

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

PILOT PROGRAM EVALUATION
PANEL MEETINGS

Double Tree Hotel
Halpine Room
1750 Rockville Pike
Rockville, MD

Tuesday, November 16, 1999

The above-entitled meeting commenced, pursuant to notice, at

8:05 a.m.

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P R O C E E D I N G S

[8:05 a.m.]

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GILLESPIE: We are trying to get a draft report done, fundamentally, by December. We have another meeting December 7 and 8.

We've gotten kind of what I will call first draft input from virtually all the panel members. Part of that input was not enough information.

What we're going to do -- it was very substantive. It didn't come out a perfect program. There were some criticisms. The criticisms kind of hung together. But what we need is to have this additional information today, and tomorrow the staff is going to be talking to us and we've invited the states -- come on up here, Dave.

So now what we're doing is trying to get additional information from those people who were basically underrepresented on the panel or the prejudice to the panel itself. What we're going to ask everyone to do that's on the panel is when we finish these two days, today hearing from the non-pilot plants, the additional state input. I'm hoping Jim Riccio comes.

There was some confusion, so I'm going to guess he might be here about 8:30 or 9:00 on the starting time. Everyone on the panel will asked to go back. Tomorrow we'll hear from the staff, the detailed presentation. We have invited the states to stay for tomorrow so that they can hear the detailed presentation from the staff.

After you hear from the staff, we'll give you some time, if you've got additional comments, tomorrow, because I know you haven't had the opportunity to hear. One of the things that we're trying to get out of this is how are we doing relative to our public interface and there

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is some sense from the comments that the panel itself has developed that we're kind of lagging behind on our public interface.

The inspection reports got on the web a little later than we hoped. So what this is a test of is for the states who had not been --

1 I know Gary has been with us along -- is you can only speak from the
 2 information you have seen. So this is kind of a test of the staff of
 3 how comfortable do you feel that you know what's going on and if you
 4 feel uncomfortable, that's information that we need and that's
 5 information that would be useful to the staff on what they should be
 6 doing in the course of the next six or eight months to make you feel
 7 more comfortable.

8 So that's kind of where we're at. We are shooting to try
 9 and have a report in kind of a draft in December.

10 Bill, you're all set for tomorrow?

11 DEAN: Yes.

12 GILLESPIE: Okay. Let's see. Augie is kind of going to
 13 help out for the state reps who are here. Augie Spector is over here.
 14 Tomorrow, he will have some forms to fill out for your travel, so that
 15 we can make sure it gets into our travel people, so that you'll get your
 16 check in the mail as soon as possible.

17 So after you check out tomorrow, if you'll check with Augie,
 18 he'll just touch base with you and we'll get the travel taken care of.

19 SPECTOR: Let me just add. If anybody has anything to
 20 print, handouts to print, if you'll give it to me as soon as possible,
 21 we'll get it printed for you.

22 GILLESPIE: Yes. Does anyone have any handout material,
 23 because we've got a number of members of the public, that needs
 24 reproduction? Did you bring enough copies, Greg?

25 GIBSON: Mohan asked me to bring 40.

GILLESPIE: With that, I would like to express my thanks. I
 know, Dave, you took a shot at us on asking for input early, but I've

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got to say I appreciate your input. You raised a question that you
 didn't even raise.

LIEBERMAN: I raised some I did raise, though.

GILLESPIE: And you raised some you did raise and, in fact,

1 the input was all good. I hope everyone has had a chance to read all of
 2 everyone's inputs, because that might stimulate some ideas and thoughts.

3 With that, any opening comments from any of the panel
 4 members or should we get right into it?

5 Jack is our only external state representative so far.

6 ZANNONI: I wanted to ask who else is presenting here.

7 GILLESPIE: Jack, Dennis, Tom from NEI, and Greg Gibson from
 8 the non-pilot plants. And like I said, Jim Riccio, I expect, will be
 9 here probably about 9:00 or so.

10 ZANNONI: Did you get through to any reporters or media
 11 types?

12 GILLESPIE: Yes. By the way, we got input that the panel
 13 has gotten from four reporters. We had our Office of Public Affairs
 14 kind of do a poll. Let me see if I can fairly summarize the reporters'
 15 input.

16 It was fairly consistent from before and it was that they
 17 felt that they were basically on data overload from the information that
 18 we were putting on the web and that what was lacking was an analysis, a
 19 brief analysis of plant performance or what was lacking is what the data
 20 meant, and they were looking for -- I don't believe, and I talked to
 21 people in Public Affairs.

22 It wasn't that they were looking for a SALP report, but they
 23 were looking for something more concise than just the pictures on the
 24 diagram that's on our web page and the PIM items in the graphs.

25 They were for some statement from, as one reporter put it,
 if I can kind of paraphrase it, they were looking for a statement from
 the Federal authority as to what this meant.

ANN RILEY So that was some input that we got that will be included,
 & all the panel got that input. Again, maybe having a system or a process
 ASSOCIATE S, LTD. Court in place that we're trying out that has some structure gives people now
 Reporters a shot to criticize, and that's okay. Maybe the lack of structure
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1 didn't give people the opportunity to take shots at us before. Now that
2 there's a structure, we may be actually better off.

3 So what was, in general, what we -- which, quite honestly,
4 was quite similar to some informal comments that I got from the State of
5 Florida representative. They were looking for that more concise what
6 does this mean versus just a picture in the data.

7 Anyone else read the reporters' -- is that a fair
8 representation of the e-mails?

9 WRIGHT: Yes. They almost wanted a grade.

10 GILLESPIE: Well, one pushed that far.

11 WRIGHT: One pushed that far, that's right.

12 GILLESPIE: So we've got to give some thought to that. Bill
13 Dean, who is kind of running this program now, kind of has -- will get
14 that out of our report.

15 It's kind of probably an IOU he's got to think about on how
16 to deal with that public interface.

17 With that, we didn't have a specific order. We were going
18 to allow ten minutes. We have three representatives here.

19 SPATH: Wouldn't you want to proceed by just -- there are
20 seven questions in the first session. Do you want to just go over all
21 seven or do you want to attack them one at a time or do you want to just
22 categorize the performance indicator reporting so there's more coherent
23 discussion?

24 I think what I'd like to do is maybe just let each person --
25 what we're going to do is try to let you say where you were coming from
on those seven questions.

SPATH: All at once.

ANN RILEY GILLESPIE: Then we can go back and go through them, but if
& you don't want to -- we're trying to give each person a chance to kind
ASSOCIATE S, LTD. Court of have an opening statement or some opening comments.

Reporters 1025 SPATH: I had organized my comments according to the agenda,

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1 a lot of your major topics, and I do have a few opening remarks ahead of
2 that I would like to offer.

3 GILLESPIE: Okay. Jack, why don't you take the floor?

4 SPATH: And that's kind of my perspective.

5 GILLESPIE: Why don't you take the floor? For the
6 stenographer's purposes, we're going to have to spin the mic around.

7 SPATH: Actually, I'm going to go over in that corner, just
8 because I'm uncomfortable with my back to everybody.

9 GILLESPIE: Okay, Jack, go ahead.

10 SPATH: Let me just first say good morning. My name is Jack
11 Spath. I'm with the New York State Energy Research and Development
12 Authority, more commonly known as NYSERDA, and I'm the Director of
13 Radioactive Waste Policy and Nuclear Coordination.

14 I want to thank you for the opportunity, NRC and the panel,
15 for the opportunity to be here today and to provide some input, from our
16 perspective, at least in terms of where we are in the new oversight
17 process and the pilot project, which does include a plant from New York,
18 the Fitzpatrick, the New York Power Authority.

19 If you'd permit, I'd like to offer a little bit of
20 background up front. New York does routinely monitor what's going on at
21 the nuclear power plants, the operations. We look every morning for
22 event reports. We look at the status report. We find the web, NRC's
23 web site to be extremely helpful in that regard.

24 We kind of monitor the regulatory activities. We get copies
25 of applications for amendments and we get inspection reports and we have
-- this effort is not centered in one agency. It's a collegial
multi-agency type effort. We have staff from our Department of Public

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Service, our Health Department, our Department of Environmental
Conservation, our State Emergency Management Office, and my agency,
NYSEDA, the President of NYSEDA, F. William Valentino, has

1 been designated by Governor Pitaki as the state's NRC liaison officer.
 2 So essentially what that means is that NYSERDA serves as kind of the
 3 focal point for the state in terms of nuclear issues and we serve as a
 4 coordinating agency, not unlike, I guess, IDNS and others. So I don't
 5 think that's a novel concept.

6 But my input today I want to add reflects input from these
 7 various agencies. This is not just NYSERDA, but I've reached out, the
 8 staff have met and talked about the process and talked about your desire
 9 for further comment from New York. So what I'm going to say reflects
 10 their views, as well.

11 I guess I would like to start out by saying that New York
 12 State staff feel that we have developed actually a very good working
 13 relationship with NRC staff, particularly those staff that have
 14 responsibility for overseeing New York's plants, and I am including in
 15 that the headquarters-based project managers who we talk to frequently,
 16 the Region I branch chiefs, the resident inspectors, and, also, the
 17 regional state liaison officer, Bob Bores, who is very helpful and is
 18 always available to us.

19 For the last four years since NYSERDA became the NRC state
 20 liaison officer back in 1995, we've held annual meetings with Region I
 21 and at those meetings there's -- it's a two-part meeting. In the
 22 morning, NRC staff will come up and they will sit down with the state
 23 agency folks and we go into rather detailed discussions about what's
 24 happening at the various plants in New York, what the trends are, what
 25 issues they see, what their concerns are, and we have fairly frank
 discussions along those lines.

In the afternoon of that same day, the NRC staff will

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accompany me and we'll go down and meet with the Governor's staff and
 give them kind of an upper level overview briefing about how things
 look, from the NRC's perspective, relative to the nuclear power plants
 in New York.

1 So these meetings have been very productive, very helpful,
 2 and we certainly appreciate NRC's cooperation. In terms of this subject
 3 today, the oversight process and the pilot project, our last meeting was
 4 held in August and, I have to tell you, we spent a fair amount of time
 5 in our meeting discussing the new process and the pilot project at
 6 Fitzpatrick.

7 In fact, we even had -- we had one of these projects, so you
 8 can get on the web and on your PC and you could project onto a screen,
 9 and we had the NRC's web site up and we were going through the different
 10 performance indicators and looking down and looking at the trend lines
 11 and kind of discussing how it's all working. So that was extremely
 12 helpful to us.

13 I think New York clearly recognizes that NRC has the primary
 14 responsibility for ensuring that the plants are operated safely. The
 15 state, the traditional role of the state and the one that the state
 16 fully fulfills is the responsibility for ensuring that there is an
 17 effective off-site emergency preparedness, and, of course, this is done
 18 in conjunction with all the affected counties.

19 We do not try to duplicate what NRC does in terms of its
 20 regulatory oversight program, but obviously we have a pretty clear
 21 vested interest in NRC doing a good job.

22 In regard to the new oversight process, as you move into
 23 this, I think we trust and we see no indication otherwise that the good
 24 working relationship we've developed with NRC staff won't be affected by
 25 the new process. Perhaps it will be embellished, and that the staff
 will continue to be, as they have been, responsive to our questions and
 concerns.

ANN RILEY On the new oversight process generally, let me just make a
 & couple of points and then I will make -- I have three points to make
 ASSOCIATE S, LTD. about your first topic, which is performance indicators and
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1 Overall, this New York State staff have no fundamental
 2 objections to the new oversight process. We believe it includes many
 3 improvements, particularly the routine availability of the performance
 4 data and trends through the web site, and the performance indicators, in
 5 our view, provide a much broader range of safety-significant data and
 6 information than was previously available.

7 At the same time, however, I think we have to add that we
 8 recommend NRC proceed with caution. While we believe it is reasonable
 9 and appropriate to focus on those areas which have the greatest
 10 safety-significance, it is also important to make sure that weaknesses
 11 don't slip through the cracks and become problems before they can be
 12 identified and corrected.

13 Also, regarding the pilot project, while we believe it will
 14 help to test and fine-tune the new oversight process, in our view, real
 15 confidence in the process is only going to come with time. You aren't
 16 going to learn in six months, nine months or a year how this process is
 17 going to work out in the final analysis.

18 So while we applaud your efforts, we, again, recommend that
 19 you proceed with caution until the program proves its effectiveness.

20 On the performance indicators, three points. The first
 21 point is NRC is relying on the plant operators to report performance
 22 indicators, the performance indicator data, and I believe that's done on
 23 a quarterly basis.

24 I guess what we would ask is that NRC consider what measures
 25 it will take to verify that such data is being reported accurately.
 Obviously, it's important. And there will be some errors, minor errors
 hopefully, it's inevitable, but we believe that NRC should be prepared

ANN RILEY to take strong enforcement action if it discovers any serious false
 & reporting or any intentional efforts to misreport.
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Court Number two, we believe that the NRC should be cautious that
 Reporters if you focus strictly on the 19 performance indicators, that that
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1 doesn't mask smaller problems, which, while in and of themselves may not
2 be safety-significant, collectively could be indication of management
3 weaknesses at a facility.

4 The third point on performance indicators is that they are,
5 by their nature, negative events. As the process is implemented, we
6 would suggest that NRC look to determine the degree to which the desire
7 to avoid incurring a performance indicator could negatively affect
8 operational decisions.

9 I've got just one final comment here. In other words, just
10 to embellish on what I just said, is that is an operator likely to take
11 an action that he or she might not otherwise take or might not otherwise
12 be deemed appropriate in a given situation just to avoid adding a tally
13 to the indicator list, adding another event to the indicator list.

14 That basically sums up my opening remarks. I have
15 additional comments I will offer later, Frank, on the significance and
16 on the enforcement overall evaluation, but that's what I have up front.

17 I'll be glad to try to answer any questions you may have.

18 GILLESPIE: Let me ask a question on -- you brought up the
19 topic of -- which is also, I think, a concern that's been raised before.

20 What do you see as -- do you have a comment on the threshold of what
21 we're deeming as being significant?

22 SPATH: I do, actually, and it gets to the point of your
23 calibration of your performance indicators, and I do have something I --
24 I actually had that under your topic of significance. I'll be glad to
25 share it with you, if you like.

GILLESPIE: If you're going to over it later.

SPATH: Yes.

ANN RILEY GILLESPIE: I'm trying to get a sense for where you see the
& threshold, because one of the questions that's been raised, even by your
ASSOCIATE S, LTD. Court regional offices, out of fairness to Jim and Ken and Jeff, is the
Reporters threshold are right, are we going to miss little things?
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1 SPATH: That is a question and I will address it in a little
 2 more detail later. But let me just say, basically, we think the
 3 calibration of those indicators is an important issue and I don't know
 4 that -- right now, we don't feel that we can tell you that what you did
 5 is right or wrong.

6 GILLESPIE: Okay.

7 SPATH: Okay. But we do recognize that that is something
 8 that needs to be looked at and, again, it may be one of those issues
 9 that you're only going to be able to tell over time, as you gain
 10 experience. Quite frankly, I assume that those levels were selected
 11 based on NRC's collective prior experience.

12 That's not the case? I mean, they weren't just picked out
 13 of a hat, obviously.

14 GILLESPIE: No. The first level -- and let me just say, I
 15 think in the synopsis, the first level, for people who aren't familiar
 16 with it, the green-white threshold is really a normalcy level based on
 17 data from '95 to '97.

18 SPATH: Right.

19 GILLESPIE: So it's a normalcy level based on operation of
 20 the industry. The next level down has more of a risk-informed influence
 21 on it, because now you're cutting into margin. You're off-normal. So
 22 the first indication we're trying to get is when is it off-normal such
 23 that we should have to be more engaged, and that was kind of the intent
 24 of the first threshold.

25 But we have got some comments and we're going to continue to
 look at those. Okay.

ZANNONI: Good morning, everyone. For those of you who

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1 I think it has it's benefits, but there's also some
2 downside. It's good to get input from other agencies sometimes, but in
3 our case, we're concentrated in the Department of Environmental
4 Protection.

5 And it was good actually to hear some of Jack's comments,
6 because I hadn't had time to reach out to the State of New York to find
7 out their involvement in this program, but ours is pretty in-depth. The
8 program itself gets involved with a lot of nuclear power plant related
9 issues. We meet with the utilities actually on a quarterly basis, both
10 GPO Nuclear at Oyster Creek and Public Service Electric and Gas at Salem
11 1 and 2 and Hope Creek.

12 We discuss issues ranging from incidents that occur at the
13 plant to basic safety questions and how they're doing, to try to get a
14 feel from them directly, how the plant is performing. We also meet with
15 the NRC on a regular basis and try to get an assessment from them on how
16 the plants are performing.

17 In the program, as well, we observe NRC plant inspections
18 and related to this pilot program, we have actually participated as
19 observers in a lot of the NRC inspectable areas. I think the number was
20 about 24 out of the 38. We're not finished and there's still some work
21 to be done.

22 In fact, this week, three inspections are taking place at
23 Salem 1 and 2, fire protection and emergency preparedness, which are
24 important. So it's premature to talk about the results of those.

25 But anyway, we also conduct environmental monitoring and
emergency preparedness activities. So we are currently reviewing the
new NRC oversight program.

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Why should we bother to take the time to review this
Program? New Jersey's plants are currently operating well, but this
wasn't always the case. As you know, Oyster Creek, in the early '90s,
and both Salem units more recently, went through some difficult changes,

but still emerged better performers and safer plants.

Now, the point is these changes occurred in the current NRC regulatory climate. So as cumbersome as it was, it still worked, at least at Oyster Creek and Salem.

So from our perspective, it was easy for our management just to say, hey, let's leave well enough alone.

We didn't want the positive changes implemented under the current regulatory framework really to upset the positive changes that we see occurring now at these four units.

The new NRC initiative is important. Fundamentally, what you're telling the public is we will determine if the nuclear power plant is operating safely from this program, and they are going to be listening to the results of that program.

We are not opposing change. In fact, we recognize that performance improvements have occurred in the commercial nuclear power plant industry across the country and we also recognize that not changing may not be an option under the current climate. So it's moving forward.

So I'm here to share some experiences with this new oversight program, as implemented, at Hope Creek, Salem 1 and Salem 2, and I hope it helps in your evaluation here today and before the panel makes its findings.

In keeping with the spirit of your meeting format, our comments were patterned after the questions you are grappling here during these two days. Unfortunately, we can't provide complete feedback. We still really are taking a very in-depth look at this program. We're looking at the performance indicators, we're

participating in a variety of inspections. We're having discussions with our management.

So this is premature, but we do have something I think will help the group. Our primary focus, though, is to consolidate all our

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1 comments by the end of the year, at least that's the new deadline for
2 the program. So our focus is really that, because we want everybody, at
3 least in our own organization, to have ample time to review what we
4 write before we submit them to the Nuclear Regulatory Commission.

5 GILLESPIE: Does everyone know that we have extended the
6 comment on the pilot program by 30 days, to the end of December now?
7 Okay.

8 ZANNONI: But on the docket, the State of New Jersey has
9 already submitted two letters to the NRC concerning the new oversight
10 program. The first one was more generic in nature, kind of scoped out
11 where we were coming from from a big picture perspective, the way we're
12 looking at this program.

13 The second letter was more specific as a result of the major
14 system inspection that's called out for in the new oversight program.
15 That took a real hard look at the aux feed system. The allocation of
16 hours is in the order of 325. So it was an important inspection. So we
17 got our comments on the docket, together with the forms filled out and
18 submitted to the Nuclear Regulatory Commission, and we are going to use
19 that pattern for future comments, but it turns out that so many
20 different comments are coming in, it's hard just to get them in, review
21 them and send them to the NRC. So we're just going to focus on
22 submitting the comments by the end of the year to the Nuclear Regulatory
23 Commission.

24 Now, starting with the performance indicator reporting, we
25 are willing to go either way, obviously. We were prepared to talk about
question by question so you could have the discussion and move forward.

We'll just talk about all seven questions.

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So I'll just proceed. If anybody has any questions, feel
free to interrupt.

The first question asks can PI data be reported accurately
by the industry in accordance with the reporting guidelines. We all

1 agree that assuring accuracy is the key to this question. So far --
2 and, again, it's a recommendation, because we've seen it as a positive
3 occurrence at PSE&G, that the PI collection process would be much more
4 reliable and consistent and, thus, more accurate if the licensee
5 proceduralized the performance indicator data collection process.

6 Jack already mentioned that the control room operator has to
7 enter the information on the logs. There's a fellow that's appointed to
8 read the logs, to get the information, and feed it into the performance
9 indicator data collection. And there are also language issues about
10 what different things mean. So things can break down and you don't want
11 it person-dependent.

12 But I think, and Dave can correct me if I'm wrong, PSE&G is
13 already heading in this direction, which actually gives us more
14 confidence in the performance indicator data. So it's actually
15 something to think about, because it helps bring together what is trying
16 to be accomplished in the performance indicator data collection process.

17 Also, it gives us confidence because when we go down there
18 and look at the procedure, we can see if everybody is reading the same
19 -- everybody understands the same language as far as what's required and
20 what they're looking at.

21 The next point is -- and I think this has already been
22 communicated -- that the mitigating system unavailability data is skewed
23 in the positive direction. In other words, the data will always be
24 revised in a negative direction if things are captured that they missed
25 going back.

So we're struggling with the uncertainty that exists in the
mitigating system performance indicators. And I guess I'll learn more

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tomorrow when they talk about some of the results, at least the NRC's
presentation.

But we're wondering how big that uncertainty is based on
maybe reporting that has occurred thus far. We don't know how big a

1 problem it is, but it's something that we see happening as they discover
2 data later on and factor it back into the performance indicator.

3 GARCHOW: Dennis, do you see that problem as more going back
4 and correcting the past or is that more a real-time month-to-month,
5 quarter-to-quarter, in your opinion problem? I know we had problems
6 looking backward three or four years trying to collect this data in
7 arrears as opposed to the validity of the data for the month of
8 November, now that we're sensitized to this process.

9 ZANNONI: I don't know. Rich Penney, who also works in the
10 Nuclear Engineering Section may add some information, but it's the sense
11 that if you got a curve, it's like error bars, what's a handle on the
12 error of the performance indicator for mitigating systems, that's all.

13 I mean, if it's small, then that's fine. If it's large,
14 then it may be a problem.

15 Now, this may not fall under this category of reporting, but
16 we're identifying a trend that licensees, if they have a PI that's
17 white, are sitting down with the NRC and trying to redefine the
18 performance indicator, because it may not be anything of importance.

19 So it may be that the performance indicator definition is
20 wrong, but the worry here is that when you roll this out nationwide and
21 there's a lot of utilities who may be in the white for a given PI, you
22 don't want to give the appearance that PIs are relative in their
23 definition, such that you may lose some credibility on the actual
24 definition of the PI.

25 I guess the point is when you roll this out, whatever
definition it has, you keep it for a while and collect the data, instead
of giving the appearance that it's changeable.

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It's obvious that the companies want to avoid the white designation, because who knows how the public is going to interpret that Court going forward. So they're within their right, obviously, to correct performance indicator definitions that are flawed. That's not the

1 problem. It's just that you've got to be careful on how much you go
2 forward in trying to change those definitions.

3 And the last point to the first question, and I think,
4 again, everybody is already aware of this, WANO, INPO, the maintenance
5 rule, they all performance indicator numbers and data. It would be
6 ideal, in an ideal world, to harmonize those, but as those numbers are
7 communicated to the public, as well, there needs to be a way, maybe an
8 agenda item going forward would be to try to get some standard
9 performance indicators that everybody agrees to. And if maybe not the
10 actual performance indicators themselves, the definitions behind them, I
11 think, would be helpful.

12 Any questions about the first question? Because I've got
13 six more to go. There's a lot less information.

14 GILLESPIE: What we'd like to do is kind of -- we're
15 actually following kind of a proposed outline of our report. So let's
16 deal with PIs first and then, because we're going to be getting with
17 Jack, also, back to levels and thresholds again as we go on to it.

18 ZANNONI: The second one is simple; can PI data results be
19 submitted by the industry. This is primarily a licensing issue, so I
20 don't have much to share.

21 But it seems to me that if the NRC finds a performance
22 indicator that's important enough to be in the program, there should be
23 no choice, just submit the data, unless it's really flawed or unless
24 they just can't do it. Then you've got to question whether or not you
25 want the PI.

So that's it for performance indicator reporting.

GILLESPIE: Jim, why don't you come on up to the --

RICCIO: I'm fine where I am.

GILLESPIE: I apologized already for the room, but it's the

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Court best we could do. The government ran out of space in our building.
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ZANNONI: Do you want me to cover the risk for the baseline

inspection program?

GILLESPIE: Tell you what. Let's stay with PIs and go through that and then allow everyone to say what they want on that, and then we'll go on to the next topic. I saw someone new come in. Nebraska. Bob, if you would, come join us. Come join us. We're cozy.

RICCIO: Just a few comments on the PIs. I think, again, like David has said and other people I'm sure have said, any system is going to be only as good as the people implementing it and as long as you allow wiggle room at the top, you're going to allow for your PIs to be denuded down the road.

One of the problems I picked out was that you're having obviously some problems with what these guys were reporting. I think either four or five licensees didn't adequately report their performance indicators.

So when you go out to the rest of the staff, you're obviously going to have to indicate to them exactly what it is you're looking for and what it is you want.

I think the bands are a little too broadly set. It would seem to me that as much as six grams might generate a little bit more attention.

Then one other thing I did find which kind of confused me is that there seems to have been some editing going on. One point I want on the line there was some information went back again and it had changed a little bit, and I was wondering why that happened or if you could explain why it happened.

It was basically on the Fitzpatrick performance indicator.

ZANNONI: Which one?

RICCIO: The very first one.

ZANNONI: Scrams.

RICCIO: On diesel generator equipment failures. There was just a difference in how you explained how it got opted out of the

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1 system.

2 LOCHBAUM: That was an inspection finding, not the
3 performance indicator.

4 RICCIO: Performance indicators for initiating events.

5 GILLESPIE: We're actually, as a panel, not in a position to
6 try to be -- we're kind of acting kind of like a mini ACRS just for this
7 program.

8 RICCIO: Does that mean we grilled?

9 GILLESPIE: No, no. Today we're trying to absorb
10 information and comments. As I said, we felt there was
11 under-representation on the part of having state input and the states
12 are one level closer to the populous than the Federal Government is, and
13 Dave was sitting here, so we're kind of underrepresented on the views
14 from public interest groups.

15 So you're basically part of the panel today.

16 RICCIO: With the new system, just like the old system, the
17 fact is you didn't -- the old system worked. You had the data you
18 needed to act upon. The failure came at a higher level of management
19 where basically you had -- that's the problem I have with the executive
20 overrides you have now.

21 You have the data in front of you, it tells you what's going
22 on, but the gut feeling of some senior manager says, no, we'll let them
23 run. I'm a little bit worried about having those -- even as few as five
24 percent overrides.

