industry has always been here at these
25 meetings, and I think adds a lot to them regardless of

1 whether we get into what the legal status of standing is.

2 Although there's been some interesting licensing board cases
3 recently on that issue, but we don't want to get into that.

4 CHAIRMAN HOYLE: Okay. Looking at the time and
5 the remaining agenda item, which says, "What happens next,
6 schedule and actions, discussion leader Hoyle," I need to
7 decide, with some help, whether we can do this now or
8 whether we do want to come back tomorrow morning after
9 having thought tonight about the things we've talked about
10 today and wrap things up in the morning. Could I have
11 discussion of that?

12 MS. WINSBERG: Let's do it now.

13 MR. MURPHY: I prefer to finish now. I don't know
14 about anybody else.

15 MS. NEWBURY: Finishing now is good. That means
16 we can tour earlier and they can have their lunchtime party.

17 CHAIRMAN HOYLE: Whoever they is.

18 MR. MURPHY: Are we invited?

19 MS. NEWBURY: The records center.

20 CHAIRMAN HOYLE: The other records center.

21 MR. MURPHY: The records center is going to have a
22 party at lunch?

23 MS. NEWBURY: And you're not invited.

24 MR. MURPHY: Oh, no, really?

25 MR. LEVIN: NEI is.

1 MR. KRAFT: Oh, I get it, tomorrow's the docketed
2 date of --

3 MS. NEWBURY: Or something, yeah. That's right.
4 We have to open up everything. By the way, DOE would still
5 like to participate too.

6 CHAIRMAN HOYLE: Thank you.

7 MR. KRAFT: The record is clear.

8 MR. LEVIN: Yeah, but does that --

9 CHAIRMAN HOYLE: So does NRC.

10 MR. LEVIN: Well, what about NRC, no, wait a
11 minute --

12 MR. CAMERON: We weren't trying to ignore you. We
13 were trying to deal with the coalition issue.

14 MS. NEWBURY: Well, I was sitting here thinking,
15 you know, I'm a resident of the city of Las Vegas, Clark
16 County and the State of Nevada, so they can all go away.

17 MS. TREICHEL: No, no, no, no.

18 MS. WINSBERG: We'll talk later.

19 MS. NEWBURY: I didn't think so.

20 CHAIRMAN HOYLE: Well, you see the NRC coalition
21 at the table. You know, maybe we could go to separate votes
22 to if we need to.

23 MR. KRAFT: It was coalition versus consortium.
24 That was the phrase we were fighting with all those years
25 ago. And you were trying to get the different like-situated

1 parties to agree to coalesce in some manner, to get the
2 numbers of people at the table down to a manageable group.
3 That was the early stage, like the first discussion on the
4 first day.

5 CHAIRMAN HOYLE: Okay. I haven't heard anyone say
6 that they don't want to try to finish this up tonight, so
7 let me just open this up and ask my colleagues to assist me
8 here. The comments on the rule are due to the commission,
9 to my office by March the 30th, and I encourage each of you
10 to submit your individual comments, but you have expressed
11 views today which we will consolidate and take back to the
12 commission as a consolidated viewpoint. I would like to
13 prepare that over the next week and try to turn that around
14 and get it back out to you to see if that -- if anyone wants
15 to comment on that. Otherwise, I think we would like to
16 just continue to gather your comments. I would not like to
17 see us changing the due date for comments again, and
18 proceed.

19 Go ahead, sir.

20 MR. CAMERON: It may be I think John's idea of
21 writing up a summary of the meeting, as well as the
22 transcript, may give you an idea of -- I mean there may be
23 some of you who just want to say that we endorse what's in
24 the meeting summary. There may be others who want to refer
25 to that in their comments and made additional comments. But

1 I think that would be very helpful for everybody to have
2 that summary and I know that a lot of us have been taking
3 notes so that we can try to put that together.

4 CHAIRMAN HOYLE: Okay. Katherine, do you have
5 anything?

6 MS. WINSBERG: I don't have anything in particular
7 other than a pitch for -- if you do have some specific ideas
8 about language about -- of specific parts, that would be
9 very helpful.

10 CHAIRMAN HOYLE: John?

11 MR. GREEVES: I don't have any suggestions, but
12 I'm concerned about this designating one person in here. I
13 think that's going to be a key issue. You know, designating
14 somebody in NRC to follow this. I think that's something
15 we're going to have to talk about separately.

16 MR. CAMERON: Oh, yeah. Yeah. Definitely.

17 CHAIRMAN HOYLE: Comments, on my left?

18 MR. FRISHMAN: I'll work on the definition of
19 "material."

20 CHAIRMAN HOYLE: Comments, to my right?

21 MR. MURPHY: No, that's fine with me. But I agree
22 with your firm determination not to extend the deadline.

23 CHAIRMAN HOYLE: Anyone in the audience care to
24 make a comment? Now would be the opportunity?

25 Okay. Hearing none, meeting is adjourned.

1 [Whereupon, at 4:45 p.m., the panel meeting was
2 concluded.]

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