25 But if you have -- you know, you have the data available.
You're going to have to actually act upon it and giving the wiggle room
to the senior managers doesn't seem to make a heck of a lot of sense at

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You're looking at what were the problems with the old

system, how can you repair them in the new system, and you have to go
back to look at it. That, to me, is one of the major ones.

1 And again, I guess reinforcing to the licensees what
2 actually needs to be transmitted to NRC, because I guess Cooper --
3 Cooper underreported, Prairie Island 2, Quad Cities, both units.

4 So that was it, of the pilots. At least a good portion of
5 the pilots didn't quite get their reporting requirements accurately.

6 GILLESPIE: I think it would be a general concession that
7 accumulating the historic data gave a number of the plants problems in
8 trying to get the definitions crisp in the guidance document, and, in
9 fact, that was being worked up until about two weeks ago.

10 Different people were interpreting words different ways. So
11 I think I would kind of acknowledge that we're still working that
12 important -- it's an important thing and we're still working it.
13 Hopefully, we're getting closer.

14 Jim, could you -- has everyone met Jim Riccio from --

15 RICCIO: Want me to do it?

16 GILLESPIE: Yes. Why don't you introduce yourself?

17 RICCIO: My name is Jim Riccio. I'm the staff attorney for
18 Public Citizens Critical Mass Energy Project, probably outside of some
19 of you guys in the industry and agency, I've been dealing with
20 performance indicators longer than a lot of folk.

21 We have done several reports using NRC's data and the last
22 time we were able to do a report, we were able to show that both
23 Millstone and Salem were in trouble, when their regulatory system didn't
24 quite catch up to that, although the data was there, because I was using
25 the same data.

So my concern about this system is that it not only acts as
a replacement, but as an improvement to the previous performance

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GILLESPIE: Jim, could you amplify your comments? And,

1025 please, anyone on the panel, jump in. Don't be bashful. Could you
amplify your comments? I didn't quite catch what you mean by the width

of the bands.

1
2 RICCIO: Again, it's going to see how -- you have -- and I
3 think it was for the scram data specifically. You had all the way to up
4 I think it was like six grams within a period was still green?

5 FLOYD: The green-white threshold is greater than three.

6 RICCIO: So six is into white.

7 FLOYD: Yes. Six is the bottom of the white and top of the
8 yellow.

9 RICCIO: Hopefully that would kick you into the red. I'm
10 thinking back, and, again, I'm going to use anecdotal information, but
11 I'm thinking about how Dresden got off the watch list last time around.
12 You had six scrams within a period, yet that plant still came off.

13 To my mind, that plant still garnered or deserved additional
14 attention. So I'd like to see those bands narrowed a little bit, held a
15 little bit more accountable, because you're going to have the ability of
16 the licensee to come in and explain away why that event or issue wasn't
17 risk-significant.

18 So I think narrowing of the bands, since you're giving them
19 the wiggle room to get out of it by saying, oh, well, you know, we've
20 had X, Y or Z in defense-in-depth, so it wasn't a risk-significant
21 event, then perhaps you should narrow your focus to begin with.

22 LIEBERMAN: Jim, how would you decide how many is enough?
23 Are you basing it on experience, insight, a risk probability number?

24 RICCIO: I don't have any ability to risk probability
25 numbers. But from looking at -- like I said, I've done three reports
dealing with ten years worth of your data, and when a plant gets as high
as having six scrams within a short period of time, that's usually an

ANN RILEY Indication there is something going on.

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ASSOCIATE And to have it be white and then potentially excused into a
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Court green means you're going to miss stuff.

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GILLESPIE: Let me see if I can get this right, and, Dave,

1 you've been doing this a long time, so if I say this wrong, jump in.
 2 I'm sure you will.

3 I think what you're challenging, Jim, is the idea that our
 4 first threshold is kind of a normalcy threshold. So the three scrams is
 5 kind of a -- it's a normalcy number. It's not -- it was a risk value
 6 was related after the fact to that, quite honestly. It's what is an
 7 expectation of a plant that's recently operated.

8 RICCIO: Actually, you attach more, because you've actually
 9 added additional scrams in there.

10 GILLESPIE: Yes. That's three scrams, but then when you go
 11 down to the other thresholds, and this is part of where we're trying to
 12 be risk-informed, and you say, well, how many scrams are risky, okay,
 13 not how many scrams indicate more off-normalcy, but how many scrams
 14 indicate a risk value, and suddenly we go from a first threshold of
 15 normalcy and when is it off-normal and when should we be interested
 16 because it's not normal to something that's now saying, okay, the margin
 17 is gone.

18 The white is really kind of like of the margin going into
 19 the yellow.

20 We just didn't approach it that way. I mean, that's -- so
 21 you're kind of challenging that that second threshold maybe should be
 22 considered more of a second normalcy threshold rather than calculated to
 23 a risk value.

24 Is that kind of what --

25 RICCIO: I'm going to be talking out of school, because I've
 been reading a book that David recommended on the Challenger launch
 decision, and basically it seems like it's an institutionalization of
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 Court have to stop moving ahead. I'm not sure whether or not you can tweak it
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1 need without the risk addition.

2 I think maybe the combination of the risk, along with the
3 addition of the other scrams, may result in -- it may result in the same
4 -- you end up in the same place, but you've taken in a little bit more
5 data, might be beneficial for you guys in the long run.

6 GILLESPIE: Would it be fair to say that -- because we're
7 mixing two things here. We're mixing the agency's reaction to crossing
8 a threshold with the threshold itself. Would it be also fair to say,
9 because there is a balance there, that you would be somewhat then
10 critical of maybe the reaction as described in that matrix of how we'll
11 react to one white, two whites, et cetera? Is it under-reaction?

12 RICCIO: I don't mean to start this off on the wrong foot,
13 but it seems like an excuse generator. We have a problem, but if we
14 think we have enough defense-in-depth there that we can explain it away,
15 we can continue to move ahead, and I think that's a bad place for you
16 guys to go, especially with this industry at this point.

17 Another thing that isn't captured, unfortunately, and it's
18 something that I think it was Arthur Andersen recommended, a performance
19 indicator for economics. I understand that given the nature of the
20 industry at this point and the fact that you guys are going into
21 competition, but Arthur Anderson made a very strong point of saying that
22 you needed an economic indicator because in the era of new competition,
23 plants would basically try to cut costs and might incur additional risk.

24 That's one of the other blind sides seemingly of the number
25 of all the different indicators.

WIGGINS: I think, listening to Jim and the others here, I
guess what I'm taking out of the discussion so far, just my own summary

ANN RILEY that I hear, people have expressed two basic concerns with the PIs.
&
ASSOCIATE I think we need to hear these, because these are the
S, LTD. concerns of people external to those of us that have been up to our ears
Court Reporters in them and that's industry and the staff. We're talking to parties
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1 that are trying to understand this based on meetings and based on what
 2 we've managed to put on a web page, and they lack -- they don't have
 3 access to the day-to-day stuff that the insiders do.

4 But I'm hearing that there is a concern about confidence in
 5 the data and then understandability of some of the PIs, which I think --
 6 regardless whether we agree or disagree with some of the specific
 7 examples offered, I think that's an issue we need to keep in mind here
 8 for purposes of the recommendation we need to make.

9 For instance, Jim brings up a point with regard to scrams.
 10 I'll tell you, it's almost -- it's curious -- well, not curious -- it's
 11 interesting to me that that's the way the PI discussion leads off. The
 12 first thing on every list I've seen has been scrams, and then you see
 13 the numbers.

14 And the first reaction to the numbers is, my God, look how
 15 many the agency will tolerate before it acts. But it's only after you
 16 think about it a while that it tends to make more sense or the numbers
 17 tend to be less of a concern than they would at first blush.

18 It seems to me, and, now, maybe it's just my own personal
 19 reaction, when I first react to the word scram, when you say scram to
 20 me, what pops into my mind is this kind of multi-faceted,
 21 multi-dimensional kind of trip that happens out there, with a lot of
 22 stuff going on.

23 Well, that turns out to be the second PI.

24 GILLESPIE: That's the second PI.

25 WIGGINS: The first PI, if you really think about it, is,
 well, this is a scram that occurs for some reasonably routine reason.

For instance, PWRs used to have a hell of a time starting up because

ANN RILEY they used to have -- I assume, just based on what I've been able to see,
 & people had problems managing steam generator level at low power levels,

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1 working with their operators and working with their systems to tune them
2 up.

3 But anyhow --

4 GARCHOW: Feed water.

5 WIGGINS: Yes. Well, Salem, before you got there, was one
6 of the -- would be the one I would point to. It used to have several
7 trips each time you tried to start up and it was all related to, well,
8 the level just slightly went out of the band and it got the automatic
9 execution.

10 Now, what does that say about plant risk? Not a lot. What
11 does it say about plant and licensee performance? Well, it says
12 something else. It does say that there is an issue that needs to be
13 taken care of.

14 The practical assumption right now with the program is that
15 that's going to be taken care of through an effective corrective action
16 program.

17 Now, we can bring that up again when we decide to talk about
18 cross-cutting issues and how well they're measured, but unless this is
19 all connected and articulated in a very carefully constructed way, that
20 has the perspectives of individuals who aren't embedded in this industry
21 or not in the guts of it, the day-to-day inspection or operation, I
22 think Jim's point is it's hard to understand, at least we agree with
23 that much.

24 It's difficult to understand how the numbers come out to be
25 reasonable, at least that's how I read it.

RICCIO: From my perspective, you used to not count manual
scrams. I think addition of the manual scrams is a good thing because

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We are finding that when you got into trouble, rather than you going
automatic, you just hit manual, since it was counted as an indicator.

So you've captured that, that's a good thing. And in
addition, those numbers, while, to me, they seem inflated, aren't as

1 inflated because you've added the manuals in there.

2 So I still think six scrams in a period, you're showing
3 something is going wrong in the plant, but I understand that the levels
4 that you set them at are in reflection of an additional data entry
5 really.

6 ZANNONI: They're also time-weighted, too. So if you have
7 three scrams averaged out and you only operated 3,500 hours, that
8 effectively comes up to six and that number is a little different.

9 WIGGINS: Anyhow, the way I'm looking at this issue, there
10 are things that we can look at in terms of how do you build an
11 expectation of confidence in the data. Those are things that the staff
12 and industry could examine.

13 That raises questions with regard -- now, you know, I'm not
14 going to sit here and say that anyone will go into this program with the
15 intent of managing the indicators or doing anything other than a best
16 effort to get accurate data. That's not what I'm -- I'm not suggesting
17 that -- I'm not talking about whether there are any entities that would
18 attempt to do that.

19 I'm just saying that people from the outside wonder whether
20 the data -- they can rely on the data based on the suspicion that it
21 might occur. So that might mean we need to address that as how do we --
22 not necessarily how do you raise the validity of the data as much as how
23 do you raise confidence in the validity of the data, and you can look at
24 that in different ways.

25 The inspection is possible, industry activity is another way
that you could look at that, but it's an issue that I hear is out there.

I think my view of the understandability of the data speaks
a bit to -- I think it's also part and parcel to what Dave Lochbaum has
pointed out in his letter and others have pointed out with regard to how
clear the information on the web site really is.

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It's very difficult, I think, for us as people in the staff

1 or in the industry involved in the pilot to read the web site and miss
 2 the fact that it's hard to understand, because we know so much of the
 3 context, you just subconsciously connect the context to the indicator
 4 and it makes perfect sense to us, but it doesn't make sense to people
 5 who aren't involved in the context.

6 I think that's a good thought. We need to worry about that.

7 GILLESPIE: Okay. Bill took notes.

8 LOCHBAUM: A comment on performance indicators. You said
 9 that they are based on normalcy covering '95 to '97.

10 GILLESPIE: Loosely, that first level, yes.

11 LOCHBAUM: Looking through it, I can see that for the scrams
 12 and some of the other ones, but the reactor coolant system leakage,
 13 containment leakage and reactor primary system specific activity, I
 14 don't think that would be true for those ones. That seems to be
 15 developed from something else.

16 GILLESPIE: You're right.

17 FLOYD: Those were developed based on what the tech spec
 18 requirements were and looking at how long is management waiting to get
 19 up to a tech spec limit before they take action. So we're setting
 20 thresholds based upon what was a reasonable margin.

21 LOCHBAUM: Our comment, that we've submitted formally, I
 22 would restate, we think those are too high. The green to white
 23 thresholds are too high for all those, or too low. They're in the wrong
 24 place.

25 GILLESPIE: And it didn't have the -- I don't want to imply
 that we have rigorous statistical background to the other ones, when we
 kind of approached about a 95 percent, but at least it was a look back

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at actual performance at the facilities. Those ones were not an actual
 look back number. So I can't disagree with you. I have to agree that
 they were -- actually, I could come very close to agreeing with you,
 yes. I could.

1 The other comment that Dave submitted was one that we all
 2 wrestled with, and that's on containment leakage and how do you get a PI
 3 for containment, and maybe we'll talk about that a little more tomorrow,
 4 because that was one that I said some of the same things that you wrote
 5 in early on.

6 The real threat to containment is the inability to get decay
 7 heat out and that's what we should be focused on, but no one knew how to
 8 do it.

9 So it's not that we disagree. We just didn't know how to do
 10 it.

11 GARCHOW: A different perspective of someone challenged with
 12 operating these plants. I have a license granted by the government to
 13 operate the plant in accordance with certain parameters, containment
 14 leakage, RCS activity, RCS leakage, and whether I would prudently choose
 15 to operate at those limits as a manager isn't the discussion for this
 16 process, but the discussion is within the legal framework of our
 17 process.

18 I was granted a license that allows me to operate the power
 19 plant. So to have increased scrutiny by the NRC when I've only -- if
 20 I'm not arguing from risk or management prudence, but I'm just arguing
 21 from a legal framework, it's inconsistent for the oversight process to
 22 be giving me increased oversight at an arbitrary 50 percent of a limit
 23 that I'm allowed, from a legal perspective, to operate right just under
 24 the limit.

25 And we have a basis in safety, we had a review process for
 our license, we had interventions. All of that was water under the
 bridge. They gave me a license that allowed me to operate at a certain

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leakage.
 I'm not saying that it would be prudent to do so or that I
 would choose to operate my plant that way, that's a management decision,
 but within the regulatory framework, I actually could argue the counter

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1 position that even having the limit of 50 percent go to white is
 2 somewhat counter-intuitive to the entire licensing process that gave me
 3 my operating license.

4 LOCHBAUM: By that logic, though, there is no tech spec
 5 limit on the number of scrams. So wouldn't you say get rid of that all
 6 together, using the same logic?

7 GARCHOW: I wasn't using that the number should be the tech
 8 spec limit. I'm just saying that we picked a reasonable number, that
 9 you could argue that it's too low or too high with an equal argument.
 10 If you went back to the law, I have a tech spec book, an operating
 11 license from the government that says I can operate at these values.

12 LOCHBAUM: My argument is it wasn't reasonable because there
 13 was one approach that applied to scrams and something different was
 14 applied to these other ones that allowed much more flexibility or wiggle
 15 room, as Mr. Riccio pointed out.

16 So all we're asking for is consistency. Consistency is one
 17 of the NRC themes. It would be nice and consistent to actually apply it
 18 to some of these indicators.

19 FLOYD: Actually, if you want to make them consistent, what
 20 we find in the -- I'll take containment leakage as an example -- from
 21 the work that's been done within the agency, you could have considerably
 22 higher leakage values than what are there today in the indicator and
 23 what are in people's tech specs, with no impact on public health and
 24 safety.

25 So this thing cuts both ways. I think what the purpose of
 this indicator was to look at what is management's attitude toward how
 willing are they to take their plant to what is a tech spec limit and

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How many times do they come close, just as an indicator of potential
 problems in maintaining the equipment that's there to keep you from
 going over the tech spec limit is what it's for.
 Again, it's not a measure of containment leakage directly or

1 RCS leakage directly. You have tech specs that do that. What it is,
 2 it's an indicator of what is the management's attitude toward
 3 maintaining the systems that are there to keep those systems robust.

4 GARCHOW: And many of them are based -- those indicators are
 5 based on steady-state limits, so that over a period of time, not just a
 6 single point upset that you may have had as a result of a human error,
 7 that you go evaluate and cause and correct that, it's just are you
 8 willing to operate your plant at 50 percent tech spec leakage for the
 9 life of the fuel cycle.

10 That's what the indicator is saying; hey, that might give
 11 you something go to look at.

12 WIGGINS: This is an opportunity to provide another comment
 13 here. I think I'll admit that I may be swinging at windmills in this,
 14 but let me try anyhow. It's my perception, with the green, white,
 15 yellow, red for performance indicators and eventually for the inspection
 16 areas, that what we originally set out to do was to articulate a set of,
 17 if you were in the military, you understand rules of engagement, and
 18 that would be if certain -- you know, the NRC would basically take a
 19 less active role, one dominated by just routine inspections by residents
 20 and whatever is happening in the baseline.

21 We would essentially provide a baseline level of coverage,
 22 provided the licensee had issues within a realm that was legitimate to
 23 let them handle on their own.

24 It was when these indicators or inspection areas would trip
 25 out of it, we would use that to define how we would engage the licensee,
 to find out what's really going on. In other words, the performance
 indicator didn't tell you whether the plant was safe. It raised the
 question that you needed to follow up on.

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I think it's my perception, unfortunately, that where we are
 right now is more towards the idea that the PI is an indicator of safety
 than it is a gate for rules of engagement discussions and rules of

1 engagement decisions, and I wonder whether that's even where we should
2 be.

3 Are the analyses robust enough? Go back to how the
4 framework was put together. Was that what we really thought? Did we
5 think we had something that required that level -- that resulted in that
6 level of precision? I don't think so, frankly. I think there's a -- we
7 may have loaded a lot of negative aspects into going white when all it
8 really is is it means that the NRC is engaged more to find out why that
9 happened. It might not be that we do anything more than just
10 acknowledge that the licensee understands it and is taking corrective
11 action, but given the nature of the indicator, it's going to take
12 several quarters for it to turn around, and that may be enough.

13 You could do it with just resident inspection. On other
14 instances, you may not be able to. In this instance of the 50 percent
15 leak rate, I'd kind of say, well, yes, I'm real interested, although I
16 acknowledge Dave's concern that it's always been the license has a
17 limit, why are you asking a lot of questions when you're below the
18 limit. That's always there for the regulator to deal with.

19 But I'm more curious at that point than I am at ten percent
20 of that point on what the licensee is doing about it, and I would like
21 to think that the staff would have some added flexibility to engage.

22 Where do I go with this? Well, the bottom line is I wonder
23 whether we are really reviewing these PI trips correctly? Are we
24 advertising them as safety tests? Are we advertising them as the
25 definitive, authoritative view of risk in any particular time, or are
they just more -- I think they should be just more rules of engagement.

And it's the inspection and the engagement, the review and
the inspection that basically lays out what the outcome is.

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LOCHBAUM: That's not how you're billing it, though.

WIGGINS: I realize that, I agree with you. I agree that
that's not how it's evolved and that's not how it's being received.

1 GILLESPIE: Trying to get us back on track. This is -- from
 2 the beginning, it was rules of engagement and I want to give Bob a
 3 chance to get back on to the next topic. But, Jim, you're right. The
 4 intent here was safety, the program, as an integral, includes inspection
 5 and not just the indicators.

6 It has to include inspection, it has to be the integral to
 7 have all the information developed.

8 The PIs, combined with the significance determination
 9 process and inspection, were trip points upon which we would go from
 10 being -- having an indicative program to a more diagnostic program.

11 That clearly wasn't -- it's a trip point for going from
 12 indicative to diagnostic as a regulatory agency, from where you're
 13 looking for a problem to saying we need to understand what's happening.

14 It's not a direct safety measure and it's very course,
 15 because that's -- it wasn't considered a direct safety measure, and
 16 maybe that's part of making our won web site, et cetera, more clear as
 17 to what it really means. It's being extended beyond what the intent
 18 was.

19 GRANT: Frank, I guess instead of defending what we're
 20 doing, I'm more interested in hearing from the states and from --

21 GILLESPIE: I want to get to Bob here, so he can -

22 GRANT: Because the issue wasn't just purely taking PIs as
 23 something that exists off by itself. I'm trying to understand if your
 24 issues are with the numbers that were chosen or, as Jim was pointing
 25 out, the level of engagement. I mean, a number is a number, it could be
 three, could be six, could be four.

I think the real point is what you do with that. Whatever
 the number is that you pick, it has to be part and parcel with I'll call
 the regulatory response, and is that really what you're talking about
 and the states are talking about when they tell us to be careful with
 what we pick here?

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1 RICCIO: I think a little bit of both.

2 GRANT: What is your view on that, I guess, engagement? You
3 know, if it's three scrams or if it's six scrams, as you understand it,
4 is the level of anticipated engagement by the NRC correct for those
5 numbers?

6 RICCIO: Again, it's going to be a little bit difficult,
7 just through the pilot, to say whether or not your levels are set
8 adequately. Quite honestly, you don't have a lot in the program, and
9 that's not meant as offensive. I know a lot of work has gone into this.
10 But you've only got a very small sampling of plants.

11 We haven't seen any egregious examples, so I don't really
12 know how it's really going to work at this point. So I would almost
13 say, hey, bring us back in again six months into the program when you
14 have a full set of data or maybe a little further down the road than
15 that.

16 The other thing to just realize is that while this may not
17 be geared up as an indicator of safety, it's going to be viewed as such
18 because of what preceded it. This is basically looked upon as the
19 predecessor to the watch list, which was a determination about safety,
20 whether or not you agree with it or not, but that's what it had become
21 viewed as.

22 So that's how this is going to be judged. I think, also,
23 with the basic deregulatory effort that's going on, people are going to
24 be looking at this program as to where the agency is going to set a line
25 in the sand.

You're wiping out Part 50 regulations. You're going to go
and deregulate, again, the tech specs, risk-base them now. You've
already wiped out 40 percent of those. Now you're going to risk-base

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what's left of the 60 percent.

So the only thing that the public has that's even at a
steady state at this point is what you guys are considering your

1 indicators. Again, those are all new.

2 So right now, in terms of the public's perspective, I think
3 everything is in a great state of flux. We knew that you guys had
4 perspectives on which plants were better performers and worse performers
5 about a year and a half ago, but at this point, no one is really quite
6 sure where you all stand.

7 Does that help?

8 GRANT: Yes, it does. And I don't know if we're going to
9 get to the shadow plants, I don't know who those are, but --

10 GILLESPIE: The viewgraphs here.

11 GRANT: I guess I'm interested because as of right now, most
12 of the indicators are green for the pilot plants, at least in the
13 reactor side, but not the safeguards and EP necessarily. But I don't
14 know how the shadow plants are coming, too.

15 We're talking about six months to 12 months down the road,
16 come back and talk to us about your perception on whether this is
17 telling the public anything of use.

18 I don't know. Can we get any comments from the shadow
19 plants as to whether this is useful and whether the data that's coming
20 out of them is indicative of good thresholds for the performance
21 indicators? Do you have any thoughts on that, Greg?

22 GIBSON: Yes.

23 GILLESPIE: I've got to keep us moving, because we're still
24 on item one of item one.

25 FLOYD: If I could make one comment. Just one observation.

A comment of Jim's struck me, that, gee, when do we -- we haven't had a
good test of the program yet because we really haven't seen anybody that

ANN RILEY has significantly tripped indicators and we haven't had the opportunity
& to really diagnose whether the process gets us to the right level or not
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We often talk about unintended consequences. I think there

1 is an intended consequence built into this program, and that is that it
 2 may be, hopefully it will be that with the early warnings that have been
 3 established with the thresholds, that licensees will have a much more
 4 visible recognition to themselves of when they're starting to slip, and
 5 they will take remedial action sooner, such that maybe we won't get any
 6 plants that go down to the point where we see a significant problem
 7 occurring.

8 I mean, that is an intended consequence of this program, was
 9 to provide more predictability and perhaps an earlier warning both for
 10 the public, the NRC and the licensee as to when they were starting to --
 11 their performance was starting to erode. And if they correct it, we may
 12 not see ever in this program, in the instances where we have a real good
 13 test of them.

14 RICCIO: You really are an optimist.

15 GARCHOW: There are some examples to Steve's point. There
 16 are plants that have shut down and repaired RCS leaks and reactor
 17 coolant system leaks at two gallons out of a ten gallon limit and did
 18 that as a conscious decision, independent of the process.

19 RICCIO: I kind of looked at it, though, as that you got
 20 plants that volunteered for the program because they thought they could
 21 waltz through it kind of nicely and do a good job with it.

22 You don't have some of the worst performers in your pilot
 23 program. You think there --

24 GARCHOW: We have no current worse performers, but I think

25 --

GILLESPIE: I think we have. I think that one I -- a credit
 to the industry, I think we have a spectrum -- we have a spectrum of
 performers that are represented and there really was an attempt to test
 the system and I think there is a real mix.

With that, Bob. We very seldom see Nebraska.

LEOPOLD: Well, Nebraska plays a very, very limited role in

1 working with nuclear power plants. That's probably the reason we very
2 rarely interact.

3 GILLESPIE: We're happy to have you here.

4 LEOPOLD: Thank you.

5 GILLESPIE: Would you introduce yourself and speak into the
6 microphone?

7 LEOPOLD: My name is Bob Leopold. I actually work for the
8 Health and Human Service System and we don't really supervise or
9 regulate the nuclear power plants to any extent. We work with them on
10 emergency response and a couple other issues.

11 So when I first tried to read this, it was largely a mystery
12 to me, frankly. What really helped is I met Jim Chase from Omaha Public
13 Power and he gave me the performance indicators for Ft. Calhoun, which,
14 from our perception, is the better operating of the two nuclear power
15 plants in the State of Nebraska.

16 So we think there is some spectrum. Having two, we have
17 more problems with one than the other.

18 Generally, we are in favor of this concept, this is a
19 concept we've used in health care for a while, which is identify
20 performance indicators, trying to do risk assessment. I think it's a
21 good approach to nuclear power plants.

22 In looking at this, I picked up on scrams just like Jim here
23 did and what struck me is that the green and white, this is Ft.
24 Calhoun's, but the green and white are very narrow and then you have
25 this yellow band which is amazingly wide.

I don't claim to understand the significance of all this and
it's interesting to hear that some people talk about is it a reflection

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of safety or is it rules of engagement. But to us on the outside,
green, yellow and red are sort of symbolic, sort of like the stop light,
and there's an awful lot of yellow here.

It seems to me maybe there's a lot of fudge factor. That's

1 what it suggested to us.

2 The other thing that I was questioning is this indicates
3 that there's been a lot of improvement in the operation of nuclear power
4 facilities in the country in 30 years. How are you going to modify your
5 performance indicators? Because are you going to fix in time this one
6 point? Are we going to come back in three or five years and adjust them
7 to reflect then what's the new 90 or 95 percent threshold, and how do
8 you do that?

9 GILLESPIE: I think in general, I'll address that, although
10 I should let the staff address it tomorrow.

11 The intent for right now is that the indicators should stay
12 fixed, that the performance during the time period fixed.

13 LEOPOLD: So are we going to lock the nuclear industry into
14 the performance of the year 1999?

15 GILLESPIE: Looking through safety information that would
16 come out, that would -- I don't want to say it so firmly, but in
17 general, right now, the intent would be to basically keep a certain
18 level. It is not the NRC's contention to continually ratchet the
19 industry further and further and further.

20 We have a backfit rule and whole -- that philosophically go
21 along this line. Bill, do you want to -- I mean, in general, it's not
22 the intention to use this as a ratcheting device.

23 DEAN: Well, you have to look at, for example, the key
24 outcomes. One is maintaining safety. One is processes to identify --
25 I'm sorry.

Bill Dean, from the Inspection Program Branch. In the
design of this process, we looked at -- one of the things we looked at
is four key outcome goals for the agency, one of which is maintaining
safety. And in setting the thresholds, it was considered to focus on a
time period and that that would be, on a forward-going basis, what we
would establish as that margin, as you will, for the various thresholds.

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1 Now, there's been some discussion about green and white
 2 versus yellow versus red and without getting into a lot of detail, the
 3 yellow and red thresholds are certainly much more risk-informed or even,
 4 as you will, risk-based thresholds, as opposed to the green-white
 5 threshold.

6 So within the concept of maintaining safety, we established
 7 a green-white threshold that would be a forward-going, to prevent
 8 continually pursuing excellence, which is not necessarily the NRC's
 9 goal. The NRC's goal is maintaining public health and safety.

10 So there was a conscious decision to maintain those
 11 thresholds on a forward-going basis, absent, as Frank said, information
 12 that we gain in the future that may have some other safety implications.

13 WIGGINS: I would assume, though -- I don't know if it's in
 14 the agency's best interest or anybody's best interest to say that the
 15 PIs are frozen universally in time. We should look at these as saying,
 16 yes, there would be some evolution over time, and I agree that it would
 17 be inappropriate to evolve them in such a way to ratchet -- I'll use
 18 those terms, since that's what was thrown out on the table.

19 It's never been acceptable to ratchet performance, although
 20 one can argue whether we've done it or not. But I think you have to
 21 allow for evolution when the PIs are proven to not work.

22 If the PIs result in the wrong understanding of the
 23 situation, if you want to view them as a safety test, I won't go back to
 24 my other comment, are they telling you the wrong answer, or if you want
 25 to view them as when we should get more involved. We may be
 over-engaging in certain things.

If a PI turns out to -- that we -- after playing it out over
 some period of time, think Jack Spath here from New York, a good
 suggestion that we ought to be careful. We're not going to finish the
 pilot and then walk away. We're going to continue to evaluate this
 thing.

1 You know, we ought to say, well, maybe these PIs are set at
2 a point that we go in and find that there isn't anything else for the
3 agency to do. That would suggest that the PI is set too low, we can
4 broaden the green band out.

5 GILLESPIE: Let me say that the reason I was being hesitant,
6 I didn't want to deal in absolutes. We do have another effort in the
7 Office of Research, in cooperation with the industry, dealing with the
8 INPO database, EPIX, which is looking at more risk-informed PIs, which
9 implies more data that the computer could basically spit out.

10 I'm a little cautious about that. It's in its infancy.

11 RICCIO: Would that be available to the public?

12 GILLESPIE: Yes. And that's part of the institutional
13 problems we would need to work is traditionally INPO data has been
14 proprietary. But there is an interface with the NRC on NPRDS and other
15 things that pass through to our reports.

16 RICCIO: I'm just worried because I even know if they submit
17 to you voluntarily, it's still not accessible to us unless you make it
18 available.

19 GILLESPIE: Yes. Jim, all I'm saying is there's a lot of
20 institutional problems and technical problems and industry, INPO, NRC,
21 there's a lot of things being worked. And, Jim, you're right. I think
22 what we're going to do is see an evolution.

23 But the intent of that evolution is not to -- I wish I had a
24 different word, to ratchet, because ratchet is kind of a negative word.

25 But it's not the intent for that purpose, but I think we'll see an
evolution of the indicators over time that will clearly be more
detailed.

ANN RILEY LEOPOLD: And we would hope you would, because the public's
& expectations change. They're not static, whether you're talking about
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Court the nuclear power industry, automobiles, or health care.
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1025 GILLESPIE: I'm just trying to be clear on what the intent
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1 is on how those would be used. It would be to give a clearer picture of
 2 what is, not necessarily to set a different goal, which should actually
 3 be done under rulemaking.

4 One last comment, and then I'm going to suggest we take a
 5 five-minute break before Greg goes on, because Greg has a lot of
 6 information on the other plants, which I think will be a useful
 7 introduction to additional discussion.

8 So Dave?

9 GARCHOW: For one thing, I think the discussion has been
 10 good here and I think we ought to be careful not cutting off some of the
 11 discussion, because as the panel, the presentations are interesting. I
 12 think the back-and-forth, that as we listen to the different
 13 perspectives that get thrown out by some of our public participants, I
 14 think the real value is in some of the cross-talk and interplay, as far
 15 as me making some sort of independent judgment, like we're supposed to
 16 as a Federal advisory panel.

17 GILLESPIE: So you're telling me don't push too hard to stay
 18 on schedule.

19 GARCHOW: You're doing fine. I just think there's value in
 20 --

21 GILLESPIE: Actually, we started a little early, so I think
 22 we are doing good.

23 DEAN: I just want to add one thing to what Jim said. I
 24 didn't say that we were freezing the indicators. I said what the intent
 25 was in the design of the program, one of the things that I wanted to
 share that I think would be important for some of the attendees here
 that may not be here tomorrow when we actually do our presentations is

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that one of the things that we plan on doing as part of this new
 oversight process is conduct an annual self-assessment, and part of that
 self-assessment will be doing something like looking at what do the
 performance indicator trends industry-wide show us.

1 They may give us some of those insights that Jim referred
 2 to. Maybe we are over-engaging or under-engaging and it may give us
 3 cause to look at those thresholds.

4 GILLESPIE: Jim, we're committed to a Commission paper one
 5 year from June and I might anticipate, based on your comment and other
 6 thoughts, that maybe a meeting with similar participants that are here
 7 today to get input into that paper would be a useful forum, this kind of
 8 thing.

9 RICCIO: Just to see where you guys are at.

10 GILLESPIE: So I think we can factor that into that one-year
 11 report, and it's going to take about a year's worth of data, I think, to
 12 have enough stuff coming in to step back and make a judgment.

13 I would suggest let's take a ten-minute break and then we'll
 14 come back. Augie, could you pass that attendance list around?

15 [Recess.]

16 GILLESPIE: Let's go. Heidi is keeping me honest and let me
 17 say it this way. We're going to need to strike a balance to move
 18 forward. What our guests here of the panel have is Mohan had sent them
 19 a copy of basically the outline of our report. So they have all the
 20 same questions that we're going to be writing to, and I will endeavor to
 21 try to keep us on a schedule that let's them talk to all those points,
 22 so we get through it.

23 I'm going to try to allow some extra time then at the end of
 24 the day for any wrap-up comments, but we do need to proceed through the
 25 material.

Okay. Greg Gibson is the Chairman of the Shadow Plant
 Program. It's an informal program that's unchartered, but cooperative.

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 An interesting note is that the NRC has not officially or supposedly
 unofficially obtained the information that everyone in the room is about
 Court to hear, because there is an OMB requirement that we can't get
 Reporters information from anymore than nine entities without an OMB clearance,
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1 and our OMB paperwork reduction clearance is not effective until
2 January.

3 So, in fact, everyone in the room will, in general, be
4 hearing this information collectively for the first time, although I
5 think we've heard bits and pieces in different presentations.

6 Greg?

7 GIBSON: Thank you very much. I appreciate being here.
8 Again, I'm the Chairman of the Shadow Plant Program. Let me tell you a
9 little bit about what it was, because everybody seems to want to know
10 who are these masked men.

11 Again, as the chairman, my normal job functions, I work for
12 Southern California Edison Company. I'm the Manager of Projects and
13 Programs for Edison in San Onofre, in the Nuclear Regulatory Affairs
14 Department.

15 When this process first was unveiled, we recognized at San
16 Onofre that this was going to be a major, major -- I hate to use the
17 paradigm word, but it's going to be a major change in the way everything
18 has been conducted in the past.

19 So what we did is we have a regulatory utility group, we
20 call it RUG IV, and it's the licensing managers from all the Region IV
21 power plants and we get together periodically, and we brought this issue
22 up right when it started back in January of last year, with 99-007.

23 We decided that notwithstanding that there was Cooper and
24 Calhoun in Region IV, that we would go ahead and shadow, if you would.
25 We would go ahead as if we were part of the pilot program. We would go
ahead and run just the same as we were.

We also have people who were on the Combustion Engineering
owner's group licensing subcommittee and the licensing subcommittee was
also invited, if those plants would like to participate.

So they also volunteered to participate and share data.

They would provide it to a central location of the facilitator, to me,

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1 as the chairman, and then I would literally compile the information in a
2 computer spreadsheet and then provide it back out.

3 Now, there were two reasons for doing this. Why did we do
4 it? There's two reasons. One, it's very difficult to make comments on
5 something this important, to make public comments and go on the docket
6 and try to make meaningful input if you don't do this, because truly the
7 devil is in the detail, and I'll be probably using that phrase a lot.

8 But unless you actually go out and try to test all of the
9 five phases of this process. Now, the five phases, of course, are the
10 performance indicators, and I have about eight slides on those. Then
11 I'll hold the other slides for later, which is the inspection modules,
12 and then, of course, the SDP process, which assesses the inspection
13 results.

14 Then we have the action matrix and then, of course, you have
15 the enforcement policy. So although we have comments on each one, the
16 bulk of the comments I'll be providing will be in this particular
17 section, and we have very crisp presentations for the other ones. This
18 may run slightly more than ten minutes.

19 GILLESPIE: Greg, did you make copies of the handout?

20 GIBSON: Yes, I did. As my dad said, never pass anything
21 out, especially to engineers, of anything you say. Yes, I'll give
22 copies of the presentation right afterwards.

23 Also, I didn't know whether you could peek at it, with that
24 OMB thing. I'm not sure.

25 GILLESPIE: No, no. We're an independent panel, so we can
get it.

GIBSON: Good. Here are the participants, and I really
ANN RILEY would like to draw your attention here to the last caveat. It's the
& ASSOCIATE Standard thing that everybody does anyhow. Of course, they are the
S, LTD. Court representative for the nuclear industry. However, on a plant by plant
Reporters basis, plants may, of course, take differing views and opinions and have
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a different perspective on things.

Similar for the shadow plant program. I obviously can't speak for every one of them. However, I have spoken with every single one of them. I've been dealing with them on a day to day basis over the last six months. So I'm in a position to say what our general comments are.

We will be -- in fact, we're meeting in Phoenix this Friday to put together formal comments for the December 31 submittal. All of the plants are going to be coming to that.

However, the comments that I have here have been bounced off of them for about three weeks now. So they are in consensus with that.

Now, in addition, the data that I'm going to be showing you later, it's also important to realize that some of the data that I'm going to share with you should not be considered cast in stone. Now, why is that? Here is where the devil gets in the details. I will give you one illustrative example.

We have a series of frequently asked questions. When a licensee has a question, they raise it, NEI gets with the NRC, the decision is made on what the answer is and how to interpret the particular question, it's published as a frequently asked question.

Some of the information that's here and in this thing are, in fact, subject to FAQs that are on the table right now. One might be, and here's a particular example, we had one licensee, who will remain anonymous, which was running an LLRT, a local leak rate test, on a particular penetration and LLRT is one of the metrics that we have.

Well, everything was fine, except the individual who went out to do the local leak rate test took a very small gauge, didn't take a full-range gauge to determine it.

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When they realized that it didn't pass the small gauge, instead of going and getting a bigger gauge to put it on there, to actually measure the LLRT from that particular penetration, they just

1 fixed it. They got it so that it was within specification.

2 Unfortunately, it took a huge hit when they suddenly
3 realized, wait a minute, I don't have actual data to show me what the
4 thing is. However, they feel very confident, using engineering
5 judgment, they were nowhere near any of their leak rates.

6 But because of an error -- so the question right now on the
7 table that we sent an FAQ in on is how do you handle errors in obtaining
8 data, where, in fact, the data -- do you want to err on the conservative
9 side and it is prudent to err on the conservative side, and say, well,
10 just take the largest leak rate possible, or should you use engineering
11 judgment and if so, under what conditions should you use that, when
12 would it be prudent to do so.

13 So that's an example of where some of the data, in fact, may
14 change between now and January 21, when what I'll call the official data
15 is submitted, because hopefully all these FAQs will answer these, so
16 that we all have one uniform set of guidelines and we can all make
17 appropriate submittals.

18 GARCHOW: Greg, what did that fine print say? Just sort of
19 a standard disclaimer?

20 GIBSON: Yes, that's exactly it. This information is
21 considered a consensus position. Specific performance indicator data
22 was not subject to senior management review nor independent verification
23 and validation. It is not intended to represent the final position of
24 any individual utility. Comments, opinion and information may not be
25 those of an individual utility.

No attorneys here. But on the other hand, we wanted to be
clear, we don't want to ambush anybody.

ANN RILEY From an overall standpoint, kind of an opening remarks I was
& going to put up, the shadow plants, in general, feel that there is
ASSOCIATE S, LTD. Court obviously significant improvement in this process over the previous
Reporters process that was in place.
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1 Certainly, it's more objective criteria, more timely, and it's more
 2 predictable and uniformly applied between the four regions, and we think
 3 that serves everyone well. That serves the public, that serves the
 4 regulator, and that serves the utilities.

5 I think those three are the -- when they say what's the
 6 bottom line, we think it really is good and it does, in general, meet
 7 those.

8 In general, we see a similar level of baseline inspection to
 9 what a typical SALP-1 plant would have received. It appears to be at
 10 approximately the same level. It might be increased in one area.
 11 There's a couple areas, like health physics, where it seems that the
 12 baseline inspection may increase slightly. In other areas, it may drop
 13 slightly. But in general, it seems to be about the level of inspection
 14 that a typical SALP-1 plant was inspected at previously.

15 Certainly, it improves communication with the stakeholders.

16 However, to some degree, the reason I'm here is we have some concerns
 17 with regard to communications, especially with some of the metrics.

18 BARNES: Greg, what do you mean by similar level of baseline
 19 inspection?

20 GIBSON: If I were a SALP-1 plant, remember, I'm speaking
 21 for everyone, we had three plants who took a look in detail that all the
 22 inspection modules that were done in the pilot plants and all the
 23 proposed modules and they looked at them, first of all, prior to them
 24 being executed and identified, gee, this seems like a lot more
 25 inspection than we had previously.

Health physics is one area that I can point to. That was
 actually executed at the pilot plants and we said approximately how much
 inspection effort did this core module take, and it was slightly more in
 some cases, slightly less in others.

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Now, can't make an absolute definitive statement, because as
 Frank has told us at the meeting in Philadelphia many months ago, told

1 all of the utilities at that public meeting, was that this is a pilot
2 program to flesh out the inspections and that changes will be made in
3 the depth and detail, perhaps some parts of the module need to be
4 dropped because they're just not worth looking at.

5 On the other hand, maybe new areas need to be added. So all
6 I can say is it seems to be generally the same level of inspection.

7 Moving to the performance indicators, generally, they seem
8 prudently set. I have to use that generally. There's a couple of
9 indicators that we'll be talking about in a moment that we'd like to
10 draw your attention to, and I have that data that I'll show you in just
11 a few seconds.

12 Then we'd also like your consideration on three particular
13 areas. This is the 50,000-foot level. I couldn't come in with our
14 entire list of comments that we have on each and every one. So I tried
15 to pick the three main issues that the shadow plants have, with the
16 impending implementation of the process.

17 One is the 30-day submittal time or 14 days or whatever the
18 submittal time is. The second is the security equipment PI and the
19 third is how are we going to be adding new PIs, because we hear rumors
20 of, well, there's going to be one on fire protection, there will be one
21 on shutdown, and there will be another one on unavailability index.

22 So those are three in particular that I'd like to speak to,
23 and then I'd like to go to the specific questions that you have.

24 What we have done in the shadow plant program is to take not
25 only our information, but also the raw data that we have from the pilot
program, as well. We were able to obtain their information and put it
up. The bad news is I can't tell you which plants are which plants,

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Because I couldn't get in touch with every one of them from the time
this was created, and we'll get into this 14-day submittal being a bear,
to get their permission to actually say, yeah, it's okay.

Now, everything will be made public in January, so nobody

had a problem with, yeah, just go ahead and put it down, but I couldn't get individual people to do it.

What's important, though, is this will tell you, for the 18 plants that are in our shadow plant program, 27 units, that's a quarter of the American fleet, and if you add the pilot plants on top of that, of course, we already had Ft. Calhoun and Cooper, you've got a little more than a third of all the reactors in the country.

So you can start taking a look at these from what I'll call gross information standpoint, in terms of what's the average value for each of these in terms of scrams or key ERO drill participation individuals, and what's the standard deviation.

Although we're dealing with small numbers, so consequently the standard deviation is really not a great one, you can also use it to get a feel for the 95 percentile that Frank and the group has been talking about previously.

I also didn't color code it, for your benefit, because when I color coded it, you couldn't read anything on the chart and it didn't reproduce worth a darn. So let me just say that there are a number of white windows there. There's a white window in key or drill participation, there's one in LLRT for the L-sub-A, there's a number of them in security, and we'll talk to that in a moment, and there was also one with one of the safety system metrics.

But you can go through. The key and the legend down here, I included it to help you with what the thresholds are between the various groups.

Now, the first area that I said that I'd like to talk about is the 14-day submittal. It seems to me -- and forgive me, because this

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is somewhat pejorative, on my term. It seems that somebody just asked a question, well, how quick can you do this, and that's a question like if I walk up to David and I say give me all your money, and you say, well, let's say, I've got money on me, I've got some CDs, I've got a bank

1 account, I can liquidate my house; you know, I mean, I can do a lot.

2 The question, though, is what is reasonable and prudent in
3 terms of getting out the indicator data. So what I did here is I've
4 gone backwards and kind of asked the reverse question, which is how
5 quick can you get the stuff out, from a reasonable prudent timeframe.

6 Now, clearly, if we were only talking about plant trips,
7 sorry, this turned out terrible, didn't? If I were to only talk about
8 plant trips, shoot, I can do that in 14 seconds. You either know you
9 tripped or you didn't, that's an easy one.

10 However, some of these metrics are, in fact, difficult to
11 come up with. Now, if the original -- and back in Philadelphia, we
12 asked this question.

13 If the original time is when I make a submittal absolutely
14 everything has to be true, complete, correct, accurate and never going
15 to change, then the quarterly radiochemistry results for strontium-89
16 and 90 that are part of the public exposure pathway that everyone is --
17 I mean, that's an important pathway and that's an important PI, it takes
18 45 days to get that result back from the laboratory.

19 You don't have that data. So you would have to wait
20 approximately 90 days for the public radiation exposure, if that's what
21 you wanted to do.

22 Now, I understand when that was raised that the NRC said --
23 with NEI -- no, that will lag one quarter. That data won't be current.

24 You have a gross indication as to whether or not it will, in fact, be
25 in or out, but you can't confirm that until you get the strontium-89 and
90 numbers.

Taking a look at others, safety system unavailability. As

ANN RILEY was mentioned earlier, that literally entails an individual sitting down
& with operating logs and finding out when a particular piece of equipment
ASSOCIATE S, LTD. Court came in, went out of service. So it does take a while, notwithstanding
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1 you've completed out, you're still left with a piece of data you have to
2 look at at the end of the month.

3 Typically, it takes about five to ten days to do the safety
4 system unavailability. In addition, there is an issue of the
5 occupational exposure pathway, where there is occupational radiological
6 occurrences.

7 Now, that particular pathway you going to get one of two
8 ways. One, they say if I have a self-alarmed dosimeter, that everybody
9 wears when they go into a radiation area. If it said 100 MR above where
10 I go in and it alarms, 100 MR above my planned limit, let me real
11 precise there, then it would be unplanned, so to speak, and that would
12 be a count that you would take.

13 Well, the self-alarmed dosimeter is not the official dose
14 of record. The official dose of record is your thermal luminescent
15 dosimeter, which is not read until the end of the quarter, and it takes
16 typically five days to take those, collect them, send them to your
17 laboratory, have them analyzed, and have that information available.

18 Now, one of our plants, this most recent time, was able to
19 identify that for multiple entries, an individual's alarming dosimeter
20 did not go off. However, their dose of record was slightly above the
21 105. It was about 105-107, but it was above 100. So that was an
22 occurrence. They wouldn't have known it from the alarming dosimeter
23 data, but they could tell it from the TLD data.

24 Once they had that TLD higher than expected, they had to go
25 then and interview people, reconstruct the job and do the information.
That typically takes five to ten days to nail it down and make sure you
knew what, in fact, was it a planned or an unplanned, did it meet this
metric or not. That is something that takes time to do.

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Now, if we put these up here and we ignore the
radiochemistry results, it seems that about 21 days, the data is
essentially available from the licensee' standpoint. And then one of

1 the things that we did not do in the shadow plant program was to say,
2 okay, let's send it through a rigorous V&V program and have senior
3 management buy into it. We wanted to test the process, we weren't
4 testing senior management.

5 However, very clearly, it's important to set up an
6 infrastructure, which is one of the other reasons we did the shadow
7 plant program in advance. We felt that it would be very difficult
8 waiting till the very last minute to try to set up the infrastructure to
9 do these metrics, notwithstanding that it was the intent to try to take
10 existing information.

11 You do have to establish an infrastructure. And
12 approximately three to five days is about what it needs. So what we
13 would like to suggest is if you were taking it from when is data
14 available, yes, a whole bunch of stuff is available the first day. By
15 the third day, you've got more. By the fifth day, you've got more.

16 But then to make it complete, day 21, to get these last two
17 mitigating systems and the occupational exposure. I think that will
18 also go a long way toward what I perceive as a public perception that,
19 wait a minute, you're messing with this data, you're changing this data.

20 Well, nobody wants to change the data. They want to get it
21 right the first time. It's the FRAM oil filter, if you pay me now or
22 pay me later, we don't want to be changing our numbers. We'd like to
23 have the time sufficient to have the verification and validation, an
24 extra set of people take a look at some of these metrics.

25 Now, clearly, scrams, you don't need any V&V on that, that's
okay. But on the exactly I just gave you, on occupational exposure
control, you want to make sure that you do have verification and

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Validation. You may even want to set up an expert panel to meet and go
over the data to make sure you've properly characterized it and
categorized it within the framework of the PI program. That takes time.
The other element to this is down here at the bottom, which

1 naturally my slide went to heck on the airplane. It says NRC inspection
 2 report issuance. We took a look, three plants took a look at the number
 3 of inspection reports that were submitted in 1998, and this was in
 4 Region IV, and what was the average time that it took to issue a report
 5 from the exit interview until the time the report was signed, and it
 6 took about 22-24 days.

7 Now, that was somewhat skewed by two reports. One took 90
 8 days to get out and one took 54 or something. So we dropped those out,
 9 because there were major issues associated with that that needed time
 10 for resolution.

11 However, it does appear prudent, from our standpoint, that
 12 if this is going to be put on the NRC web page, that it would be very
 13 helpful to the public, to us, to have both sets of data come in at the
 14 same time.

15 So whatever the timeframe is, if it's 14 days, okay, then it
 16 seems prudent that the NRC indicators, from the inspection standpoint,
 17 ought to be done in the same timeframe.

18 We suggest 24 -- excuse me -- we suggest 30 days, because
 19 that would also allow everything to be conducted within this 30-day
 20 window. So we submit that for your consideration.

21 WIGGINS: This talks about the mechanics of getting the data
 22 in, and I guess the staff would have to -- maybe they could talk to us
 23 tomorrow a bit about -- you know, part of the timing of the data input
 24 has to be -- you have to consider what we're going to do, what the staff
 25 is going to do with the data and what the timing is for what it's going
 to do.

How soon to the end of the quarter is an assessment at the
 branch chief level going to occur, bla bla bla.

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But I had a different question, actually.

GIBSON: Could I address that, though, first? It seems
 backwards. Let me just be real candid here. It seems backwards. The

1 question shouldn't be how physically fast can you do it and when does
 2 somebody else want it. The question ought to be when can somebody give
 3 it to you complete and accurate, because if you're changing these
 4 numbers, the downside is just not okay.

5 I can give you an anecdotal story. The first data we got,
 6 somebody thought they were yellow in one of the metrics. It turns out
 7 they weren't. They had screwed up the data, because they didn't have
 8 their V&V program in place. They do now. Their VP was very upset about
 9 that and it was just not okay.

10 WIGGINS: I understand the point you make, and my point,
 11 which wasn't really the question, but the point I was trying to make is
 12 the timing of the submittal is really synched to the time of the NRC's
 13 assessment process. You have to meet the gates for the assessment
 14 process or you'll have to change those things, also, which now you're
 15 raising other public questions about how long do you have data before
 16 you act on it.

17 But the question I really had that I really wanted to ask
 18 really is what's the shadow plant view of what's going on in the
 19 facility about these problems, aside from the activity to get the
 20 performance data, indicator data correct and accurate?

21 Tell me about the corrective action process and how it's
 22 working on the same information at the same time. Is there a similar
 23 delay in the start of corrective action or in the timing of the
 24 completion of at least the initial stages of the corrective action that
 25 will also be attendant to this delay?

GIBSON: No.

WIGGINS: Okay. Can you give me a sense for what you think

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GIBSON: All of the power plants that I'm familiar with that

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1025 formalized, very rigorous corrective action program, where, once an
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1 issue is identified, it is immediately documented and corrective action
2 is started.

3 WIGGINS: Will there be examples of issues that wouldn't be
4 identified as things to be worked on until the performance indicator
5 data is known? Would there be instances, for instance, TLD data, let's
6 say, that you wouldn't --

7 GIBSON: I was thinking of that one exactly. That seems to
8 be a chicken and the egg question, because clearly the moment you get
9 the data from the TLDs and you determine that, wait a minute, there was
10 this one case where a person made three entries and it was during an
11 outage and their exposure -- again, the TLD versus the self-alarmed
12 dosimeter sometimes is as much as 20 percent difference between the two.

13 We're not talking 0.1 percent difference. Sometimes there
14 are differences and to resolve those takes a while. And then as you
15 correctly said, the moment you find it, then suddenly you have to
16 resolve it and then, well, wait a minute, you have to report at the
17 exact same time you're resolving it, normally. You would normally be
18 doing that at that time.

19 WIGGINS: I don't know. See, the presumption I have that
20 the program is built on a foundation of an adequate corrective action
21 program, which, in absence of any other criteria that are out there, I'm
22 going to say that the expectation is, in a reasonably prompt manner,
23 issues that are potentially adverse to quality or potentially adverse to
24 performance are being entered and dealt with.

25 GIBSON: It's my view that with the exception of scrams,
which I'd like to talk about, would somebody remind me to do that, I'll
probably forget. I'd like to talk about scrams at the end of the

ANN RILEY presentation.

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But with that exception, you don't really -- you have a trip

reduction task force, you have things like that. You wouldn't actually
write a corrective action document. You might write one on what caused

1 the scram, but in terms of the total area of scram, that might be a
2 little bit different.

3 But, yes, the corrective action program is going to be
4 inspected. It's a formal inspection module. It will be looked at at
5 least once a year. All of the items which are here should be in the
6 corrective action program. The NRC will have an ample opportunity to
7 review that in detail and determine the adequacy of that corrective
8 program.

9 GARCHOW: Greg, going on a little of what Jim said. I think
10 he teed up the question. The reality is that public safety is assured
11 because when we have an occurrence, it's evaluated promptly for
12 operability and reportability and if it's not in accordance with your
13 tech specs, you comply; if you can't comply, you shut the power plant
14 down.

15 GIBSON: Absolutely.

16 GARCHOW: So there is nothing in this regulatory process
17 that was intended by the framework to this to have an instantaneous
18 feedback to ensuring the safety of the plant. The tech spec provides
19 that, the prudent operation of a facility provides that.

20 This provides a framework for spotting potentially adverse
21 trends over time that would trigger, as Jim said earlier, an increased
22 regulatory action all the way through the action matrix.

23 I think we are relying on the corrective action process and
24 the tech specs to provide that immediate assurance of safety at some
25 level without relying on this process, because if you were using that as
the criteria, 14 days would be too long, you wouldn't be arguing whether
it's 14 or 30.

ANN RILEY WIGGINS: I agree, Dave. See, I'm getting at a point coming
& from the other direction. This is underscoring, again, the emphasis on
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1 If you can -- if we get to the -- if you -- and I don't
 2 think it's an issue that should be stipulated. It's practical to assume
 3 it, to erect a foundation and test it, but to stipulate it and say a
 4 priori everything is great may not be the right test.

5 Now, there are aspects in the baseline program to get at the
 6 corrective action program. That's something that will come up
 7 inevitably during the next two days.

8 The point I was trying to make, he gave me the answer I was
 9 looking for, there's got to be a presumption that regardless of what the
 10 final agreed upon date of submittal, we've got to be able to walk away
 11 from this where industry and the staff can say we are confident that
 12 relevant issues are placed in a corrective action program promptly.

13 So the corrective action on issues is not being similarly
 14 deferred. So if you take another two weeks, there's not a built-in a
 15 priori two-week delta in the reaction to it.

16 GIBSON: That is absolutely true. There is no correlation,
 17 to my knowledge, between those two.

18 WIGGINS: And it's our role, the staff's role, the NRC
 19 staff's role to be in a position to confirm that, because that's what I
 20 would think people would expect that the staff is doing, that they're
 21 making -- they're confirming that that's occurring.

22 RICCIO: Jim, wouldn't that argue then that you would
 23 necessarily want to have enforcement if there were repetitive
 24 violations. I mean, if you want to hold these guys accountable and you
 25 want to hold them to their corrective action program, but you're not
 going to hold them accountable for when they basically fail to correct
 something and it crops up a second time in inspection, there seems to be
 ANN RILEY disconnect there.

&
 ASSOCIATE You want to basically make sure that the industry gets in
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 1025 accountable for when they don't, and that seems to be like a glaring
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omission.

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2 WRIGHT: That aspect of this is actually happening in the
3 inspections. They come in, they look at that, they go back and look,
4 and that is being done.

5 RICCIO: It may be happening, but it's not built into the
6 program.

7 WRIGHT: That's part of the program in Region III, I'll just
8 give you that perspective.

9 BROCKMAN: I think it is in the program, but let's not, once
10 again, what people are talking about is let's not deal with an absolute.
11 The key word in there is reasonable; based upon the data that an
12 organization had at one time, input together what seemed to be a good
13 corrective action. You may get a reoccurrence of a problem, especially
14 of a low safety-significance, later on, where you gain more data and now
15 you can develop a better corrective action.

16 So I wouldn't want to say on an absolute basis, but right
17 now, the inspection program is out there and part of it is did the
18 licensee develop reasonable corrective actions for the problems that
19 were there. That should be there.

20 RICCIO: That's in the corrective action program. It's not
21 being reflected in the enforcement program.

22 LIEBERMAN: Well, I'm not involved in enforcement anymore,
23 but within the enforcement program, we do have, for violations of
24 criterion 16, generally level fours, level type violations. But going to
25 the corrective action program in general, we have PIs. We don't have
anything that measures the corrective action program short of tripping a
PI or short of tripping a risk-significant matter.

ANN RILEY And several people have said this program, in part, is based
& on having a robust effective corrective action program. Is that a
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Court weakness of the system? I'm not sure how to come up with a PI or way to
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I think we need to deal with as we review the information we're getting.

GIBSON: Jim, you'll have to help me. I thought -- and, Ken, you too. I thought it was an absolute requirement that every licensee will have -- absolutely will have a corrective action inspection once a year.

LIEBERMAN: Yes, but that's not the issue. The issue is how do you determine whether, from a performance point of view, that corrective action program is effective or how do you evaluate the findings of that inspection and put it into this mix.

GILLESPIE: All the requirements are still requirements. This program doesn't waive any requirements. And if a problem is found and not corrected and then in reviewing the corrective action we find that someone is deliberately not fixing things, you get kicked out of the system and now you're on an escalated scale.

So deliberately not fixing the problem kicks you out of the system, and that's by design.

Now, the industry is working on a guidance document that we would then hope to endorse, what is an adequate corrective action program, what are the characteristics, to try to get some consistency hopefully in how we look at them and what they're doing, at least in the principals of how it runs.

So I think that the ultimate protection is if someone deliberately finds something wrong, puts it in a corrective action program, then consciously decides not to fix it, they're kicked out of the system and they're off the table and we're in a different agenda.

GARCHOW: Make sure you clarify that that would be a significant conditions adverse to quality, conditions adverse to quality, not any number of problems that might get put into our

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threshold system, because we want to --

GILLESPIE: The difference here is at what point -- at what point do you go to a number of small things that it might be maybe it's

procedural compliance and completely different areas.

Correcting that may be individual to the person who wasn't trained enough or had to be counseled or something like that, and that's one kind of repetitive thing which may be actually independent incidents of something with some similarities, versus some one consciously deciding, Millstone lessons learned, consciously deciding to put something in a drawer and not even call it a problem until it's analyzed further.

The second puts you in a different category.

RICCIO: I'm not even inferring improper motives. I'm talking -- and I apologize to the guys from TVA. But my experience comes out of seeing corrective action programs that didn't work for decades and seeing will this be corrected by the current process, and I'm not so sure it will.

WRIGHT: We looked at it pretty closely, too, and we could not see where repetitive violations of the corrective action program really fell into enforcement either. That was a concern that we had.

It makes reference to going back to the old enforcement program under certain conditions, but that wasn't one that was listed really.

BROCKMAN: I'm most interested in the thought there, though, as to what is different between this program and the old one that brings up this concern now that a corrective action program wouldn't be dealt with.

RICCIO: Part of it, I think, has to do with how it's going to be treated when you do have a problem with a corrective action program. Repetitive violations for failing to repair something are not going to be ratcheted up in enforcement.

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I'm wondering what the trigger is going to be to get these Court guys to act upon it. Yes, if you have a willful violation, you put them out of the process and then all of a sudden NRC get a little bit tougher

1 on the licensee.

2 But within the process, what is going to be prevent
3 repetitive failures in the corrective action program?

4 GRANT: The question I hear is level four violations or
5 non-cited violations, if that's the case, is not what you're really
6 talking about. You're talking about when do you --

7 RICCIO: That's part of the problem, because I think you
8 guys have said we're going to take out a lot of the clutter and get rid
9 of level four violations.

10 The problem is if you go back and read your own analyses of
11 your South Texas long-term shutdown, one of the major problems that got
12 you into the point where you had to shut down the reactor was the fact
13 that you had used non-cited violations over and over and over again and
14 you thought that that didn't really have an impact on the licensee.

15 I'm wondering what in this program is going to be basically
16 drive the point home to the licensee, absent a willful violation, that
17 you're -- it's more how are you going to correct programmatic problems
18 at the plant through the process.

19 GRANT: I think we're going to have that topic later on
20 today and tomorrow, too. Enforcement is extremely important to look at
21 under the new program, because right now it doesn't get at what you're
22 talking about, except the level four non-cited violations. But I
23 understand the concern and that's helpful.

24 LOCHBAUM: I just have one question on Mr. Wiggins' point.
25 The chart up there leaves out part of the NRC spot for the significance
determination process. I assume it's business the scale doesn't go out
long enough.

ANN RILEY GIBSON: It's my understanding that their SDP will also go through that
& process and be properly characterized.

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LOCHBAUM: Right now if it's green, it does. If it's
potentially anything other than green, then it goes out 120 days, which

1 is over there on the wall somewhere. If the concern is that the
 2 utilities might not be taking action because of this reporting stuff, it
 3 looks like the NRC staff would have to address, because they've got much
 4 longer delays in taking action than the utilities do.

5 BROCKMAN: And that's a good point, but I think experience
 6 to date and our data set is about that big, but we're forced to do it
 7 that way. Experience to date, I haven't seen an example when you've got
 8 an issue that was brought up, that you're getting beyond the green
 9 issue, where the licensee hasn't at least started corrective actions.

10 But without a doubt, I think that would have to be something
 11 that would be expected of the program, is my inspectors would be looking
 12 to ensure that the issue has at least been embraced and is being worked.

13 Now, what the final significance is may be something else.

14 LOCHBAUM: I think that was a good answer, but that wasn't
 15 the question I asked. The concern I had was that Mr. Wiggins' point was
 16 that the utilities may delay corrective actions until they determine the
 17 significance of something in the plant and going through this process.

18 My concern was that the NRC staff is delaying their response
 19 until they get to the end of the significance determination process,
 20 which is --

21 GILLESPIE: Could I ask that we hold that until we get the
 22 -- because this is an extremely important point and I think Dave has
 23 read my perspective on some draft, because this is what we agree.

24 LOCHBAUM: I've read the same things. You've read my
 25 perspective.

GILLESPIE: But you read mine. This is one where we may
 actually be in somewhat agreement on the timeframe.

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FLOYD: Can I make one comment? I think we might be

confusing two things. What Greg is talking about here is the time that
 it takes to compile the data, not respond to the condition that might be
 part of the data.

1 For example, on unavailability, he rightly points out that
 2 it does take some time to pour through all the operator logs. But if you
 3 have unplanned unavailability due to an equipment problem, that's the
 4 item that goes in the corrective action when it occurs.

5 What he's talking about is the time that it takes to go back
 6 through the logs and identify all those. So the corrective action
 7 starts and the item gets placed in the corrective action program when
 8 the initial deficiency occurs and that's apart and separate from the
 9 accounting of it. I believe we're mixing that up a bit.

10 WIGGINS: The actual reason I asked the question was the
 11 course of discussion a lot like what we just had that underscores the
 12 point that you can't look at anything in isolation in this program,
 13 because everything is connected to other things.

14 The accuracy of the PIs, the timeliness of the reporting is
 15 connected to the infrastructure in the program. It's connected to --
 16 you know, Dave brings up the timing, how long does it take the NRC staff
 17 to reach a conclusion. It's all connected to one another.

18 I would offer that the one -- that at least one cohesive
 19 thing that runs throughout this is the corrective action piece, that
 20 essentially says regardless of where the issue finally ends up in a
 21 color scheme, regardless, the issue is not just left alone. The issue
 22 -- the expectation, at least the one I have, is that industry is taking
 23 the issue and assessing it.

24 Now, it might not be that you have to do anything about it.

25 It might be just, okay, it happened, we'll track and trend it. But on
 the other hand, you're doing -- that's even something to do that. You
 made a decision that what we have in front of us right now is such that

ANN RILEY: This is nothing more than an issue that needs to be tracked and trended.

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Now, that pops up in terms of the baseline program. What

level of inspection is the NRC providing to the corrective action
 program. Is it appropriate to make sure, in the staff's mind, that the

1 programs out there for everyone who is in this are sufficient to at
 2 least assure that's happening? That's why I'm saying it's all
 3 connected.

4 BROCKMAN: With respect to Jim's --

5 GILLESPIE: Last comment, then I've got to get Greg up and
 6 down here.

7 BROCKMAN: The issue that we've got here is the difference between the
 8 need for something beyond green to make it a very expeditious review by
 9 the agency, which is what I hear Dave saying, as opposed to getting
 10 caught in the temporal displacement that happens with going through the
 11 SDP process. Is that part of, Steve, your presentation tomorrow, the
 12 difference between response as opposed to assessment and the inspection
 13 program we're going to have there?

14 STEIN: Not directly, no.

15 BROCKMAN: It might good if you all could -- and if Morris
 16 or somebody could include that as part of tomorrow, because I know
 17 there's a lot of work that's been done there and I think it's essential
 18 that everybody have an understanding of what that is.

19 GILLESPIE: Greg, I have to push you along.

20 GIBSON: What I'm going to do is quickly go through the two
 21 other elements that I wanted to comment on. One was regarding the one
 22 metric that we do see and is supported by the data that I just put up,
 23 as being what I'll call a metric that deserves additional refocus and
 24 reconsideration, and that's the one on security.

25 If you look at the security performance equipment data,
 there is approximately currently we show five plants as being in the
 white or yellow. There are an additional two plants that I'm aware of

ANN RILEY who are also either white or yellow, and that's a disproportionate
 & share.
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Court When you take a look at why, I think it's very important to
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1 are being the metric. Now, a compensatory person, a piece of equipment
 2 goes out on your vital area, and you go and you post -- excuse me --
 3 your protected area -- you post a watchman there.

4 Many times, these watchmen are armed. So it's completely
 5 within the regulations. It's allowed by the regulations, it's within
 6 the physical security plans, it's licensed, it's legal to leave them
 7 there as long as you want.

8 This is the first time, it's almost as if it's a new view,
 9 so to speak, from a regulatory standpoint, that there should be some
 10 restriction on the amount of time that a person is allowed to be out
 11 there.

12 Now, it's not the same guy who stands out there. We rotate
 13 them through, so he doesn't fall asleep after an hour, he doesn't do it,
 14 and he does have a gun, in many cases; not in all, but in most cases,
 15 the plants are licensed to have a gun.

16 The second is if you take a look at the algorithm which is
 17 in 99-007 and you have a 20-zone system, actually, the way the
 18 algorithm, at 20 there is a cutoff and it just kind of levels off, I'll
 19 show you in a second.

20 But basically you're saying that a zone can be out of
 21 service for 22 hours a year. You've got 20 zones, each one is out 22
 22 hours, you hit the metric, you trip it.

23 That's one day a year. Now, typically, it's been a staffing
 24 issue; do I have 24-hour I&C techs around the clock that are ready to
 25 race right out and fix an intrusion detection system, to wash off an
 insulator and put it back in service, or is it okay to wait until Monday
 when the normal staff comes in and just keep the compensatory watch

ANN RILEY person there as a comp measure.

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Court licensees, how do you get such great numbers, and, frankly, they are the
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1025 ones who have 24-hour people and they've just got the resources to do

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1 that, I suppose.

2 This equates also to a 99.75 percent availability for each
3 particular zone. I mean, that's more than the HPSE pumps.

4 LIEBERMAN: Greg, what would you suggest?

5 GIBSON: Well, there's been a number that NEI -- and we've
6 participated with NEI and giving them suggestions. We suggested just
7 dropping out the normalization factor and saying just a flat 95 percent
8 overall zone availability.

9 Somebody then said, well, wait a minute, what about the case
10 where you had 20 zones and 19 of them are perfect and one of them is
11 never in, and I think the alternative that NEI proposed, which was okay
12 with us, was, well, okay, we'll make it a two-step thing; it's 95
13 percent overall and no single zone worse than -- pick a number -- 80
14 percent, 85 percent, I don't know. Some number.

15 But there are ways to handle this. What's discouraging is
16 that we raised this in Philadelphia with the 95 percent. In fact, this
17 is the chart that we passed around, which shows the availability that we
18 were trying to get, to say this is really difficult for the plants and
19 is, in fact, it prudent, when it's completely a business decision, how
20 to staff your I&C techs and take care of this, when it is prudent and
21 proper to post an armed guard.

22 To some degree, an armed guard might be viewed as even
23 better, and is the public, in fact, being informed of the state of the
24 licensee's program, if, in fact, they're meeting all regulatory
25 requirements and it's just fine. Should we even have a yellow threshold,
that might also be another question to ask.

GARCHOW: Greg, I want to make sure I heard you say that, because you
sort of said it in passing, but I think that is the point, that it just

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26 seems incomprehensible that a 20-foot section of fence would be more
27 safety-significant than your HPSE pump. I mean, that is the issue.

GIBSON: Yes.

1 WIGGINS: That raises an issue about whether the indicator
2 is, I guess, set at the right place, but I think I'd like to offer also
3 that we need to -- you need to consider, too, the fact -- not that this
4 disqualifies your -- it's just that you have to temper it somewhat.

5 And what have these compensatory measures told the staff
6 over time? I would contend that if you take a look at this from the
7 concept that you have a well meaning, well directed, well oiled
8 operation that you're inspecting, yes, you're probably right and it
9 sounds like the number seems a little bit bizarre or out of whack,
10 actually, if you compare it to IPSI.

11 On the staff side, you can see instances where the staff has
12 seen long-term use of compensatory measures was the tip of an iceberg of
13 a more severe performance problem at a facility, not just necessarily in
14 security.

15 There are plants -- you can say what you want about problem
16 plant lists. There were plants that were on the problem plant list that
17 one of the aspects of their performance involved long-term tolerance of
18 degraded conditions in security operation.

19 There were other reasons why the plant got put on the list,
20 but it was there, too.

21 So whatever happens with this, whatever the staff ends up in
22 this PI, given the fact that we have kind of a one-size-fits-all
23 operation over here, it's got to be sensitive enough to detect those
24 problems, because originally, my concept here is you're looking for --
25 you're looking at it as this is not necessarily an indication of how
secure the facility is against an attack, but you're trying to figure
out what does this mean about licensee performance in the security area.

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GIBSON: It's actually maintenance of the security area.

WIGGINS: Which is a very important element.

GIBSON: Which is a question of prioritization, I
understand, and certainly I think the staff has always had the ability

1 to undergo rulemaking at any time to say we need to have a limitation or
 2 we need to have a tech spec AOT equivalent for equipment out of service.

3 That is fine. I think the public process ought to be used for that,
 4 and rulemaking would be a great way to go after it.

5 FLOYD: I agree with the comments you've made and I think
 6 the purpose of this indicator really is to see if there are one or more
 7 problem zones that the licensee isn't taking care of.

8 But I think the industry proposal on this remedies that by
 9 asking the licensee to say do I have any zones, one or more zones that
 10 are not management an unavailability -- exceed an unavailability of --
 11 as you said, pick a number, ten percent, whatever the right number is.

12 That would give you that indication without this other, I
 13 think, unintended consequence.

14 GILLESPIE: Jim, last comment and then we'll move on.

15 RICCIO: I just can see the industry down the road, given
 16 the whole shift towards risk-based regulation, coming in later and
 17 saying what is the risk significance of this indicator. And if you're
 18 supposed to be tracking performance --

19 GILLESPIE: I think Dave just asked that when he said is this more
 20 important than the HPSE pump. The answer is it's a different design
 21 basis. There is a design basis threat, like there is a design basis
 22 accident. It isn't risk in the risk sense. It's a conditional risk
 23 given the design basis threat.

24 It's actually on a different scale and I think what Dave is
 25 saying is there needs to be a reconciliation of the two scales and maybe
 we don't have the perfect reconciliation now, but this is an indication
 of overall equipment availability or maintenance or the goodness of the

ANN RILEY Security system.

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NEI does have a proposal they're coming in with on this one

Court and I don't believe the staff has acted on that proposal. So this is
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1025 still in the discussion phase.

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1 To get that sense of equivalency to how bad is bad, when you're really
2 in two different areas, it's apples and oranges, and now do we make --

3 RICCIO: Over the years, I've heard from NRC that there is a
4 hierarchy of regulation and that certain regulations are held a little
5 bit more stringently than others. I just see OSRE and things like
6 emergency planning being way down on that threshold and I'm wondering
7 how the industry is going to respond to that further down the road.

8 I understand you have to match it with your mitigation
9 versus prevention matrix that you've set up in the agency.

10 GILLESPIE: There will be a whole new rulemaking probably
11 going forward in the security area over the next year, so there's going
12 to be a lot of public input on this one. Very, very visible.

13 GIBSON: I would like to end that part of the discussion by
14 saying that it is extremely important to resolve this particular issue.

15 I don't believe that anyone is well served by having a metric that
16 generates yellow or white numbers for things like a single computer
17 outage, which takes out all of your systems for two or three hours and
18 you've got 30 zones and you've burned up basically your year allotment,
19 or a particular situation where you have one zone that you're going to
20 -- is a problem zone, trying to do various things with it.

21 I'm looking at it from a communications standpoint. I don't
22 think it's a good idea to always be writing letters back and forth
23 explaining why you're white and that being okay in the final analysis.

24 The last one is in the performance indicators and then I'll
25 save the other slides for when we get to them. We encourage the NRC,
for the new indicators that are potentially on the table for shutdown,
for fire protection and for unavailability, to, again, we think this has

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been a very useful program and we'd like to see you propose the metric,
get it out, let's get public comment, let's benchmark it, set our
thresholds, and let's put it into a pilot program for a period of time,
and then let's get public comment on the final metrics in a similar type

of mechanism.

Now, that may delay this for a while in having these new indicators, but I don't think anyone is well served by a rush to judgment or so forth, and I'd rather see the resources that have been applied on trying to develop those, at least in this interim between now and April 1, applied to resolving the issue with the security metric, with the security SDP and the other issues that you all have as a program.

Thank you.

LIEBERMAN: You wanted to talk about scrams, right?

GIBSON: Yes, thank you. I appreciate that. One of the issues was raised first. Somebody said, well, would it have an unintended consequence, because we're measuring scrams, of somehow affecting an operator's action.

My personal belief is no, it wouldn't. However, there is always -- you know the Caesar's wife thing. It's the perception, it's the optics. You don't even want to have the appearance of setting up something that does.

We have discussed a proposal, I believe it was INPO that suggested that there be a -- the scram metric be removed perhaps a year from now; keep what we've got, but transition that into a situation of, okay, well, what causes a scram, loss of feedwater, loss of off-site power.

Measure those particular instances instead of the particular scram, which is a consequence of what the real event was, which is you had a loss of feedwater.

GILLESPIE: I think to get to that point, we'll deal a lot with what comes out of going more towards risk-based performance

ANN RILEY Indicators in the EPIX database, which would maybe fed information by
& ASSOCIATE utilities on feedwater reliability and other systems.
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Court So the problem we have, I think, is the source of that
Reporters information isn't readily available right now, although it's a more
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1 direct measure of really what we're trying to get at potentially.

2 So that's in the process and being worked, but I think we're
3 probably two to three years away from having that much information
4 available to that many people.

5 GIBSON: But it certainly would alleviate that potential
6 concern.

7 GILLESPIE: It would get to the root cause rather than the
8 symptom, yes.

9 GIBSON: I agree.

10 GILLESPIE: Okay. Our last speaker on PIs, and this has
11 been good. It's been kind of an introduction to everything and maybe
12 we'll move more quickly through inspection, I don't know. We're going
13 to have to, because the SDP process, I think, is going to take some
14 significant discussion.

15 Tom, Steve has promised me you've only got two slides and
16 one has your name on it.

17 HOUGHTON: It's close. I'm working with Steve at NEI on
18 this process. Before that, I worked in the development of recovery
19 plans and implemented them at the Indian Point 3 when it was on the
20 watch list, at Salem when it was shut down, and then most recently up at
21 Millstone, working with the corrective action program and with the
22 quality assurance department.

23 So I've seen a lot of these problem plants and actions and
24 what they did about them.

25 You've talked about most of the things that we were going to
talk about. Let me just bring some other perspective on what's happened
in the pilot. We have had a lot of lessons learned during the pilot,

ANN RILEY which is what the pilot was all about, in terms of definitions and in
& terms of how to count things.
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There's still a lot of issues out there that individual
plants are going to have to resolve, but I guess the point I wanted to

1 make to you is until you actually do it, until you actually have to
 2 report it and until you have to stand behind what you're doing, you're
 3 not really going to know what an indicator means.

4 So the big advantage of doing this pilot is rather than
 5 having theoretical discussions and trying to cover all the answers on a
 6 table top, people are out there addressing, and people are also finding
 7 out some interesting things as they report these indicators about how
 8 their programs operate and what's been going on at them.

9 Anytime you have an indicator, you're going to have actions taken with
 10 that indicator, the Heisenberg principle. If you act on the experiment,
 11 you're going to affect the results. So there have been some awakenings
 12 in a number of areas by people as they have looked at these indicators.

13 Second bullet point, a breakin period is necessary for the
 14 full industry. There will be older plants that don't have all the
 15 systems that we're measuring, there will be specific circumstances that
 16 need to be addressed out there, and what we've done with this system, I
 17 believe, is try to put a perspective of indicator across industry and
 18 tried very hard to have common thresholds and common measures.

19 That's been more difficult than we thought, even in INPO
 20 indicators, where we thought there was complete uniformity across
 21 industry. But this is a good thing. We're learning how to compare
 22 plants, far beyond just a SALP score or far beyond just one or two
 23 indicators. So I think we're getting much more towards how to compare
 24 on meaningful -- at a meaningful level, at the level of the operation,
 25 not at a level of subjectiveness.

All the PIs, except the security equipment index, and Greg
 covered that very well, I think, are sufficient for -- we believe are
 sufficient for industry implementation, with the caveat that they're
 going to continue to be learnings going on as we do this.

LIEBERMAN: NEI's 99-02 Revision B, is that publicly

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HOUGHTON: It is --

FLOYD: Soon. It was just sent to the NRC, I believe, Monday -- Friday? I thought it went out Monday. I think he sent it out Monday.

MADISON: It's going out by memo, it will be available by the end of the week.

HOUGHTON: It's not really in effect for everybody until January 21. So the revisions that are in the public record, C and earlier, are what the pilot plants are using right now.

GILLESPIE: Dave, you have a copy of the statement?

FLOYD: C is on the web site.

GILLESPIE: Our web site. And as soon as we get D and convert it to electronic form, we'll get you a copy of D. No problem.

HOUGHTON: Okay. Some of the things that were wrestled with in the indicators. The safety system unavailability, excuse all my initials, for people that don't know all the initials already, but I'm trying to keep on two or three slides.

There's a term called fault exposure, which is really a term which is difficult and doesn't exactly measure what we want it to measure, so that we could use an indicator which has a history. We used INPO -- pretty close to INPO's indicator and a problem that existed was is if you had a failure quarterly test that you failed, you could remain in the white zone for 12 quarters, even after you've corrected the problem and the equipment is performing very well.

So we said rather than have an indicator stay lit, let's reset it to green so that if you have another failure, that indicator means something for you.

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Question?

GRANT: I guess I'd need to hear more about that to

HOUGHTON: Let's have a side bar on that.

1 LIEBERMAN: Isn't that inconsistent with the treatment of
2 containment leakage, where it's the as found and it is reset before you
3 restart, but you keep it white or whatever it happens to be?

4 HOUGHTON: The difference with the containment leakage is
5 it's a measure of the highest level each month over a period of time, so
6 that it -- whereas the SSU is a measure of an average over a 36-month
7 period.

8 GILLESPIE: Containment leakage basically resets itself,
9 because --

10 HOUGHTON: Linkages the highest level, so is the RCS leakage
11 and so is the activity.

12 GARCHOW: If I could give you just a real quick practical example,
13 December of 1996, we had a problem with a HPSE pump that we point to
14 surveillance. We went into an outage for that, went inoperable,
15 followed the rules, did a root cause on that.

16 Subsequently, implemented a fix and have ran the test
17 successfully numerous times, into dozens of times, but by the nature of
18 the current way that we calculate the exposure, even though that problem
19 was fixed and the pump has been operating perfectly since December of
20 '96, the current guidelines would have us have to time that three-year
21 period out to reset that back to green.

22 So Hope Creek has been sitting there with a perfectly functioning HPSE
23 pump. As far as the public communication, it would look like every
24 quarter for those three years that we still have a problem with the
25 pump, when, in fact, the pump is working absolutely fine and has since
we corrected the cause of the condition way back in December of 1996.

 LIEBERMAN: Again, doesn't that logic apply to the scrams?

ANN RILEY Because you reset those and started back up. I mean, that's old news.

&
ASSOCIATE But it's considered to be relevant old news.

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 GARCHOW: But the scrams are supposed to give you an
indicator that there's maybe a cross-cutting issue and gets you into --

1 as Jim said, getting NRC's attention focused, maybe for a plant that's
 2 having other issues, where these are just pretty much targeted at the
 3 mitigating system and does that mitigating system have problems that
 4 would prevent it mitigating an accident.

5 So I think there is a slight difference in the approach that
 6 scram data or the transient data as opposed to specific equipment
 7 performance that we called out.

8 GILLESPIE: One of the concerns here ended up being that if
 9 you get a white, you've got the white, you take action, you correct it.

10 If you let that stay white and you have a second failure, it doesn't
 11 trigger. It stays white.

12 HOUGHTON: But if you have the second failure, you correct
 13 it, it stays green.

14 GILLESPIE: And now you go white again for another quarter.

15 HOUGHTON: You've got to keep that indicator until the
 16 condition is corrected, until there's been an NRC inspection and they're
 17 satisfied and a period of time has gone by.

18 GILLESPIE: See, you get a second quarter with another
 19 white. You'd actually get a second hit during that. Instead of being
 20 white for three years, you start seeing a repetitive white, indicating
 21 there is a problem with systems.

22 FLOYD: What will actually happen, I think maybe Dave's
 23 concern is it may be invisible to the public that there was such a
 24 condition. What would actually happen is suppose it took two quarters
 25 to fix the condition. You will have two white quarters that are white
 in the annual assessment reports, that will show that that was white for
 two quarters. On the web site, you'll have two subsequent quarters.

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The minimum you could ever have is one quarter, assuming you
 could fix it, the NRC could come out and do a follow-up inspection and
 satisfy themselves that all the right action was taken.

You would still have at least one white input into the

1 action matrix as a result of them being white in one quarter and that
2 will show up on the web site as a white indicator.

3 GILLESPIE: We may have to go into this more, because this
4 isn't easy and it does give a sense of an inconsistency and different
5 approaches, but you're trying to get different information with
6 different indicators.

7 HOUGHTON: I think that's a very good point, Frank, that
8 some indicators are rates, some indicators are individual -- sums of
9 individual events and over different time periods.

10 A foolish consistency is the goblin of small minds, I think
11 someone said a long time ago. We're trying to have the indicators match
12 what we're trying to measure as management indicators, not as safety
13 meters in the control room, and there's always room for improvement.

14 A second performance indicator that caused a lot of problems
15 out there was what was called the safety system functional failure and
16 this indicator measured whether safety systems were in a faulted
17 condition and they were reported in LERs. The trouble is that the
18 definition, the indicators were counted not by the utilities initially,
19 but by a national laboratory, which often didn't have all the
20 information, because LERs get updated and with different definitions,
21 and so there was some difficulty in counting these and there were honest
22 disagreements between pilot plants and NRC about how to count these
23 things.

24 Rather than each one having to go to an expert panel to be
25 resolved, I think we've made the definition much clearer, much more
crisp, so that people can count these in a consistent manner.

Again, I'd rather not go into all the details of it, except

ANN RILEY in the side bar, if somebody wants.

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But my point is that this was an indicator that was causing

Court a lot of problems out there and I think we've addressed what the
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1025 problems were and how to count them.

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1 Another indicator in which there was a change was in the
 2 linkage between the drill exercise performance, which measures how well
 3 you do during an exercise or a drill, and the participation of the
 4 roster of people who are on the emergency roster.

5 These need to be linked so that the same people who are
 6 doing -- who are being judged on their ability to make right decisions
 7 are the people who are on the roster to do the work, and there was
 8 confusion in that indicator and that has been cleared up in the latest
 9 revision.

10 This point was the same one that we have already started
 11 conversations on, the security index. A more 30,000-foot comment I'd
 12 like to make on the PIs is that when we started this, we were looking
 13 for a holistic system that looks at everything that's going on, and I
 14 think Jim might have said it.

15 These things fit together. The exercise -- was it two years
 16 ago? In September, we had a workshop of stakeholders and industry and
 17 NRC and we looked at cornerstones of safety, which extended beyond what
 18 industry had initially proposed. Initially, industry had only proposed
 19 the initiating events, the mitigating systems and the barriers.
 20 And NRC said, well, wait a minute, we've got RP, we've got EP and we've
 21 got security, they are also important, and each of those cornerstones,
 22 we looked at what could we measure for indicators, what could be done
 23 for inspection, and how do these fit together.

24 So we're looking for a holistic approach, so that if one
 25 indicator doesn't quite measure exactly what we want, we have inspection
 to cover another aspect of it.

Also, this fits together in that the indicators are not
 meters in the control room. If you exceed the green-white threshold,
 that doesn't mean that you need to take immediate action.

What it means is that you have a management issue that both
 the utility needs to look at and the NRC needs to engage in more

1 coverage of that area.

2 For the individual events that occur, taking a scram, for
3 example, NRC has an event review procedure which looks at an event and
4 they will also characterize it in terms of risk. The utility has got
5 its corrective action program and its reporting requirements. I know of
6 at least two instances in the PI program where the utility was trying to
7 figure out whether something counted as a PI, it was already actively
8 engaged in its root cause analysis of what the problem was and
9 correcting the problem.

10 So to answer the question does this hold up, does the PI
11 hold up the corrective action, I think it's the other way around. The
12 corrective action proceeds to determine whether the PI should count or
13 not.

14 That's all I had prepared to say.

15 GILLESPIE: Thank you. Any questions? Dennis, Jack, Jim?

16 RICCIO: Just quickly. In the safety system functional
17 failure, are we getting into a position where you have a safety system
18 failure and then we're going to get into a debate about whether it was
19 functional or operable?

20 HOUGHTON: Yes, we are.

21 FLOYD: Functional is the key. The real key is --

22 RICCIO: So basically you've taken that indicator and you've
23 kind of broadened it and allowed for a little bit more wiggle room
24 again.

25 FLOYD: Broadened to include that.

MADISON: AEOD developed that indicator 15 years ago. And
the same fellow that's working on the transition task force is the one
ANN RILEY who developed it, and the concept has not changed.

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RICCIO: Under the old system, it used to be safety system

MADISON: No. Safety system functional failure. There were

1 two indications.

2 HOUGHTON: There was safety system actuation, which was one,
3 and the other is a safety system functional failure, and that --

4 RICCIO: The term functional is in addition to the previous
5 indicator.

6 MADISON: No, that was the intent.

7 GILLESPIE: This one we didn't change.

8 RICCIO: You're sure?

9 GILLESPIE: Yes. But it's an interesting point. It does
10 raise the difference between functional and operable relative to tech
11 specs and I'd like to put that on the table. When we get to the SDP
12 process, I think the same question comes up in how you assess systems.

13 In a risk-based, it could be functional, but not operable.
14 That's an intellectual conflict that I think we need to address at that
15 point.

16 RING: I think it has changed in some sense, not in the
17 definition of what it really was, but in some of the things that we put
18 out publicly. So the question is that safety system failures and the
19 functional dropped out. So from a public perspective, it may have
20 looked like a change.

21 GILLESPIE: Okay. Because of the title. Okay. Let me just
22 briefly -- Heidi is keeping me on track here. I'm going to suggest
23 let's take just a five-minute break, so everyone can use the men's room,
24 if anyone is drinking as much water as I am.

25 We're going to have one hour, and I'll have to keep it to an hour, on
the inspection program, so we can get that done by lunch, and then after
lunch we've got the SDP assessment and enforcement and then some overall

ANN RILEY
& comments.

ASSOCIATE That only leaves about an hour each, so we're going to have
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Court stay real, real focused. So let's take five minutes and hopefully the
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1025 introductory stuff is kind of out of the way now.

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[Recess.]

GILLESPIE: We'll change the format maybe slightly, if this sounds okay with everybody. We will give each of our invited guests five minutes and we will hold all the questions until everyone is done their five minutes in the inspection program, and then we can collectively ask questions.

GIBSON: Does that also include the SDP?

GILLESPIE: Just do inspection next. Just inspection. Then we'll do SDP after lunch, because that's going to be a little more maybe pointed and controversial. Who would like to volunteer to go first for five minutes of opening? Greg, you want to go on first?

GIBSON: Sure. If everyone has my slides, I'll not go up, because I only have one slide on this one. The three principal areas of inspection, we see it being a similar level of baseline analysis. That was the point I made in the opening remark.

We believe it is desirable, from a licensee standpoint, and I know NEI has made this point for us, that inspection results are very important to be done in a timely basis and to be made available.

The only difficulty we an envision is, down the road, what happens if there is an issue that is kind of out of synch, so to speak, with our reporting timeframe, how will that be handled. In other words, if there is a white finding and it takes four months to determine yes, that's a white finding, does that -- that's an old finding now, how will that be put on the web site, will it be the current quarter, will it be two quarters ago.

I guess that kind of underscores the issue of it's important for both the licensee to provide information on a timely basis, a

ANN RILEY & ASSOCIATES, LTD. prudent timely basis, and it's important for the NRC to have their inspection reports done and characterized within a timely basis, which I think we're all working toward.

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GILLESPIE: Okay. Dennis, you've been kind of shadowing

1 people from New Jersey, so you -- Jack, I'm sorry.

2 SPATH: They tend to shadow us, I think. I can say, if you
3 want to give me ten seconds here, I can say I have no additional
4 information to offer on the baseline inspections at this time. So you
5 can cross me off the list.

6 GILLESPIE: Okay. Jim?

7 RICCIO: No.

8 GILLESPIE: Nothing.

9 RICCIO: Nothing other than the fact that I'm getting
10 comments from your inspectors in the field saying that they're very
11 nervous and they feel like they're being pulled back. But that's
12 anecdotal, rather than --

13 BROCKMAN: Talk to me more.

14 RICCIO: After a couple presentations I've given, I've had
15 your inspectors come up to me and basically say that they feel like
16 they're having their hands tied and that they're concerned about the
17 cutback in their hours.

18 BROCKMAN: I was just trying to get clarification for what
19 you were saying.

20 GILLESPIE: Bob?

21 LEOPOLD: I don't have anything significant. I agree with
22 the statement that the results are going to have to be posted and made
23 public in a timely manner and they're going to have to be posted in a
24 way that people can understand.

25 GRANT: We could put out a report.

LEOPOLD: Well, you know, when I first got this and I saw
the red, yellow, and green, I thought it meant one thing, and I've
ANN RILEY learned this morning that it meant something else.

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So one of the things you might want to do is change your
Court colors to, like, white, beige, grey, and blue or something.

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[Laughter.]

1 BROCKMAN: This is significant because what I hear you
2 saying is human performance. We can put all the words and definitions
3 out there we want, and nobody's going to read them.

4 LEOPOLD: The majority of people are going to look at the
5 headline. The headline you've given them is a color code. And then you
6 tell that the color code doesn't mean, like we all just assume it means,
7 when you see the colors.

8 FLOYD: Let me see if I can help here or get to the point of
9 what you're saying. But do you think it would be useful if on the Web
10 site, and I know that there's a limited amount of information you can
11 put on a page, and you can't go too many tiers down because people also
12 won't click to go drilling down further, but would it be useful on the
13 Web site if -- supposed you see an indicator -- the top tier report, if
14 there's something down on the bottom that says green means that the
15 performance is within expected norms and the licensee is following good
16 practice.

17 LEOPOLD: You're assuming it has to be on the bottom of the
18 page, aren't you?

19 FLOYD: White means that -- or whatever. Wherever you want
20 to put it on the page. Would that be helpful to define on the Web site
21 page what the green, the white, the yellow, and the red means. Is that
22 what your point is or?

23 LEOPOLD: No, what my point is that you have chosen colors
24 which, in our culture, communicate something. And what I hear this
25 morning is that's really not what you intended to communicate; that you
didn't mean that green is automatically good and -- so if that's not
what you intended to communicate, don't use that system. Call it

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turtles and bluebirds or something.
RICCIO: Lemons.
LEOPOLD: Well, what the color scheme does is it gives the
perspective that if it's all green or green and maybe a white or two,

1 that everything's hunky dory and you don't really have to look past that
2 unless you're a concerned public citizen or somebody who's really
3 knowledgeable. Is that what you want to communicate?

4 GARCHOW: But that was sort of the intent, because that was
5 that was sort of the communication vehicle, that the plant was operating
6 safely and that the -- that issues or -- issues are being identified and
7 corrected, and that the NRC has a level of interest in certain areas
8 that are white that relatively -- and I was part of the process of
9 giving comments all along -- I think to some extent why you said was
10 piece of the intent.

11 MS. HAHN: Okay. We'll come back in five minutes to violate
12 the new ground rule.

13 GARCHOW: Okay.

14 [Laughter.]

15 GILLESPIE: Okay. Okay -- we got one -- okay, we'll come
16 back to that, because this whole idea, this concept of display of
17 information is a repetitive concept, and the width of the band, the
18 width is white skinning, is yellow skinning, is yellow fat, you can only
19 beat it to death so much, but I think we have an IOU on that one.

20 RICCIO: One thing -- I know I'm breaking ground rules and
21 stuff, but when I see that you're allowing for an increase in core
22 damage probability within the inspection process, and still that doesn't
23 trigger anything, that concerns me. This one Clause C, the inspector
24 identified that on one occasion, plant conditional core damage
25 probability was increased to greater than allowed by licensee
administrative procedures. Yet, I don't see any indication that that
triggered anything. And when I see core damage probability going up,

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and I see the reaction from the agency is the same, I have problems.

GILLESPIE: Okay, let's come back to that when we get to

RICCIO: I'm sure that's how it got taken care of.

1 GILLESPIE: Again. Because there is an allowance that
 2 allows core damage to oscillate within the licensee control band at a
 3 very -- at what was considered a generally small value. Dennis, you're
 4 the one --

5 ZANNONI: I'm going to be very brief anyway, because I'm
 6 going to just try to cite the things in question, but again my format
 7 was, look at the first question. Can the inspection planning process be
 8 performed in a timely manner to support the assessment cycle?
 9 Obviously, this is an NRC issue, but I have a question that the NRC may
 10 want to consider: what happens if the required inspections fall behind
 11 or some core inspection cannot be performed during the assessment
 12 period? I think the panel should ask that question, so I don't need an
 13 answer right now. I guess the NRC may address it tomorrow.

14 The second question is: are the inspection procedures
 15 clearly written so that the inspectors can consistently conduct
 16 inspections as intended?

17 Well, assuming that they have unlimited time to implement
 18 the inspections, that's one way of looking at it. I think if you start
 19 to -- if you start to put restrictions -- well, I was a participant in
 20 the corrective action program, and they allocated 100 hours, but the
 21 intention going in was just to take as much time as necessary to fulfill
 22 the goals of the procedure, if you have that -- if you have no
 23 limitations, I think the procedures actually are quite good. I mean, if
 24 you look at a lot of them, specifically some are more clear than others
 25 as far as inspector expectations. Some may be a little bit more vague
 than others, but that's specifics; and we'll communicate that when we
 submit our comments.

ANN RILEY But I think overall, it raises a fundamental issue and that
 & ASSOCIATE IS the inspection procedures, if closely hinged to time requirements,
 S, LTD. Court will change the procedure itself, because then the inspector will have
 Reporters to make more choices. So if you enforce the 100 hours for a corrective
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1 action program or you say to the inspector, look do whatever it takes to
2 come out with a legitimate answer, then it's okay.

3 So it depends really where the NRC falls with the panel's
4 suggestion -- falls on how much enforcement or -- enforcement is not the
5 right word -- how much time, inspection time is going to be used in the
6 core inspection process. You know, actual numbers when they come out.

7 The third question is: are less NRC resources required to
8 provide adequate oversight of the licensee activities through
9 inspection? In Greg's presentation, I guess what I heard him say, based
10 on his shadow plant results was the level of inspection in the SALP 1
11 plant and the new core inspection are very equivalent. I'm still having
12 hard time, and I don't think we've reached conclusions yet, but my
13 assessment is, or at least what we've seen so far, that every -- most
14 inspection -- new inspectable areas, new procedures need much more time
15 than what's allocated. So I guess the answer -- the question here is
16 compared to what. I mean, at one point, there were thousands of hours
17 being spent at Salem and, you know, but way back when. And compared to
18 that, it has -- it will significantly drop. But I'm not quite clear on
19 compared to what. And then it raises the whole issue too of in our
20 minds, when we communicate to the public the level of effort that the
21 NRC is expending at the plants, it's the total inspection numbers that
22 they're looking for. I mean, indirect, direct -- it's how many hours
23 are -- are NRC staff taking to reach the conclusion that the plant's
24 safe or the plant's white or the plant's some other color.

25 That's something that we have fleshed out yet, and it's
something we're looking at. We're still trying to get a handle on,
because, again, we're afraid that one of the goals of the program may be

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to reduce on-site presence -- or for that matter -- you know, reduce
on-site presence at a point where we have to start asking -- is it --
how much is enough, you know, as far as the reduction in inspectors.
That's all I have to say about that issue.

1 The questions four and five mostly are NRC issues that
2 they'll address tomorrow I guess in their presentation.

3 That's it.

4 GILLESPIE: Let me follow-on with that goal because how much
5 is enough is in the eye of the beholder sometimes, having been an
6 inspector before for 10 years, in the old days, when inspectors could
7 kind of do what they wanted to do. We didn't have procedures. So I
8 know the system we have now is better than what we had.

9 But you can write a set of objectives in a procedure, and
10 say, we want you to achieve this objective. And an inspector can say,
11 well, I need to look at a sample that's 20 things, or I need to look at
12 a sample that's 10 things. You've been actively like shadowing our
13 inspectors in this whole process, or your staff has. Do the procedures
14 need to be more prescriptive relative to sample size? Are they not
15 prescriptive enough?

16 Eliminate hours. I mean, just --

17 ZANNONI: Oh, okay. Going into it with no limitations on
18 hours? There can be improvements made. Obviously, I think that there
19 is a dramatic improvement in the package of inspection procedures now
20 than before. So that's a good thing.

21 And I think that they could be more -- they could be written
22 better.

23 GILLESPIE: Okay.

24 M. ZANNONI: Obviously, in certain areas. For example, the
25 corrective action program procedures -- it's quite broad, and it's
probably broad for a reason. But, what you leave out is not clearly
defined unless you hinge it to the hours. I mean, if you go in and say,
ANN RILEY, you cannot exceed a hundred hours, that's going to create some problems.

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GILLESPIE: Yes, but no one said that. I'm not sure why

everyone thinks we did, but no one ever said that.

ZANNONI: No, I know.

GILLESPIE: But that becomes a condition.

RICCIO: I think it's because the Senate made you promise to a certain amount of hours. That's probably why -- put the perception is coming from.

LOCHBAUM: I'm hearing that from people, from NRC inspectors, who call me up and say, we're total -- when we hit a hundred hours or whatever, we're supposed to stop this inspection to make sure that that self-fulfilling prophecy holds true. I've heard that from all regions except IV.

So unless one person is poisoning all the system, you know, there's a ceiling here the inspectors know they're not supposed to go over.

ZANNONI: But at least they are official. There was no restriction on the number of hours. They wanted to fully exercise the procedures, and I think that's what happened.

GILLESPIE: Okay.

ZANNONI: My point is, if at some point in the future you decide a time, it's going to change the way you review the procedures.

GILLESPIE: Correct.

ZANNONI: You know, that's a fact. And that -- I don't know how you can decide that until you -- you know, you've--

GILLESPIE: The intent of the pilot was we wanted to know when they went over that number so we could get a sense of what it takes to fulfill the objective. But it was never intended to say get to a hundred hours and stop.

LOCHBAUM: That's what people were told.

HAHN: But in the beginning of the pilot project, we did

ANN RILEY See that at some places, they finished the inspection early, they left.
& ASSOCIATE In other places, if they had completed the scope in less -- from the
S, LTD. Court time they stayed and did extra things. Sometimes people reached the
Reporters number of hours and they stopped. Other times, people went on beyond so
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1 that they could measure how many hours it was. But that's what we were
 2 hearing in the first month or two. I don't think, at least the idea
 3 that we've gotten from the pilot plants, from the licensee point of
 4 view, that that issue was corrected and that they were extending the
 5 time as necessary to complete the job. That's what we've heard. Is
 6 there any other --

7 BAJESTANI: Let me share my experience. At Sequoyah, most
 8 the inspections that we've had, most of the models, have been taking
 9 actually more hours than what the inspection module says, and I haven't
 10 seen any cases that says a hundred hours and the inspectors actually
 11 stop at a hundred hours, you know. They went on and completed the
 12 inspection, and they told us it took longer than what was in the module.

13 RICCIO: Is that just because you're instituting a new
 14 program or is that because you think it's actually going to take longer
 15 overall?

16 BAJESTANI: I think it's just because of the fact that it's
 17 a pilot program, and really the inspector is going through it the first
 18 time, and he wants to make sure that he can understand, line by line,
 19 what the inspection purpose is, you know, and make sure he covers every
 20 one of those points basically.

21 But I do -- my personal experience is that the inspection
 22 has been taking more hours than what the module says actually.

23 LIEBERMAN: Is Jim or Dave getting information from
 24 inspectors that these issues are credible issues that they think they
 25 should be pursuing and for whatever reason, they're not pursuing them?

LOCHBAUM: Yes, the IG's office is looking into this.

LIEBERMAN: Is that region-unique or is it across the

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LOCHBAUM: It's region-unique right now.

LIEBERMAN: How about the information you're getting?

RICCIO: I'm not sure.

1 BROCKMAN: Well, you've got two things you're trying to
 2 balance here. I mean, and I hear what's -- that the dilemma that I hear
 3 coming out of some of the stakeholders are it would be nice allowed to
 4 go out with unfettered. Wonderful. Give me an unfettered staff, and
 5 I'd be happy to implement it. So, I mean, that's the dilemma you get
 6 into, is I've only got X amount of hours that you've got. And I think
 7 that's one of the things that the pilot program is trying to deal with,
 8 and maybe some insights to help us -- you know, to ask questions as to
 9 how to dealt with -- be the right thing. Where you find that balance
 10 because eventually you've got to call it quits and say, I need to go
 11 over and look into this area, too, because this is an important area.

12 One of the things we're trying to do on this is to make our
 13 sampling smarter, as well it, you can't afford to shoot an air ball
 14 anymore. Now for those who play basketball, you've got to hit the rim
 15 every time and have it -- a shot at the ball going through the basket.
 16 So, you know, that's one of the things we're trying to get here.

17 Now, one of the other things that I know we've been trying
 18 to do with respect to this issue is, I've told my people, if you hit X
 19 hours, quit. Document where you are. Were you able to complete, and we
 20 will pick that back up, and maybe that's why you haven't heard
 21 something. But we're also documenting -- we didn't get done. This
 22 wasn't enough so that when the end of the pilot comes about, which is I
 23 think what we're trying to come to grips with here, especially as an
 24 evaluation panel, do we have a good feel that we can put this into a
 25 consonance between the budget needs and the inspection needs. And as
 long as you identify either one way or the other, I only got 80 percent
 done with this amount of hours, or I got 100 percent hours, and it took

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 Court lost, is that capability to extrapolate.

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I mean, you're bringing up that concern. You don't have the

1 data, but I mean that may be a concern you're hearing.

2 Okay. I understand.

3 BAJESTANI: Let me also give you some numbers. Again,
4 since we're going through that at Sequoyah. Specifically, at Sequoyah,
5 33 percent of the inspection exceeded actually what the module said --
6 33 percent so far.

7 GILLESPIE: Okay, I don't know that we're going to--

8 MR. WIGGINS: Maybe anyone on the panel. I guess that --
9 to me, the \$64,000 question on this baseline has to do with, you know,
10 scope and extent, and have we -- do we -- are there -- is there any
11 comment from the panel on whether the scope is adequate and the extent
12 appropriate or the resource apply in order, you know, to get results
13 that you can be confident in as you view them in the context of the
14 program overall. You got to marry them up. You got to get the
15 inspection areas. You got to do the SDP process. You got to take the
16 output and marry it up with the performance indicators, and then you
17 have to ask a question, is that what -- is that what life really is? Is
18 that what reality is in there?

19 And, again, I'll come back to the horse that I was beating
20 earlier -- a lot has to do with how you view green and white and yellow,
21 and whether you view them as a safety test or a management criteria -- I
22 think someone said here that these are management indicators. Are they
23 really management indicators or are they safety indicators? You know,
24 the more you slew toward safety or risk indicators, the more risk-based
25 you get, the harder it gets to answer those questions, to me.

So maybe the panel has some comments on can you tell whether
there's an acceptable level of confidence in the results achieved thus

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HAHN: Jim, can we hold discussion until we've heard Tom's

WIGGINS: Yes. I think probably we're done.

HOUGHTON: As the pilot licensees have been learning about PIs and sharpening their focus, we see improvement in the inspection modules as they've been tested out. We think that there's going to be a continuing learning process that's going to have to go on, and we would encourage NRR oversight of the program as it's fully implemented.

Perhaps one issue to talk about is the cross-cutting issues, and we'd like to make the point that we feel that the system has been set up to look at significance of what's going on in the plant, and that the -- in the cross-cutting issues, the proof's in the pudding. It's in the results that come out of the program. And if you're measuring both with the SDP for -- from that side and measuring from performance indicators that if the results are not safety significant, that that is a rebuttable presumption about the corrective action program and about human performance; and that those lower-level looks ought to be performed within the utility, where it reflects their culture and the issues that they need to be going at. So we feel that the -- that the system as set up will -- should focus on results.

LIEBERMAN: Does that mean from your perspective or NEI's perspective that trying to develop a separate indicator on the corrective action programs, safety-conscious work environment -- these cross-cutting issues, procedural adherence, all those type issues are really irrelevant because the only thing that really counts is the results, and that means that as long as you don't trip an indicator or you don't have a risk-significant inspection finding, then, by definition, things are acceptable, and you may have weaknesses in those other areas, but they're not to a level that NRC should be engaging the licensee in.

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HOUGHTON: I think what I'd say is that those areas are very important. However, they get at the organization and the culture of an individual plant, a plant which is a different age, has a different workforce. It has a different experience, and that if you try

1 and develop a common indicator across these cultural and human areas,
 2 you're going to have great difficulty. For example, a plant which has
 3 been performing well, has a mature workforce; they've been on the job a
 4 long time. They have a culture of following procedure would have
 5 different indicators than a plant which has poor procedural adherence.
 6 The indicators, as I was saying before, the indicators are going to
 7 drive the action, okay. And so you should have indicators which will
 8 effect the action you want to achieve, okay.

9 To try and have that across industry, you know, what should
 10 -- what should -- how many corrective action items should you have in a
 11 backlog? What should be the timeliness? What should be the criteria
 12 for putting an item in the corrective action program is going to differ
 13 from place to place. In some places, it would clog up the system and
 14 clog up being able to go after important issues. In another place, it's
 15 very important to enter everything in the program as a message to the
 16 workforce that quality is important. You don't need that same message
 17 and that clogging at a place where you'd have higher performance.

18 Now, with -- what the SDP and the PIs is intended to do is
 19 to say what are the results coming out the end of the pot. Let's let
 20 the -- let's have the utility look at the culture within the process and
 21 fix that, because there are many ways of achieving that process.
 22 There's many paths to success. And when someone tries to put their own
 23 lens or their own model of what a good process is on that, that's his
 24 opinion. It's the results that tell you whether it's been successful or
 25 not.

GARCHOW: And, Tom, to add to that from the management
 perspective -- I thought you just said that very well -- how you go

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After getting those results and how you apply the different management
 tools for human performance and corrective action, that really gets at
 the management of the facility as opposed to what I think we're here to
 talk about is the regulatory oversight of the facility necessary to

1 ensure public health and safety. We don't come after those the same
 2 way. And I think the cross-cutting issues become difficult because when
 3 you start getting very deep into the prescription around the
 4 cross-cutting issues, what you're really talking about is setting the
 5 rules for how you're going to manage the facility, which then sort of
 6 gets into that grey line between the regulatory oversight and the actual
 7 licensee responsibility by virtue of our operating license in managing
 8 the facility. It's a two- -- it's a separate issue.

9 LIEBERMAN: Right. Right. But withing your licensing, you
 10 do have requirements and procedural adherence, and other procedures for
 11 corrective actions. But I think what I'm hearing is -- you know,
 12 there's some logic to it, and that is well, these type issues, these
 13 cross-cutting type issues, everyone agrees they're important to -- you
 14 know, the grease that makes the system work, but those are things that
 15 the licensee needs to deal with, and NRC should not be engaging until
 16 thresholds are tripped -- unless -- there's really no need for NRC as
 17 part of this assessment process to trend or track those type issues,
 18 because these other indicators will be good enough.

19 GARCHOW: And when we discussed the process, there was one
 20 exception that I think we came to pretty good mutual agreement on, and
 21 went forward; and that is because of the importance of the corrective
 22 action program, there would be an inspection module on the corrective
 23 action program that would be rigorous and that would be done at a very
 24 appropriate frequency to ensure at least that cross-cutting process had
 25 -- was actually identifying and resolving problems at a low threshold
 that a utility.

LIEBERMAN: Well, it's nice to know about that, but the
 process as we have it to date doesn't have any mechanism to engage the
 licensee based on those findings, because it doesn't fit into an
 Court indicator or the SDP process can't evaluate.

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GARCHOW: So that the examples, having just went through a

corrective action inspection, the actual way that the inspection is done is going after the risk-significant components and then seeing how the licensee evaluated problems in those risk-significant areas. So by virtue of finding deficiencies in that, it lent itself to the significance to termination process, and you would be able to get at something that would trigger the action matrix and then increased NRC response.

RICCIO: Would that also work for a safety-conscious work environment, because I found the discussion that was held at the Commission to be very sophist. I do not see where -- you had a problem -- you know, cautioning workers is going to show up in your performance indicators, and that's basically what we said in the Commission discussion and some of the other transcripts.

Quite honestly, I don't see how you're going to capture that. I think if you have a workforce that's chilled, that's not going to be reflected in your indicators. As a matter of fact, you may even get a lower threshold in your indicators.

WRIGHT: But that would come out, though, because the interviews they do with all the different people, their randomly selected; they're not selected by the licensee, and all that in terms of when the people come out. It's a pretty large number of people that get -- they get that interview, and a negative outcome from that would go through the process and be screened. I would see that as something that would come out--

RICCIO: I'm sorry, but I didn't follow -- where? How is that tracked?

FLOYD: There's an inspection module which asked -- that has the NRC query the individuals with respect to safety voucher -- in the

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new program.
RICCIO: And they have to answer yes? You're -- you're -- otherwise, you're violating the law, which I why I think it's sophist.

1 WIGGINS: Let me just ask a follow up to a point you made,
2 and I just wanted to just -- and this is an important point. The way I
3 would expect the staff would turn around an answer to your question, and
4 I want to hear your view on that answer, because we're going to hear
5 that tomorrow from them -- is that the way this process is erected, if
6 you have a flawed corrective action program, and I'll say and if you
7 have a significant problem with safety-conscious work environment --
8 that means a, you know, enough that it's going to -- what will happen is
9 eventually something else will fall out. It will either be manifested
10 in safety system availability or trips or PIs or it will come up in
11 other inspection areas. And the assumption going in here is that those
12 issues will eventually result in tripping other indicators. I think
13 that's what the staff would likely say if you asked him--

14 RICCIO: Yes, that's what they said.

15 WIGGINS: Yes, and now I guess -- just to take from your
16 point that obviously you don't agree with that. Could you just
17 elaborate a little bit more on why you think--

18 RICCIO: I'm trying to work through the system, and see how
19 -- if a whistle blower is being quashed, and his issue isn't getting
20 out--

21 WIGGINS: Yes.

22 RICCIO: That's going to eventually trip a indicator,
23 absent an event.

24 WIGGINS: It depends on what you define as an event. An
25 event might be a failed test.

RICCIO: Your terminology.

WIGGINS: No, no. No, I'm not trying to -- I'm not trying

ANN RILEY to play word games. I'm trying to really actually flush this out.

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RICCIO: I am.

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WIGGINS: The assumption -- the assumption going in this,

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because when you've asked in other forums, I've asked the same question.

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1 I get the answer back that, for instance, if you have, you know --
 2 suppose you have a problem that's suppressing information in the
 3 maintenance and I&C shops -- let's say that, okay? Eventually, the
 4 result of that problem if it's broad-based and important enough will be
 5 things like a whole bunch of failed surveillances -- things that a
 6 licensee can't walk away from, because too many people know the
 7 surveillance failed, as opposed to -- you got somebody raising the
 8 question with regard to I don't like this component in here or, you
 9 know, this material is not the best one or whatever, and the assumption
 10 is the person is getting beaten down. That's not getting into the
 11 corrective action program.

12 The practical assumption, at least as it has been explained
 13 to me, that will eventually, if it's important enough manifest itself in
 14 something that you can't walk away from, because it's obvious to
 15 everyone. The plant trips or you fail surveillance tests or whatever.

16 Now can you give me -- what would be your reaction to that
 17 as an answer?

18 RICCIO: That basically it takes -- it takes an event or an
 19 occurrence, then the system isn't working.

20 WIGGINS: Okay. It's more like--

21 RICCIO: You know, what do we have here? Do we have an
 22 indicator of safety or do we have something that's going to trigger an
 23 agency action?

24 WIGGINS: Okay.

25 RICCIO: You know, I mean, and they were playing both sides
 of that line.

WIGGINS: Well, I'm just asking a question. I really --

ANN RILEY Please, believe me, all I wanted to do is hear your answer to it,
 & ASSOCIATE Because I want to compare that to the staff's answers.
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Court GILLESPIE: Jim, how would that work today? I mean, you
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1 RICCIO: I don't think it works today.

2 GILLESPIE: Well, no, no. That's a very honest --

3 RICCIO: They feel they've gotten very little attention and
4 they have gotten a lot of, you know, grief for their efforts of trying
5 to make the industry safer. So, if you ask me how does it work today,
6 it doesn't work today. I'm going to try to see how the new process will
7 make it work.

8 GILLESPIE: Okay. Fair enough.

9 RICCIO: And I don't see that it's going to.

10 GILLESPIE: I think it's -- I can't disagree with that
11 observation, because this process doesn't affect -- no -- let me just.
12 This new process -- this new process doesn't really affect our program
13 of allegations and how we get allegations in and how we deal with that
14 -- with the whistle blower community. It's clearly not -- that's not in
15 here. The corrective action program piece of it tries to touch upon
16 that as far as inspection, but if a person is intimidated at the
17 facility and doesn't necessarily come forward in one of the interviews,
18 this system doesn't deal with that. Jim's right. The cross-cutting
19 issues were deemed that if something was significantly flawed, it would
20 show up as some indication of equipment or cumulative equipment not
21 being operable. Poor training would end up in SCRAMS or something else.

22 So Jim has articulated what the basis of program is. It's a
23 fair comment to say that this program does not significantly affect the
24 agency's program over here for whistleblowers and allegers.

25 RICCIO: Now, let me answer that.

GILLESPIE: I'm just going to --

RICCIO: I understand what you're saying.

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WRIGHT: There is a difference in this program, in this
inspection that we didn't have -- the only thing that was available in
the previous way that the program was done was through the allegation
process. And what I'm what is trying to say is that the inspection --

1 there are interviews done as part of the corrective action program
 2 inspection that are independent interviews with the NRC, which is
 3 something that wasn't -- and there are several questions asked about how
 4 it works and all that -- that weren't done in the previous -- over the
 5 previous years. I mean, it's a planned interview. It's independent.
 6 It's -- which is something that wasn't always offered in the past, or in
 7 the past the only thing available to an individual was the allegation
 8 process or the phone call. I just hear that's the belief of the
 9 individual --

10 RICCIO: I understand. I see you're trying to set
 11 something up that will work. I just don't think it's gotten there. And
 12 quite honestly, you know, again, I'm -- you know, a lot of this is --
 13 what were the problems in the past, how do we move it forward in the
 14 future? And I see a lot of the problems in the past, they got you into
 15 situations with, you know, not to beat up on TVA, but, you know, quite
 16 frankly, the Millstone shutdowns or things like that. I just don't see
 17 that you're addressing something that was one of the originally
 18 impetuses for reevaluating this whole process to begin with.

19 GILLESPIE: Do you have a proposal?

20 RICCIO: Thanks.

21 GILLESPIE: Do you have a proposal?

22 LOCHBAUM: I -- think about it. I mean, that's a -- it's a
 23 fair comment.

24 RICCIO: I'm not sure how to work it in.

25 LOCHBAUM: I think you'd find us receptive if we could
 figure out how to work it in. It's

I think his proposal is not to make that assumption that
 ANN RILEY will find out a chilled work environment; that these things are -- I
 & ASSOCIATES don't think that data ever supports that.
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Court GILLESPIE: Okay. Let me reverse back to something Jim said
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1 questions that have been put on the table.

2 One is the scope of the inspections, including the
3 performance indicators, of sufficient scope in total to give us a fair
4 picture of the operation -- safety operations of a facility. That's one
5 question. That's a question of scope.

6 Then there's question of depth. Given that we're looking at
7 something that the procedure says is within scope, are we looking at it
8 deep enough to get that perspective?

9 First, I'd take -- does anyone have a comment just on scope?

10 LOCHBAUM: I get the same answer to both of them, is that
11 there's not been any data made publicly available to answer either one
12 of those questions.

13 GILLESPIE: Okay.

14 LOCHBAUM: Basically, it's a confluence of the data as of
15 October 28th, fewer than half of the inspection blocks were covered. So
16 basically, we're not even to second base on these baseline inspections.

17 GILLESPIE: Okay.

18 LOCHBAUM: So I don't think I can answer either question.
19 Anybody could.

20 GRANT: Well, I guess my answer would be similar to that,
21 but it's -- once again, it's interrelated. Scope and the depth it
22 doesn't mean anything unless you link that with what are you going to do
23 with that information. I mean, you can have wonderful scope and great
24 depth, but if the result of that is you sit back and say, we're not
25 doing anything with that information, then I don't know how you answer,
you know, the effectiveness, if you will, of the total package. So, you
know, I think, you know, you can look at the baseline program and

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1025 Depth. It might be a little bit less than we did before,
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1 but if it's all risk-based maybe that's okay, too. But you get into,
 2 you know, you end up with findings, and what do you do with those
 3 findings? How do they interrelate them with what the actions are that
 4 the regulatory body takes? And I think that when we talk about these,
 5 Frank, we got to link those two together, because otherwise, I can't
 6 answer that question, even I had a lot of data, I couldn't answer that
 7 question. All I could say is, it looks about the same. But, you know,
 8 what's the impact, then, of those inspection activities?

9 So--

10 GARCHOW: Frank, I think you can compare it to the old
 11 switch apples and oranges, right. And so you either have to take it as
 12 a given by defining the reactor safety cornerstones and the other three
 13 cornerstones that either you believe that by working in those
 14 cornerstones, you're providing adequate assurance of public health and
 15 safety or you don't. And then your evaluation, whether the scope is
 16 correct, isn't compared to the old program. It's compared to the
 17 cornerstones, and then you can have a good discussion, and then you
 18 might be able to find some gaps. And I would agree with Dave that short
 19 of just reading the procedures, which I've attempted to read most of
 20 them, that really doesn't give you the sense until you can actually talk
 21 to the inspectors and listen to the exit meeting and the entrance
 22 meetings and just get a sense for -- that the magnitude of the landscape
 23 their trying to cover in the program. You don't get that just by
 24 reading the procedures.

25 So I think we should not be comparing it necessarily to the
 old. We should be saying how true are we to the measuring the
 cornerstones, because I think at some level of consciousness, most

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Everybody agreed that the cornerstones truly were a good measure of
 public health and safety.

And there was nothing in the old process that you could
 point to that had that clear of a logical linkage between what was being

done in the NRC and pointing towards public health and safety.

GILLESPIE: Would the summation be here that we just flat out need more time to get more information out to more people? More inspection results out so people can judge what the end product is?

UNKNOWN SPEAKER: I think that's true.

WIGGINS: Are you talking as PPEP recommendation or are you just--

GILLESPIE: No, just trying to--

WIGGINS: You know we'd summarize it differently if that were the case.

GILLESPIE: Yes, I'm trying to figure out is there something that -- have we just discussed something that needs to be fixed or something that needs to be monitored?

I'm not sure.

LIEBERMAN: Well, Frank, Ken had I think a very good point, that to extent his inspectors are doing it, is indicating that when they complete their inspection, whether there's more they thought they should have done -- now, and that type of information I think would be helpful to evaluate whether a scope or the procedures and a time allocated for those procedures are adequate based on our inspectors giving credible issues and they thought they should have pursued or they satisfied that they got into enough issues to make an appropriate finding.

HOUGHTON: I'm not over here just chomping at the bit--

GILLESPIE: Go ahead. I realize that I don't have an opportunity tomorrow, but you have only heard half the story. You need to hear the rest of the story from guys like the branch chiefs that are out trying to do this.

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WIGGINS: Frank, back on your comment, I think it is legitimate to, at this point, avoid prematurely deciding that what we got out there is exactly right. I mean, we got -- as much as you like to not try to force it, you got kind of a one size fits all, 1,850

1 baseline program.

2 Now, not matter how much effort that a region could put in
3 place to say well, we want to inspect until we're done or if we don't
4 get done, we want to have a comment with that -- I mean, somebody's got
5 to plan it and execute it, and the planning and execution controls
6 really the hours more than anything.

7 It's a question -- I don't know if that number is the right
8 number -- I don't know if it's too large -- I sense it's probably than
9 it needs to be. You know, but I think right now -- you know, I don't
10 know whether it would be wise for us to make a recommendation that --
11 you know, that anywhere comes near saying that that's right number. I
12 think we need to be cautious with regard to what will eventually be
13 achieved in terms of resource reduction.

14 You know, at least my best judgement is in the end, in the
15 final analysis, there will be a reduction in resources over what was
16 being done two years ago. I think that's probably -- I think I still
17 feel that. I have a sense that there was that much slop in the program
18 back then. I just can count times where I could pick, you know,
19 opportunities that we were doing things that we didn't need to do, or
20 that we were doing redundant things. And I think you can back that much
21 out of it.

22 I just -- you know, I just don't know that we're -- I don't
23 think -- I think it's unfair, unfair to expect that the pilot running
24 for what it did, you know, can give you that information reliably at
25 this point.

GILLESPIE: Okay, that's fair.

WIGGINS: You have to consider, too, that the pilot tested
ANN RILEY is, and it tried to test the baseline. But the supplemental program
& wasn't available. We don't know what that's going to cost or how often
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1025 still an open question. You know--
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1 BROCKMAN: The program and shutdown activities was very
2 minimal because of the pilots we chose. The other thing is one of the
3 things we haven't looked at yet, going to next year, is when we
4 implement this at all the plants, and you've got all of them running,
5 and we get a PPR all done, in the same week, at every plant, and
6 communicating it. We do that twice a year, and we start looking at
7 scheduling these aspects on an annual basis as opposed to an 18-month
8 basis, we are going to need I think both as speaking as an agency
9 manager and as a member of the panel, this data is tainted. It is
10 tainted, and we've got to look and see a full year's worth of
11 implementation before it goes to final.

12 GILLESPIE: That's an important point. That's why I said --
13 what you're saying -- I think both of you actually said is we're in a
14 monitor mode; I mean, that the agency, the public, everyone looking at
15 what we're doing is in a monitor mode until we get more pure
16 information, more equilibrium kind of information.

17 BROCKMAN: Yes. If I were to -- if somebody said, there's
18 nothing that says this thing is an obvious. It can't work.

19 GILLESPIE: Okay.

20 BROCKMAN: It's -- there's -- there's enough there to say,
21 you can move forward with the program and really understand how it's
22 going to work over the next year.

23 GILLESPIE: Okay.

24 WIGGINS: Yes, I would -- I don't see any preclusions. It
25 just -- you just got to say what is it rendering? You know, we've --
you know, we've originally all talked about entering the next phase
after the pilot was entering -- what was it -- full implementation. I

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get a sense that our thinking has come around rightfully so to something
that we would call initial implementation. You know, and it's more --
it's still a developing monitoring process, and we'd be ill-advised to
make any final conclusions. You got to let this run for a while, and

1 see if -- you know, you got to have -- you can't eliminate the
 2 possibility of when you put this into a broader scale, you know, a
 3 broader scale, you got to see what events tell you, you know. As time
 4 goes by, you know, what's happening out there in the industry. Things
 5 are going to likely happen, and what's the staff's level of engagement
 6 with it? What does the public think of the staff's level of engagement,
 7 given how the public or their representatives interpret the information?

8 You only know that, okay, after a little while. It's a -- I don't
 9 that's -- I don't think it's fair to ask the pilot to answer that
 10 question.

11 GILLESPIE: But that's a conclusion, though.

12 WIGGINS: I know that.

13 GILLESPIE: It's a fair conclusion to -- for the panel to
 14 consider as, you know, our last topic in the outline is overall -- a
 15 kind of an overall opinion or an overall recommendation to kind of
 16 support the recognition that the pilot was a pilot, but it wasn't pure.

17 And we didn't learn everything we needed to learn. Maybe we learned
 18 enough to go onto the next phase, whatever we want to name the next
 19 phase. That's -- that's an important conclusion, that there are some
 20 limitations and we will have a certain level of extra vigilance that has
 21 to take place as we're going into full implementation. I mean, that's
 22 -- that's good. I mean, that's a reasonable conclusion to make and
 23 actually removes some of the definition from a couple of the staff
 24 criteria.

25 RICCIO: Frank, will you guys have the ability to tweak
 this process?

GILLESPIE: Oh, yes.

RICCIO: I mean, to the extent that--

GILLESPIE: Yes, something people didn't know is even under

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Court the old program -- he's not here -- Jerry Clinger, who's kind of the
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1025 keeper of the inspection manual for us. We probably in any given year,
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1 I would bet made in excess of 100 changes to the inspection manual, in
 2 any given year. It has never been a static program. A lot of the
 3 changes were made, and they weren't -- you know, the were little tweaks
 4 from lessons learned. People found this, and we tweaked the engineering
 5 or we tweaked this procedure.

6 So, yes, it's -- absolutely.

7 RICCIO: I can see you're going to have events that are
 8 going to occur while we're still in the pilot phase and moving into the
 9 implementation phase that are going to reflect back on this process.

10 GILLESPIE: In fact, I think what we've done in going into
 11 this process is we've probably opened up for scrutiny our whole
 12 oversight process a little more than it's ever necessarily been done
 13 before. So, yes, it -- we're looking at revision zero in April, and
 14 maybe it's revision one in June. I don't know if we can rewrite
 15 everything that fast, but no, it's not static. Absolutely not static.
 16 It's always been evolving, which is why this is maybe actually close to
 17 a natural evolution than a revolution from the old program to the new
 18 program.

19 Definition of the program for 2515, for those who have read,
 20 the minimum amount of inspection done to know you have to bring in more
 21 troops basically.

22 If you look at what the risk-informed baselines intended to
 23 do, it's basically the same definition. We actually never enforced the
 24 old definition. What we're doing now is -- the new piece is putting a
 25 structure in place that is causing some discipline and going beyond the
 baseline. I mean, that's really what this program does. It says you
 have to a written reason. You have to be able to explain the safety

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significance. That's the change. It's that addition of discipline, but
 the fundamental definition of risk-informed baseline and core are not
 significantly different. The content's more focused. I think we're
 doing a better planning job now.

So, it's an evolution, and it's going to continue to evolve.

With that, it's -- I think the SDP -- we'll take on SDP right after lunch. It's five to twelve now.

I'd like to start the SDP process when we come back with five minutes each from the guests, and then let's open it up, because this is one where I don't know that there's universal agreement between any two people in this room. Okay, Jim and Dave are pretty close. And Tom and Steve. If we could -- would everyone find being back by quarter to one acceptable? Would that be okay just so we can keep going?

[Whereupon, the meeting was recessed, to reconvene at 12:51 p.m., this same day.]

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[12:51 p.m.]

1
2
3 GILLESPIE: The next topic is -- first of all, I'll say I
4 appreciate the NRC staff who's going to get to talk tomorrow for showing
5 great restraint. And I can tell by some of the facial expressions that
6 they're showing great restraint, and that's the advantage of looking at
7 you, and you're looking at me, and these guys have their backs to you.

8 GARCHOW: That was with one notable exception, right.

9 GILLESPIE: Yes. That's okay. But everyone gets their
10 turn, and we're trying to understand all the information that's
11 available. The suggestion was made that just to kind to rezero -- I
12 guess everyone in the room, in the panel, was to -- maybe try to state
13 as concisely as possible what the conclusion the panel is trying to come
14 to, to kind of focus on just briefly--

15 GARCHOW: You got to want to reword that, right?

16 GILLESPIE: Well--

17 GARCHOW: The process we're going through.

18 GILLESPIE: The process we're going through, not what
19 conclusion like -- like what conclusion like the answer.

20 GARCHOW: Oh, okay. Trying to make sure that--

21 GILLESPIE: But what are we trying to draw a conclusion on?

22 The first and highest level question to be answered, without
23 giving the answer, is should we be continuing forward with this process
24 as it's envisioned to be, to go into place in April once this initial
25 pilot phase is over, with then continuous suggestions for corrections or
open items or continuing monitoring that have to continue to take place?

Is there a fatal flaw that says we should just go back to what we were

ANN RILEY: Being? I mean, that's one big, big question that would be on the table.

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ASSOCIATE So, does that make sense to everybody?

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Reporters thought you said there is no going back?

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1 GILLESPIE: Well, no. Actually, Dave Lochbaum said that,
 2 and I personally may believe that, but I think we have to listen to some
 3 of the information coming out. That was -- the reason I think there's
 4 no going back is I kind of believe this is a better well structured
 5 system. It's not that it's perfect. But I think it's better than what
 6 we had. If anything else, the structure is allowing to have some of the
 7 discussions we're having today, which are discussions that may not have
 8 taken place before.

9 And so, in my mind, that makes it better. I think the
 10 inspection program is a natural evolution of where we are coming from
 11 before, anyway. We were going to become more risk-informed.

12 The next topic we're going to get into I think is the real
 13 crux of the change. And the real crux of that change -- we always had
 14 PIs, we didn't have thresholds. That was a nuance that we've added in.

15 But now we've got the SDP process, which is the next topic, and
 16 actually trying to develop a measure for inspection results, which has
 17 some sense of quantitative nature to it is really I think the most
 18 significant addition. And the end result of that is the action matrix,
 19 which, to an extent, could be looked upon as putting a speed limit on
 20 the regions, because the action matrix, if we use as intended and
 21 designed, says that if you do not find a white in inspection or in PI
 22 space, then you continue at the risk-informed baseline inspection level.

23 That is a big change. And I think that gets us into the next topic,
 24 which is the significance determination process. Any of the states want
 25 to start off by--

ZANNONI: I'll start, and I'll be short. Since you're
 focusing on the two questions, really I don't have a lot of input only

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Because it's not that we're not -- that we don't care about the
 significance determination process, but it's just that these two
 questions really go to, can they be used by inspectors and regional
 management to categorize inspection findings, and we can leave that to

1 them, and can inspection findings be properly assigned a safety
2 significance rating in accordance with the established guidance, you
3 know?

4 I guess we're going to hear more about tomorrow. Unless you
5 want to get in the broader discussion, which is the bigger issues that
6 come later, I'm going to apply the balance of time for other comments.

7 [Laughter.]

8 GILLESPIE: Jim.

9 RICCIO: You know, all of a sudden, I'm being asked
10 questions I never even raised my hand for.

11 [Laughter.]

12 GILLESPIE: Yes, but I think this is going to get to the
13 meat of many of your concerns and comments in the past.

14 RICCIO: Yes. I guess my problem with the significance
15 determination process as I see it working is it looks like an excuse
16 generator. And I'm not saying like whether or not it's working
17 appropriately or not, but the way it looks, from reading what you got on
18 the Web and the way it's going to play to the public is, you know, we
19 had a problem, but, and you can tend to explain away the problem.

20 From our perspective, when NRC comes out and says, you got a
21 problem, generally you have a problem. And yet you're making it look as
22 though either you guys had the reins put on you, and I'm not sure that
23 it's enough -- you know, elucidation of how the process actually occurs
24 for the public to feel comfortable in just sitting back and going okay,
25 you have X, Y, and Z in terms of defense-in-depth; and, therefore, what
the significant problem isn't.

GARCHOW: Is there a reality issue or a perception issue?

RICCIO: It's probably a little bit of both.

GILLESPIE: Yes, I'm focused on how we're communicating, how

RICCIO: Just toss it out there, like, Ken, you know --

1 your understanding of how this system will work. Can you have an
 2 increase in core damage probability that gets explained away? I know
 3 you have examples of large early release frequencies that get explained
 4 away. But can you actually increase core damage and not have it affect
 5 your system?

6 GILLESPIE: In an absolute sense? Yes. In an absolute, the
 7 answer would be yes.

8 RICCIO: That's what I thought. That's not going to play
 9 well.

10 GARCHOW: There is a --

11 RICCIO: That's not going to play well. Now with that's
 12 your reality or illusion --

13 GARCHOW: There is some precedent -- there is some some
 14 precedent. I mean, take an airplane, the FAA tracks number of problem
 15 landings that occur per flight. I mean, there is a little bit of other
 16 industries that are trying to manage risk that have somewhat gone the
 17 way we're trying to go here, right? So you could say it in an absolute
 18 case that, yes, we've had a 50 percent increase in the number of problem
 19 landings per flight. That would sound very alarmist until you actually
 20 get the qualifying data that we had one every 15,000 flights. Now we
 21 have two, a 100 percent increase, but maybe their threshold at the FAA
 22 for getting concerned is 15, so that that one to two, even though
 23 factually, like you're saying, is an increase, is a 100 percent
 24 increase, in the context of the process it really then becomes
 25 insignificant, and I think that was sort of the same type of model or
 thought process that went into trying to let the significance
 determination process put a perspective on that.

ANN RILEY RICCIO: I guess in terms of the reality side of the
 & equation, my concern is that you're relying upon defense-in-depth, which
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 Court I'm not sure is there. I'm wondering how many times Haddam Neck, you
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1 system that would have performed its function. Do you follow?

2 GILLESPIE: Yes. No, there is -- there is -- you know,
3 there's basic premises in -- when you're risk-informed, and one is--

4 RICCIO: Or that you have -- your design basis is--

5 GILLESPIE: That your design basis is as expected, as
6 expected, which is why we actually have a big change in our engineering
7 procedure, to focus more on design and engineering than programmatic
8 things, which is what folks have done before. So we're trying to both
9 address the root -- kind of the underlying assumption. But the basic
10 principle was more like a traditional quality assurance principle that
11 there's a band in which not only can core damage frequency increase a
12 little bit, but it could go down a little bit. There's a band in which
13 normal operations of any large industrial facility would operate and as
14 long as you don't break the boundary of that band -- it's not that
15 you're expected to ride on the boundary, but as long as you don't break
16 the boundary of the band, you are operating the machine within
17 expectations, within what would be expected to be the random failures
18 that were not systemic, that were not biasing you in a particular
19 direction.

20 Now we may not have articulated that very well, or it's a
21 concept that is difficult to articulate to the public --

22 LOCHBAUM: You never sell that issue to the public.
23 ValueJet, when they buried their -- parked their plane down in the
24 Florida Everglades, killed 110 people. More people were killed on
25 highways that weekend, but the story for the next month was ValueJet.
People aren't concerned about risk. It's big ticket. A nuclear power
plant can kill a whole bunch of people. So the fact that you're

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Increasing the risk and having the potential, you're never going to be
able to explain that away unless they're terms that people sit down and
call them logic and say, oh, yes, geez, you're right. And, you know, as
long as we continue to place emphasis on a lot of people dying, that's

going to be--

1
2 RICCIO: I can explain part of it, but I can't really
3 disassociate this from the rest of what's been going on in terms of
4 risk-basing regulations and stuff like that. When I see you guys
5 working on your risk-basing regulations, you say you're going to draw a
6 line in the sand, but, in reality, that only cuts one way, that you can
7 meet these certain thresholds, you're safe. But if you don't meet the
8 thresholds, it doesn't mean you're not safe. And so when you -- I see
9 -- you know, that going on in one half of the house in terms of
10 regulation, and then an analysis that is going to allow for slight
11 increases in core damage probability, I have to ask myself are we
12 creating a process that is making things safer or not.

13 WIGGINS: Let me -- let me -- doesn't the process -- maybe
14 I misunderstand. The process doesn't as much allow the small increases
15 in core damage frequency or probability. Rather, the sentence goes on
16 to say it allows small increases without the staff getting involved.
17 There's still a presumption that if there are issues out there that
18 affect core damage, increase it, that the licensees are taking care of
19 that. Again, we come back to the corrective action program issue again.
20 You know, it fits all these -- all these things all point back to the
21 corrective action program. It's, again, the green versus white --
22 really is whether the NRC is directly engaged in a diagnostic activity
23 to determine all of the aspects of what went wrong to make they're
24 covered, or rather the NRC's approach is to -- is to -- is would go
25 along the lines of expecting that the licensee will be taking care of
that, with the NRC spot checking the ability and capability of the
licensee to do that in a broader base, just in the context of an annual

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Inspection. Is that -- that's kind of how I saw it. Now, Jim, you
know, it's lesser -- now, maybe Jim's got a point, that it has to do
with, you know, how completely you articulate what we're up to here.
And I think his point is if you stopped at the explanation that it will

1 allow increases in core damage, I think maybe that's -- that kind of --
 2 he brings a good point to the table. It's very difficult to sell
 3 anybody.

4 GILLESPIE: Yes, I think that -- let me correct myself,
 5 because you're right. I did say it wrong. This is an oversight process
 6 which is given thresholds for NRC action. It's not a process which is
 7 either allowing or disallowing anything. The requirements are all still
 8 going to be the requirements.

9 RICCIO: The question is then when your action is
 10 triggered?

11 WIGGINS: And, Jim, I think I'd offer it is the difference
 12 between what I would call specific action, which is, you know, stimulus
 13 response thing. Issue A happens, you react. Versus a more general
 14 reaction. Issues A through Z happened, and then NRC comes back and in a
 15 routine, in the context of some baseline activity, it takes a look at in
 16 general how those things are handled, possibly picking some of the
 17 specifics as platforms to make that measurement.

18 But I guess -- I would think it's -- I don't see it to be
 19 completely accurate to say that we're just absolutely walking away from
 20 it. It's just a question of what specific follow up we provide at the
 21 time of the occurrence.

22 FLOYD: And, in fact, if I understand the program right
 23 there, it isn't even specific follow-up action on a green finding. So
 24 it's -- it's not left up just to the baseline. I mean, the only
 25 difference that I see between what used to happen before and what
 happens now is for an item that's characterized as having low
 significance and therefore are called green -- well, first of all what's

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the same thing that does happen. It still gets documented in the
 inspection report. It still gets identified as a deficiency, and if
 it's a violation of the regulation, it gets issued as a non-cited
 violation. It goes in the licensees corrective action program. The

1 inspector follows through on the corrective action for a green finding,
2 and satisfies himself so that the correction action has been taken, and
3 that the issue is closed out.

4 But the only difference that doesn't happen that used to
5 happen before perhaps if it was a violation is formal piece of paper
6 doesn't go back and forth instead a non-cited violation is issued. But
7 all the actions in terms of documentation and expectations of the
8 licensees still take place. What -- I see some head shaking, do I have
9 the wrong perception?

10 BROCKMAN: It's 20 percent of it.

11 FLOYD: Twenty percent. It's not 100 percent follow up.
12 Okay.

13 WIGGINS: But it's a good point. Maybe it ought to be
14 more, but that's an issue that should be debated. You know, maybe it's
15 a question, you know, is that enough? Should it be more to it?

16 Now, you have to make a -- there's different considerations
17 you have to apply. You don't want to have -- well, it's going to take
18 more resources to do that because if you do that with the current
19 resource expectation, you'll essentially run the risk of saturating your
20 inspection, and following up on stuff that you know is wrong as opposed
21 to going out and having an opportunity to go find stuff that nobody's
22 found yet. And that's always balanced that a staff needs to make as it
23 plans its inspection.

24 So it's a question -- you know, it's a question of how much
25 is enough. How much follow up of identified issues is appropriate in
order to make the measurement at what confidence we decide we need, that
the corrective action programs are working.

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Program. We're just going to see how things work out as time goes on.

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this table are probably more familiar with this process than anybody on
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1 the planet, and there seems to be a great gap in understanding what the
2 process is.

3 WIGGINS: I don't think it's great. I think there's so
4 many details -- there's a lot of details in the process, Dave. Dave,
5 there's a lot of details in the process, and people have levels of
6 understanding from the top to the very detail. Some of the folks on the
7 walls that have implemented it or put it together have more knowledge
8 than anyone, but a lot, you know, people as you get higher in the
9 organization have, you know, there's the detail gets a little bit less
10 in focus and the overall concept is more focused upon.

11 LOCHBAUM: I guess my comment wasn't to measure that gap,
12 but at what point does that gap disappear so that somebody comes in new
13 that's not sitting at this table has just the foggiest clue of what's
14 going on? I don't know where that document. I mean, it's not that
15 NUREG that's put out there this year. That won't be the answer to this.

16 But I guess the point I was trying to make is what is going
17 to be the vehicle for somebody figuring out what's going on here?

18 GARCHOW: I think the comment would be that maybe it's all
19 relative, and that is a bit of a -- and somebody needs to be able to do
20 that. I would challenge under the old process to ask that same question
21 because for 20 --

22 RICCIO: But that's why we're here, right?

23 GARCHOW: Because for 20 years, we would by and large not
24 answer that. So right now, at least we have something that we can make
25 better.

LOCHBAUM: I have three words for that. The old process
was wheel of misfortune.

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GILLESPIE: Okay, let me suggest that -- try to --

BROCKMAN: You can answer that question.

GARCHOW: I really can't. The essence is in 2515, what
will be the new 2515 and 0610, which define then how you do the

documentation associated with the program description.

1
2 GILLESPIE: Let me take that one step further, because this
3 may be a flaw that I've seen -- I've talked to a couple of people about
4 is in the training of our inspectors who are going on right now, and
5 it's a full week of training, I had -- Mohan went to it -- went to one
6 of the weeks at TTC, and said, what were your insights? He said, it was
7 a real good session on telling me how to do it, but it didn't leave me
8 with a lot of fulfilling information on why we're doing it.

9 And that the philosophy of why is it this way -- it's
10 hidden, I think it's hidden in various volumes of paper. If anyone's
11 stacked all the paper we've generated in this program, just the two
12 Commission papers by themselves are each probably an inch and a half
13 thick. It's three inches of paper.

14 We have an immense number of detailed procedures on what to
15 do and how to implement. But I don't know that we have a five- to
16 ten-page document that gets to the underlying principles and collects
17 them all in one place.

18 GRANT: I don't think you can have one. I mean, that was
19 the intent; that I think that first cut, and it gives you some of the
20 background philosophy. But you do have a couple of Commission papers to
21 get a whole lot of detail. Like Jim said, you have a lot of good -- all
22 the other stuff is, you know, public information, also. It does require
23 somebody to sit down with a -- you know, a stack of paper and trying to
24 figure it out. If you have an outline that kind of directs you in how
25 to look at it -- but short of that, I'm not sure how anybody -- I mean,
how would you distill down the entire regulatory approach to nuclear
power in five pages, I have no idea.

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GARCHOW: Steve, I mean that document -- I mean, NEI's been
trying to communicate to the nuclear industry not with just the pilots,
but everybody. And I can remember -- there's a little booklet that was
put together -- nuclear time flies; I'll say six months, it might have

1 been two months, it might have been 10 months -- but it came across my
 2 desk a little book, a little -- you know, it may have been 25 pages.
 3 This sort of laid out, soup to nuts, the new approach. So maybe, Steve,
 4 we can share that somehow -- you know what I'm talking about?

5 FLOYD: Yes. Okay. Yes.

6 RICCIO: Let's put it this way, the Commissioners are going
 7 to have to explain this at an open staff meeting.

8 GILLESPIE: Oh, yes.

9 [Laughter.]

10 Thank you.

11 Bob, you've been listening to this, and you said in the
 12 beginning that you weren't deeply involved, can you give us some of your
 13 impressions?

14 LEOPOLD: My overall impression is you're trying to take a
 15 quality assurance process and apply it to the operation of a nuclear
 16 power plant. So that would be my one sentence explanation of what your
 17 whole process is supposed to be. I don't have any specific insight on
 18 how to define all the details that you're trying to work with Al on.

19 GILLESPIE: Anyone else have anything? Jack?

20 SPATH: Yes. I have a few comments I wanted to share with
 21 you. And before I do, let me just make some caveats which are based on
 22 this morning's discussion. First of all, what you're going to hear from
 23 me is fairly redundant with issues that were already put on the table
 24 this morning, so I apologize for that.

25 Secondly, I've -- we've organized this set of comments under
 the heading of significance determination process and assessments. They
 really don't exactly fit under there, so forgive me if that isn't the --

ANN RILEY this isn't the right spot.

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Court state in terms of the new process, and clearly, we're not as far along
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 1025 as some of the other states -- Illinois and New Jersey -- in that

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1 process, and obviously not anywhere near where you folks are. So, and
2 some of the comments may seem simplistic and naive.

3 But having said all of those caveats, I think it's probably
4 useful for you to hear what group of state staff sitting up in Albany,
5 New York, trying to figure out what this process is all about thought as
6 we addressed this issue.

7 So here goes.

8 And I have three points. And the first one is intended to
9 be somewhat complimentary, so please take it that way. One of the
10 apparent attributes that we see in this new oversight process, and I
11 think it's one of your intentions is that it is -- is its objectivity,
12 okay. The performance indicators and the performance categories
13 provide, we think, a clearer assessment of where a plant stands--clearer
14 than the current process. The process, the new process, seems to remove
15 some of the subjective judgement, which was inherent in the current
16 system in the SALP, in the PPRs, and what have you, where plant
17 performance was periodically graded by NRC managers, senior managers.

18 So we think those are all good issues. In fact, let me give
19 you kind of -- this is not part of my prepared text, but let me give you
20 a kind of an anecdotal comment. As we sat around and talked about the
21 process, and one of our guys said, you know, thinking about these
22 performance indicators, you know, a performance indicator is what it is,
23 and you can't rationalize or explain it away. Okay, and I think that
24 underlies what some of the -- now, I don't know if this -- that will
25 prove to be true, but that was a comment that came out of discussions.
I thought it was worth sharing with you.

My second comment deals with the issue of calibration. I

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did touch on it a little bit this morning in response to your query,
Frank. But let me give you the, and there's been a lot of discussion on
it, and I think we, too, think this is a -- I mean, my basic points is
that the calibration of a performance category is, you know, the green,

1 white, yellow, red is really, really important to your process. In
 2 particular, I guess we view the green category as one that should
 3 signify or is intended to signify, you know, and I'll use the term
 4 acceptable performance. Whereas the white category, while perhaps still
 5 within the broad bounds of acceptability, we think should be and
 6 hopefully is intended to be a very clear early warning of a potential
 7 downward trend, performance trend, which needs obviously attention.

8 Now, while -- when we look at the numbers -- we look at your
 9 -- how you have broken down the different categories, and we are not in
 10 any position to offer you any great wisdom that it should be a three
 11 instead of a two or -- okay, so we don't really have specific comments
 12 on those, and as I said this morning, we assume this is based on your
 13 years of experience, and we're willing to accept them for now.

14 However, we do feel very strongly that they should not be
 15 static; that they should be revisited periodically. I mean, after
 16 you've gained some experience, and the pilot project clearly isn't going
 17 to give you that -- experience in determining whether or not these
 18 indicators and the numerical categorization of those indicators if
 19 they're doing the job that you intend them to do, which is, you know, to
 20 assess performance and provide you the targets or the triggers for
 21 initiating effective response.

22 And I guess I would add, with an ad hoc comment here based
 23 on this morning's discussion, we've talked a lot about the concept of
 24 the corrective action programs. It seems to me, sitting here, trying to
 25 sit back from the discussion, maybe there's room to establish a new
 performance indicator that somehow could be tied to the effectiveness of
 the corrective action program. The corrective action program is,

ANN RILEY, Indeed, one of the first lines of defense, which is what I'm hearing.

&
 ASSOCIATE IS there some way to put that into a measurable parameter that could
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Court incorporated into a performance indicator so it's out there for the
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 1025 world to see. Okay.

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1 My third comment is about the performance indicators and how
 2 they fit into the assessment process. And they are, I think by their
 3 nature, and it was alluded to this morning again, that they're lagging
 4 indicators. Okay. It is possible, we believe, that plant operations
 5 could experience a decline, perhaps a significant decline in performance
 6 before the results of that decline would necessarily be reflected in
 7 performance indicator trends. Okay. And I guess would add to that is
 8 that historically we've actually witnessed that, where you go for
 9 extended periods where a plant is operating continuously and apparently
 10 uneventfully, only to be followed by identification of, you know, some
 11 fairly major and hidden challenges and problems.

12 So having said that, I think one of the things that we're
 13 looking for is to see how your process, and it's not immediately clear,
 14 how this new process would capture that issue, that issue of the
 15 potential for lagging -- the lagging performance indicators and the
 16 emerging issues.

17 GILLESPIE: Okay.

18 There's a second topic I really want to get to, because it
 19 came up earlier.

20 HOUGHTON: Skipping over the definition of significance
 21 determination process, there are several SDPs. We feel that the
 22 majority of the SDPs are workable right now, with the exception of the
 23 fire protection SDP, because there's not been, really, any experience
 24 yet using it, and the security SDP, which we feel has some faults which
 25 need to be corrected, and we proposed a correction which would align it
 more with the risk inherent mechanism of the reactor SDP.

An issue that appeared to be coming up and being a problem

ANN RILEY was that every issue was being put into the SDP and clogging up the
 & works, and there's a screening criteria now which would look at
 ASSOCIATE S, LTD. Court deficiencies and determine whether they actually need to go through that
 Reporters formal process or not, and we feel that that's an improvement and it
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1 will help achieve the original intent, which was to be able to screen
2 out things which were obviously not risk-significant in the beginning.

3 It's important -- it was important for the pilot plants and
4 it will be important for all of the plants that there be a way of
5 incorporating plant-specific PRA information into the SDP as it goes
6 along, and there have been some discussions in the public meetings about
7 that, but that requires more effort to get that in place.

8 CHASE: Tom, is that what you mean by tables, PRA?

9 HOUGHTON: Well, the plant-specific tables in the SDP that
10 talk about individual -- that are more aligned towards the specific
11 plant, as opposed to being completely generic.

12 FLOYD: These are the tables that identify what safety
13 equipment is for what scenarios?

14 HOUGHTON: Yeah. And we feel that there's going to be a
15 continual learning process and that the consistency and the look from
16 NRR needs to continue as we go forward into all the plants. We're all
17 learning the details of this, and that will be necessary.

18 LIEBERMAN: Tom, if you had plant-specific tables for the
19 phase two SDP classes, would you need to have phase three?

20 HOUGHTON: Yeah, you probably still would need the phase
21 three, because the SDP is an approximation, with orders of magnitude,
22 and the phase three looks at the specific PRA module, and it both makes
23 it -- it can lead the result either way, really, because it would take
24 more into account the effects across several different scenarios.

25 On the other hand, it also more specifically takes into
account the PRA values for performance at that plant. So, it's a
sharper tool.

ANN RILEY The question is how much time do we need to spend on phase
& two and phase three, and there's a learning process going on now.
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Court LIEBERMAN: If you had a better phase two, would you lose
Reporters that much by not taking the time to have phrase three and just get on
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1 with it?

2 CHASE: I think phase three just refines it more. As Tom
3 said, phase two is just an approximation, and phase three sharpens your
4 pencil and gets you down to where are you exactly.

5 HOUGHTON: There's pros and cons to phase three. I mean
6 phase three takes a lot of time and there's a lot of pencil-sharpening
7 and a lot of analysis and so forth. On the other hand, it gives you a
8 more -- can give you a more correct answer.

9 So, if the phase two is a green or a white and there's a
10 problem that's being resolved, maybe that's enough. If the question is,
11 is it a more serious problem, then we need to look at it more seriously.

12 LOCHBAUM: But if it could go either way, then why would you
13 stop at phase two, if it showed green or white, if it can go either way
14 when you do the phase three, because that could conceivably go to white.

15 HOUGHTON: Because it's bounded. It's bounded.

16 FLOYD: I don't think it could go either way.

17 LOCHBAUM: I know it won't go either way.

18 FLOYD: Phase two is intentionally conservatives and
19 intentionally constructed to generate false positives. So, it's not
20 likely that you're going to find something that is, you know, green
21 under phase two and, then, if you were to evaluate on phase three, you'd
22 find it was white. I mean that's not likely to happen.

23 LOCHBAUM: Where's the data that proves that it's been set
24 up conservatively? Was that just an assumption going into this?

25 FLOYD: No. If you look at how the tables were put
together, you can see it pretty evidently. All the event scenarios are
in orders of magnitude of 10, and the frequency category and the

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duration of condition is a magnitude of 10, when in reality the
condition maybe wasn't there for the full length of time.

GILLESPIE: Let's skip this one until, if we could, Dave,
tomorrow, because that's a good question.

1 Because one of the tests of the SDP system that the staff
 2 should be telling us is -- an intention of the design was it would be
 3 conservative, just to set it, and I don't know whether we have absolute
 4 proof that it came out that way, but that certainly was the intention of
 5 the design.

6 GARCHOW: We reviewed LERs. I think we reviewed some at
 7 NEI, and I think the NRC reviewed LERs, ran them through the
 8 significance determination process.

9 GILLESPIE: And then looked at plant-specific incidents.

10 GARCHOW: And looked at plant-specific. I mean it wasn't a
 11 population of 15,000, but there was an attempt to take some number.

12 GILLESPIE: There was two independent bench-marking efforts
 13 to get there.

14 Go ahead, Tom.

15 HOUGHTON: Okay.

16 In moving this more towards assessment, we think there's
 17 been good progress on the supplemental inspection guidance, which gives
 18 more objective and predictable guidance on what's going to be done.

19 At the same time, if the condition is already -- if it's a
 20 historical issue which has already been corrected, the procedure allows
 21 the flexibility to say, yes, we've already looked at this problem in
 22 detail, we don't need to do it again.

23 Okay.

24 We don't have experience yet on assessment reports, the
 25 mid-cycle or the end-of-year assessment reports, so we can't really
 comment on that. We do feel, though, that they should focus, again, on
 results and not be subjective.

ANN RILEY The data ought to be available ahead of time for the
 & assessment, and the assessment ought to be putting that data together
 ASSOCIATE S, LTD. and not developing new analysis, and we do feel like the web-site is
 Court Reporters providing communication. Okay.
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1 It's taken a while to get it up and running, but it always
 2 does, and we think the fact that you now can go to a screen, click on a
 3 window, get the data, or click and get to an actual inspection report is
 4 a far, far more amenable tool for the public to find out what's going
 5 on.

6 Those are comments on the assessment.

7 LIEBERMAN: Tom, do you have views on whether the SDP should
 8 be based on core damage frequency or core damage probability, in looking
 9 at performance?

10 HOUGHTON: I don't have enough expertise to tell you. I
 11 think I'd leave that to the other commenters.

12 GRANT: I guess my question would be, for the public, does
 13 that differentiation even register? It's a significant difference. The
 14 SDP is average risk, which is frequency. The probability is
 15 instantaneous, which is no diesels are operable today.

16 It so happens on diesel is out for maintenance, which was
 17 planned and, therefore, okay, but the other one failed to start when it
 18 was demanded to, so essentially we don't have any diesels.

19 So, I mean is that even on the radar screen, I guess, for
 20 the public, either from the states or other organizations, this
 21 differentiation, because the SDP process is average risk.

22 RICCIO: It's on my table but only because of what's going
 23 on with risk-basing Part 50. I wasn't even quite aware of within the
 24 SDP. But I think there is a difference, and I don't -- anytime you guys
 25 are going to get into a situation where you're going to increase either
 probability or frequency, you're going to have a hard time selling it.

We already know what the consequences are. So, whether

ANN RILEY you're talking probability or frequency --

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Court increase in frequency or probability. It's identification of what that
 Reporters past effect was and the significance of it. It's being corrected.

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1 It's not saying, okay, we'll accept an increase in core
2 damage frequency of 2 times 10 to the minus 5th. It's not saying that.

3 It's saying what was the significance of this particular event and how
4 much resources needs to go into to follow it up.

5 It's in the corrective action program. It's going to be
6 corrected. It's not going to be accepted that you don't need to fix it.

7 RICCIO: That's how it's supposed to work. Then again,
8 you're also supposed to have your design basis maintained over the last
9 30 years, and I think you'd have a hard time arguing that it has been.

10 HOUGHTON: But if you have an inspection and you find
11 something wrong with the design basis and you analyze it to say how
12 serious a problem is this, fix the problem, but how serious a problem is
13 this?

14 Is this a problem where we want the plant to be shut down
15 until a complete re-analysis is done, or is this a problem that just
16 needs to be fixed and it won't have any extensive impact?

17 GARCHOW: It's in the regulatory framework. If the second
18 diesel went out, you've got one hour to shut the plant down. Then you
19 look backwards and say, okay, what's that mean as far as the comment
20 about the organization, and should we apply more NRC resources?

21 That all can be chewed out over the time that you do the
22 inspection, because you've assured the plant's safe until your diesels
23 are back.

24 GRANT: I'm not sure what the inspection is that looks at
25 that.

GARCHOW: Well, you have your baseline inspection, and we
have our indicators. I mean the plant is instantaneously safe by the

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Court have the complement of equipment back to run safely. That's not this
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1 GILLESPIE: This is a good discussion. It does bear upon
2 risk-informing Part 50 and the thought process of what measure to use
3 when.

4 Alan, tomorrow -- I'm not asking you to do it now -- will
5 you guys be addressing not just the risk-informed baseline and these
6 indicators, which are CDF, but will you be able to mention a few words
7 about event reactions?

8 MADISON: Event response?

9 GILLESPIE: Event response.

10 MADISON: Yes.

11 GILLESPIE: Could we do that?

12 Okay.

13 We do have another procedure which is out for comment, for
14 everybody, which is an event response procedure, recognizing that the
15 inspection program is looking for a systemic bias, a bias that could
16 result in a gradual degradation, but indeed, there is still going to be
17 anomalous line-ups of equipment, events are going to occur, a random
18 phase with complications, which then bring into play the concept of what
19 is the risk today to the public from the facility, which is an event
20 response procedure, and so, it's being dealt with in two different
21 arenas, and if the staff will cover some words on event response
22 tomorrow, I think that may help out.

23 GRANT: That will help out discussion on event response, how
24 to instantaneously respond to it, but I guess this goes into how should
25 we assess that. Responding is one thing. Assessing is something
different. What do we do, then, from a regulatory standpoint, if
anything?

ANN RILEY GILLESPIE: When you respond, you're in inspection space,
& and now you're looking for the root cause and why did the event happen,
ASSOCIATE S, LTD. why were the complications there, and now you're in SDP space, with the
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1025 results of the inspection that you responded with. So, I think it gets
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there.

1
2 LIEBERMAN: But if you use the core damage probability on
3 the inspection findings, you may end up green in a given case. If you
4 consider the core damage frequency -- is it the other way around? -- and
5 get into white, it's a difference of are you going to get engaged or
6 not, consider getting engaged or not.

7 GILLESPIE: What I'm saying is there's a second level of
8 engagement that's CDP, when an occurrence would be considered an event,
9 when you're engaged. You're engaged even though the plant could be
10 totally in the green and everything, but now you're engaged and you're
11 looking in more depth.

12 Now, what are the results of that look? The results of that
13 look could still be everything in the green, because it was a random
14 pump failure in a casing that no program might have found, or it could
15 be a flaw with the design basis, could then come out from the reaction.

16 RICCIO: One of the things at Quad Cities, if you use that
17 as an example, Dave, where you've got -- you know, basically you had EDG
18 failures?

19 LOCHBAUM: EDG reliability was the issue, the finding, and
20 it was accepted because there hadn't been a loss of off-site power,
21 which was perhaps true but not really relevant.

22 I think, as I went through this, comments I submitted last
23 week, or whenever it was, there was only one case where the green
24 finding seemed to be justified in a way that made sense.

25 It's not that I disagree with the others ones, but it was
like restating the question of 50.59. You couldn't agree or disagree.
It was a wasted effort. I don't care if it's CDP, CDF, TGP, whatever is
used to make it go away, you need to explain it.

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GILLESPIE: Yeah.

LOCHBAUM: And that wasn't done, except in one case, at
Prairie Island.

FLOYD: And it should be explained.

GILLESPIE: It should be explained, and I appreciated the comments, because you had one in there -- you said this one was right, this one I could understand.

LOCHBAUM: It took a while.

GILLESPIE: But you found one. That was actually very beneficial, because it gives a sense of what is enough to translate enough information so someone understands where you're coming from.

RICCIO: It goes back into the normalization of deviance, and it goes back to what -- and I don't know if it was you, I don't know who it was from the Illinois Department of Nuclear Safety said years ago -- said that, by changing this process, you're going to destroy the safety culture that it took you guys so long to build up, and if you come in with a finding that says you have a problem here, but it keeps on getting explained away, all of a sudden that original designation of that problem becomes less significant, and I'm not sure, under this process, that there's a way to maintain that level of vigilance within the industry, but if you continually have the issues that are being identified explained away, you're going to lose the focus that these guys already have on specific items.

GILLESPIE: Does anyone from the industry want to comment on that? The silence is deafening.

HOUGHTON: I still don't think it's being explained away.

GILLESPIE: Communications is very important. One group is coming at it from this direction, and you're saying the same thing from the other direction, and each of us has a perspective, and for each of us, it's a valid perspective.

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 1025 of information and just kind of put it through the processes,
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GIBSON: There are three areas that we looked at from the shadow plant process. A group of us were able to take a look at inspection reports. One plant went back through and took a year's worth of information and just kind of put it through the processes,

1 recognizing that these are all evolving, but it was done to try to gain
 2 insight in terms of, well, gee, if this was for real, how would we apply
 3 the process?

4 Other utilities had looked at LERs. In fact, a couple of
 5 LERs were done with what I'll call the normal phase three review, which
 6 is the formal PRA, and for training purposes, for verification purposes,
 7 what did this look like, if you had put it through the process as
 8 described in the SECY 99.007, and the general perception is that the
 9 primary SDP, the one dealing with operations and equipment, appears
 10 prudent.

11 It also appeared to be conservative from the standpoint that
 12 it would force you into a phase three for things that, you know, perhaps
 13 -- well, on a conservative -- it appeared to be very prudently set to
 14 force formal PRA full evaluations to be done at the appropriate level.

15 So, it did appear to be risk-informed. We recognized the
 16 reasons for that, having been an inspector, and all my issues were
 17 obviously important.

18 You know, it's nice to be able to have the discipline to
 19 have it documented such that it is evident to licensees, to the public,
 20 and to the regulator exactly what we're going to categorize particular
 21 issues as, and at what level, and then what would be the appropriate
 22 response will flow out of the action matrix.

23 As I say, that particular one is good. We've noted that
 24 comments that have been provided through NEI -- and obviously, we've
 25 been working with NEI not only on the PI's but also on the SDP -- have
 been provided comments on the emergency preparedness and health physics.

Those have been and resulted in additional consideration by
 the staff in terms of making those a little bit more precise in various
 areas, so that it's clear which areas would be.

However, the security SDP methodology, we noted back in
 Philadelphia -- in fact, it was the first question right out of the box

1 -- says determine risk of radiological sabotage. It's either low risk
2 or some risk.

3 When you try to get a definition of that, the only
4 definition that's on the street is -- low risk is defined. It's defined
5 as no risk or low risk, and some risk is not defined, and we noted that
6 six months ago and haven't seen a major revision to this, and we're sure
7 one's in the works.

8 We know that NEI has, in fact, provided a straw-man for a
9 different type of alternative SDP, which is a little more rigorous, and
10 avoids some of these types of terms.

11 We encourage and we hope that this panel would ensure that
12 whatever comes out of these SDPs is very quantitative and not
13 subjective, because that's the true value of these SDPs.

14 The third item that we have is we understand there's an
15 event SDP that's under development for events like loss of power, things
16 of that nature. We would very much like to see those as rapidly as
17 possible, think it's an integral part and that it also could benefit
18 from public comment.

19 We know NEI will obviously be involved and assist us and
20 provide us those copies when they become available, but it's -- I don't
21 want to say it's late in the game, but that seems like a key piece of
22 information that we're looking for.

23 GILLESPIE: That's trying to deal with this idea of average
24 risk versus instantaneous, what's the risk today, and I think --
25 personally, I think there are two questions we deserve to answer the
public against, so you don't lose today's risk based on just the
arithmetic of averaging over 365 days.

ANN RILEY So, you should see that in the next week or so, I guess,
& Probably on the web. It's out probably in the PDR, paper form.
ASSOCIATE S, LTD.
Court Dave put me on a cc for an e-mail, and he had the formula
Reporters that you're going to have to go through to get into ADAMS, and we're
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hoping to make it easier.

I really like the pilot plant program right now where you click in a PIM item and you go right to the inspection report, and I hope we don't lose that capability by needing to go through the ADAMS formula to get at inspection reports, but I'm not sure that, when we go full blown with 103 plants -- because we're manually putting those inspection reports in, but we have to figure out how to do it to make it convenient for people.

I'm going to put one more question on the table -- we have a few minutes -- on SDP, came up earlier this morning, the timing question, how long should it take to do phase two, how long should it take to do phase three.

Does anyone -- Dave, you had some comments on this one?

LOCHBAUM: Our comments were 120 days, 100 days is far too long. Part 21 says licensees have 60 days to evaluate a potentially non-conforming condition. Part 72 gives you 30 days to evaluate an LER.

This thing is going to take -- the more significant things take longer and longer to do, and that seems backwards.

A hundred days is just unacceptable. That's not even in the same quarter as the performance indicator.

I don't know what the right number is, other than 22, but that's just too long.

Also, I'm not even sure it's a timing issue, because there was a Commission briefing earlier this year that talked about there is no quality assurance of PRAs.

Phase three relies on PRAs that haven't been checked, haven't been blessed, have just been done, and that's going to be used

ANN RILEY to determine what the NRC's response is for something?

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Court matter if you do it in a day or so. So, I think it's a little bit
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1025 larger than timing.

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That doesn't seem like a prudent or a solid foundation, no

1 WIGGINS: I would agree. There is an issue if you displace
2 the final SDP conclusion from the decision with regard to staff
3 engagement.

4 It might set up scenarios that Jim has been warning us
5 about, about having a situation where it looks, from the outsider's
6 point of view, that it's a process to make issues go away. I don't
7 agree that that's what the process is.

8 I think this is the best effort of a bunch of
9 well-intentioned individuals to try to get to the bottom of something
10 and call it exactly what it is.

11 If you displace it, theoretically, I guess as an inspection
12 manager, I guess I would wonder what I would think if I find out six
13 months from the inspection activity that the issue that was found by the
14 inspector is, in fact, yellow.

15 Here's the things that go through my mind:

16 One, likely to not, this has already been fixed anyhow.

17 So, to go back and look at that issue specifically about
18 that fix -- what's the use? It's already been done.

19 So, it tends to set up the situation that Jim is worrying
20 about. It's a recipe for non-action. You rationalize, just based on
21 the age of it, what's the use of going in there and looking at that
22 issue.

23 On the other hand, if it was yellow, well, there might be
24 other things. The real question is what else is there? I mean it's
25 clear the utility's going to fix the issue that ended up being yellow.
That's clear.

I mean, if they don't, we've got all the tools that -- the
ANN RILEY Staff's got all the tools it needs to make it get fixed. I mean, by the
& time it's yellow, it's at least white, really.
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I mean the odds on something going from, you know, yellow to
green is -- I would hope that that doesn't have that wide a swing. I

1 see Grant disagreeing.

2 GRANT: It does.

3 WIGGINS: That's pretty wide.

4 I just am concerned, if you displace that final decision, if
5 you let that go way down range, I don't know that that gets you in the
6 right place. A lot of it, though, is connected to what you view the SDP
7 as.

8 Is it an engagement tool? Do you need just the quick and
9 dirty to decide, you know, are we really investing too much effort in
10 the SDP beyond phase two? Is it really what's needed in order to make a
11 decision on engagement? I don't know that it is.

12 I think further review of an issue is what this thing should
13 have been there to determine, whether there's a need for further review.

14 Again, it comes back to this issue that I've been beating another horse
15 I'm beating to death, is the idea that we're using these things as an
16 absolute authoritative test of safety, as opposed to a gauge for when we
17 should get involved and let the review and inspection make that call.

18 Now, one may say that also has certain subjectivity still in
19 the process, but you have to weigh and balance. Yeah, you may
20 incorporate a little bit of subjectivity in it, but you have a fairer
21 framework to make the assessment overall, and secondly, you allow some
22 time. There's a timeliness issue, I think, that's a relevant question.

23 I also think that Dave's right on, that if you tend to use
24 the SDP as this authoritative step, the closer you get to that, which is
25 the closer you get to a risk-based approach, as opposed to a
risk-informed approach, the more relevant the question of the adequacy
of the PRA becomes.

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The way the program was originally constructed, the issue of
the adequacy of the PRA for the exercise was relatively unimportant,
because we were just talking about engagement, not a test of safety.
So, it does raise an issue like that. It does put it on the

1 table.

2 GILLESPIE: Anyone else?

3 FLOYD: I think I share some of Dave's comments, too. I
4 think the 120 days is too long. I don't know why it has to be quite
5 that long. I mean what you really ought to be getting down to in the
6 phase three is are the assumptions that went into the phase two analysis
7 correct, or are there other systems or capabilities in the plant that
8 should be being credited, that aren't reflected in the tables, and that
9 type of thing.

10 I just can't -- maybe I just don't know enough about it, but
11 it just seems like that shouldn't take 120 days to do it.

12 Sort of on the other side, though, I think we're making more
13 out of this than what it maybe really deserves in that, if you look at
14 this -- the SDP, it's really following, in a lot of sense, the accident
15 sequence precursor criteria, and we're not expecting hundreds of these a
16 year that have to go through this evaluation process.

17 I mean, in the reactor safety area, based upon industry
18 performance over the last several years, you'd be surprised if you have
19 a dozen of these a year to have to analyze and go through this process.

20 So, these are almost the exceptions and not the rule to be
21 dealt with.

22 LIEBERMAN: And having said that, what has been the
23 experience to date in the pilot program for plants that looked at phase
24 three? How long did that take?

25 GRANT: In one case, I think it took pretty close to 120 --
about 90 days.

RING: There have only been two-and-a-half. One of them has
not gone through the SDP fully. There was the Prairie Island
High-energy line break and there was the Sequoyah outside drain flooding
Court back into the plant.

1025 LIEBERMAN: Is phase two relatively timely?

BRANCH: We'll report on that tomorrow.

GILLESPIE: Let's leave that to the staff tomorrow, because this is -- I think this is one area where it sounds like there's even agreement from normally disagreeing parties, because I'm afraid I agree with Dave and Steve, too.

See, I agreed with you Steve and Dave. It's hard.

I'm not supposed to agree. I'm supposed to cause discussion to take place.

But in this case, I also would like to throw in -- I've got a concern that we're overworking phase two and using it beyond what it was intended to be used.

In fact, having plant-specific tables for phase two gives me great concern.

One of the mechanical ways we were averaging the PRAs was to have a generic table which said, in general, the way Brookhaven put them together, if it was important at one plant of a class, then let's conservatively consider this sequence as important at all of them, and it was a mechanical process of averaging to get a perspective, and as soon as you start getting plant-specific tables, you lose using it as a perspective tool, and I have a concern that maybe we're getting too risk-informed -- less risk-informed and too risk-based with the tool, and therefore, it's taking much too long.

We're turning it into an analysis rather than a perspective on when we might need to get more diagnostic.

FLOYD: I don't think it's that they're making the scenarios be plant-specific.

What they are doing is they are trying to make it clearer to

ANN RILEY Both the licensee and the NRC and, therefore, the public what is the
& ASSOCIATE Specific equipment at the class that's needed to fulfill the safety
S, LTD. Court function that underpins the need for that scenario.

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You have to do that. I mean you got two trains at one

1 plant, you got three trains at another plant.

2 GILLESPIE: Generally, if you find a system inoperable and
3 it's, let's say, a decay heat removal system, the first question you're
4 going to ask is what's still operating if this one isn't, and in very
5 short order, you're going to establish whether there are other systems
6 to perform the decay heat removal process.

7 I mean, in minutes, you're going to have a reasonable
8 assurance that there's other methods to remove decay heat.

9 You just did phase two, or the greater portion of phase two
10 right there. Is this plant still safe for the way it's being operated?

11 To a large extent.

12 Now, you haven't checked every valve and every switch, but
13 you at least go to the control room and find out what other systems are
14 operable.

15 With a diesel down for maintenance, do they have another one
16 -- or they have one that kicks out for some reason, is the other one
17 down for maintenance?

18 Are they in a tech spec LCO?

19 You immediately, as an inspector, I would think, start
20 asking those kinds of questions and at least starting getting a ballpark
21 answer that the plant is safe for its current configuration, or Dave, as
22 you would say, they're operating in accordance with their tech specs,
23 and it's okay.

24 GARCHOW: When I hear you talk like that, I think we're
25 missing just a little, because at two in the morning, you may not have
an inspector there. That scenario occurs, and the tech specs provides
the safety, because if you find you don't have the required number, you

ANN RILEY shut the plant down.

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Court occurred, running that scenario through, does that tell us something
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1025 about the plant that the NRC may want to engage more resources to?

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1 It really isn't a are we safe today, are we safe this minute
 2 process. The process just isn't geared to give you that answer.

3 GILLESPIE: No, it's not.

4 GARCHOW: A hundred and twenty days is too long. It would
 5 have to be instantaneous if that was what this process was supposed to
 6 be doing.

7 GILLESPIE: No, it's not instantaneous either.

8 We need to hear the other side of the story tomorrow.

9 Anymore comments on SDP?

10 LIEBERMAN: I would say, tomorrow, we should also talk about
 11 repeatability, as well as timing, when we get to SDP.

12 BAJESTANI: I guess the other question or the bigger
 13 question for me is do we have enough guideline for the inspectors when
 14 to use different issues in the SDP process.

15 Again, I'm going back to my personal experience, what I've
 16 seen.

17 There are issues that is being put through SDP process which
 18 shouldn't be, at least from what I've seen, and I'm trying to figure out
 19 whether or not we have enough guidelines in the process itself that --
 20 enough guidelines to the inspector that says when to put certain issues
 21 through the SDP process.

22 GILLESPIE: I would be interested if you could supply some
 23 examples on that.

24 BAJESTANI: I'll share one example. Again, maybe I'm wrong.

25 We had an issue -- it was on one of the 6.9-kv cable. The
 electrician was working on the cable, faulted the cable, had a loss of
 basically voltage to that specific board. The diesel started, carried
 the load, no problem, as it's supposed to, as it's designed.

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That issue was put in the SDP process, and that's what I'm

trying to figure out, you know.

Do we have enough guidelines for the inspectors to tell them

1 that here it is, this is something -- obviously, the system worked
2 exactly as it's designed.

3 GILLESPIE: But I would expect that that would get kicked
4 out just in the initial phase one screening. Everything operated as
5 designed, all systems available. Remember the work-sheets that we gave
6 people to kind of guide you through. It would get kicked out right
7 away.

8 BAJESTANI: But should you put that through the SDP process?

9 GILLESPIE: Well, I think the discipline of going through
10 phase one, the screening, to document why it doesn't make sense to go
11 further makes sense.

12 FLOYD: The recent procedure that's been developed -- I
13 don't know how much it's made it out in the field. Maybe the staff can
14 talk to that tomorrow, but there's another procedure that's been
15 developed that sort of is a pre-screen to the screening, to the SDP, and
16 what, in effect, it's trying to do is sort out when is something just an
17 observation or maybe an inspector opinion or a minor violation which is
18 not intended to pass to threshold of being a green finding, because even
19 anything that enters phase one screening of the reactor SDP, the minimum
20 it can come out as is a green finding at that point, and maybe it's not
21 even appropriate that it be a green finding, it may not even pass that
22 level of significance.

23 Now, that procedure has been developed. It's been sent out
24 now, but I'm not sure if it's actually been applied yet that much. I
25 just don't know the answer.

CHASE: That's one of the points Tom had, is more guidance
is needed on what needs to go through the SDP process. Even though we
had the procedure out there, we'll still need to make sure we have the
proper level of training.

GILLESPIE: Just to keep this in context -- Bill Borchardt,
I'm going to ask you to speak up if I say something wrong here.

1 This is really kind of trying to reiterate the old minor
2 violation, I think, definition, because this really is not a significant
3 change, this procedure that was just described. It's actually
4 re-articulating a position that's been a position for years and years.

5 BORCHARDT: As long as you're going to talk around it, I
6 might as well get specific about it. We actually thought that the
7 guidance was contained within 0610 and 2515, because it is not new
8 guidance, as Frank is saying. It's basically the minor violation
9 guidance.

10 The minor violation threshold is really the threshold to put
11 it into the SDP to consider it green. If it's a minor violation or it's
12 not -- it's a minor violation, it's not green.

13 We have put out what we think is more clear guidance, and
14 we've actually put out a drawing, and the regions all have it. We've
15 talked about it with the regions. We've talked about it with the
16 executive forum, and so, folks have been implementing it in the last
17 month or so.

18 GILLESPIE: Before we move on -- shall we move on to
19 assessment in the next topic? This is a human factors problem, by the
20 way. This is an area -- we didn't change anything. We left it the
21 same, and we have to re-train people on the same.

22 Shall we take a couple of minute break, a five-minute break,
23 before we move to assessment? We're kind of on schedule right now. So,
24 five-minute break.

25 [Recess.]

GILLESPIE: Assessment is next and then enforcement, and
then we'll -- I feel like information systems, which is kind of one of

ANN RILEY the last topics -- I already feel beat up on our web-site sufficiently
& that I don't know that that one should take a whole extra long time.
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Assessment.

Jim, would you like to talk about assessment?

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1 GIBSON: On assessment, we're talking about the action
2 matrix?

3 GILLESPIE: Yeah. Can assessment process be performed --
4 it's really the action matrix.

5 GARCHOW: I want to make sure that we have this in the right
6 context as we keep going. We have a process that's working. I mean we
7 have a process that's moving on, and we're making the agenda, right?

8 GILLESPIE: Right.

9 GARCHOW: So, the idea here, just to re-ground a panel
10 member, right, of a Federal panel -- didn't even know what that was six
11 months ago, now I'm on one, right?

12 The idea is that we're taking -- this is just our
13 opportunity today to listen to input, get in a little dialogue to help
14 further refine our comments as we proceed to develop consensus for our
15 report?

16 GILLESPIE: Yes.

17 GARCHOW: So, the intent is, after each of these, not to
18 develop any kind of anything. This is just strictly input, gathering
19 understanding.

20 GILLESPIE: We are sponges today.

21 GARCHOW: Okay.

22 GILLESPIE: Yes.

23 GARCHOW: Thank you.

24 GILLESPIE: We are sponges today. But I do have to say that
25 I think -- I know, personally, I've had some things I was thinking
reinforced, I've had some other things shattered, and other things
questionable in my mind, but no, this is supplemental.

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We're not in a decision mode, we're in an

information-gathering mode, but trying to kind of keep with the format.

GARCHOW: Good. Thank you for providing that.

GILLESPIE: In the outline that was provided to people, it

1 really says can the assessment process be performed within the scheduled
2 time, and it sounds very staff-oriented.

3 The staff can address -- the regional people can address
4 doing assessment.

5 You just went through a PPR -- you didn't go through one
6 yet. Some regions have already gone through their mid-cycle. Not for
7 the pilot plants? Region II made Nucleonics Week this week for having
8 done their mid-cycle.

9 Can the matrix take appropriate NRC action in response to
10 indications? That's the real question on the table.

11 The question on the table, then, Greg, is can the action
12 matrix be used to take appropriate NRC action in response to indications
13 of licensee performance?

14 GIBSON: Yes. We haven't dealt with this. We've been
15 relying primarily on the pilot plants, because obviously they're right
16 on the cutting edge for this particular issue.

17 However, in looking at the action matrix itself and
18 especially when comparing it with the PI's, one thing we have noticed is
19 that -- I think it's three columns over, if you have a single yellow
20 within a particular area.

21 One of the issues that can come up -- Tom Houghton addressed
22 it earlier, which was the issue of fault exposure time.

23 We did a sensitivity analysis on the mitigating system
24 equipment, and if, in fact, you take a hit for a particular issue, fault
25 exposure hours, in and of themselves, can drive you from green to
yellow.

In addition, it's possible for definitions or a problem with
ANN RILEY definition, if a licensee does not understand exactly how or they have

&
ASSOCIATE a differing interpretation of key RO drill participation, and it comes
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Court up during the inspection process that, no, Dave should have been in on
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1025 that training and so should Steve and so should Jim, you didn't count
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1 them, and therefore, now, suddenly, you can drop significantly, and the
 2 issue is, for those kind of issues, do we want to -- it didn't seem that
 3 the action matrix itself, for that column, for a single yellow, appeared
 4 prudent for that particular situation, but it hasn't been -- we haven't
 5 had a real time case of that, so you know, that's speculation on our
 6 part at this point, and that was the only item we had.

7 GILLESPIE: How about the pilot plants? Sequoyah?

8 BAJESTANI: I'm sorry. I was looking at something else. Go
 9 ahead, one more time.

10 GILLESPIE: Do you have any sense -- because I know the
 11 action matrix was used at Sequoyah.

12 BAJESTANI: We actually heard a first discussion, and we got
 13 all this stuff resolved, no problem, really, from that perspective.

14 GILLESPIE: What's your perspective on the NRC's reaction to
 15 -- I guess, initially, it was yellow?

16 BAJESTANI: The initial finding.

17 GILLESPIE: Yeah.

18 BAJESTANI: It was overreaction, not having all the facts,
 19 not having all the data in place, basically, and going back and forth,
 20 really, we have learned, both sides, a lot from this process.

21 Like I said, my personal opinion is, because of not having
 22 enough guidelines, it does leave room for a lot of interpretation, and
 23 that's what we got into.

24 GILLESPIE: George?

25 BARNES: I think that we're quick to run in there at times
 without getting all the information first, depending on where you are,
 especially if you going into yellow. It's a matter of more dialogue to

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 Court I think it will work.

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Clearly, once that agreement is there, the process looks

1 like it would, in fact, work.

2 GILLESPIE: Dave?

3 GARCHOW: We didn't have any that we believe were close to
4 yellow, but the only thing that we had a little discussion at during our
5 corrective action audit assessment for the new program -- and we
6 struggle with this a little, because there is no guidance anywhere, it's
7 management call, interpretation, but when does a question during the
8 assessment process actually turn into a problem that should be
9 documented in the corrective action program?

10 So, a good question on the table that you're researching for
11 information is a question, and there are hundreds of questions every
12 day. At what point, when it's a question, do you document it as a
13 problem in your corrective action program?

14 It's a little different than spinning it through the
15 significance determination process, but that was a learning that we had
16 during our corrective action program, and you'd have thousands and
17 thousands of things in the corrective action program if you just, every
18 time somebody had a question, especially with older plants, the actual
19 information isn't necessarily easily retrieved in an hour or two, so you
20 can ask -- somebody coming in as an inspector can ask a very good,
21 complicated question, and you may not have the staff right there that
22 can get that answer in an hour.

23 It doesn't mean that the question they asked is a problem.

24 It means that you turn somebody in to dig up as much as you
25 can, and we had a situation where, you know, the timeframe it took us to
get that answer was judged to be too long during the context of an
inspection and then was seen as a violation of not timely entering

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Something in the corrective action program, and that was just an
interesting spin that came out during the discussion.

I think we got to the right place on it, it was a good
discussion, and we had a couple examples where we should have entered

1 things in and didn't.

2 So, I mean there was a real issue there that we went and
3 fixed, but it raised a question, when you have such a limited inspection
4 time and there's such a premium placed on the corrective action program
5 of getting something in the corrective action program, how much time is
6 reasonable to determine if it's really a problem.

7 BARNES: We had the opposite. We actually had some things
8 come up, and they weren't just during the -- they were during some of
9 the resident inspections, where we did take too long to do it, and
10 there's a balance there.

11 The one I was talking about when we had a potential red
12 finding and maybe we jumped out too far, too quick, without enough
13 dialogue, but there were some baseline things that we didn't get back in
14 a timely manner, and it created other issues for us.

15 So, I mean I want to give you the other side, that, yeah,
16 there's some where some of the questions aren't very detailed and
17 complex and require some amount of research time, but then there's the
18 other side, where you just have to get the answer.

19 It's not that difficult to find the answer and reach
20 resolution in a timely manner, too.

21 So, there's both sides.

22 GARCHOW: That was my point. There's a give and take, and a
23 question just isn't a problem, necessarily, but if it's a good question
24 and there's enough premise behind it, I think the NRC and the utilities
25 have the shared goal of trying to get that information pulled together
as fast as you possibly can, so you can see exactly what it is that
you're dealing with, whether it's white or yellow or just a question

ANN RILEY that, you know, somebody didn't have the right information and finally
& you have the right information, and then it goes away, is not a problem.
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Court GILLESPIE: Regions? Do you feel constrained to react?

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GRANT: No.

GILLESPIE: Not constrained.

GRANT: I think, if it looks and feels like a problem, then call it a problem, put it in the system, and it's probably not going to change what you're going to do with it.

It may be that it turns out not to be and that you flush it back out of the corrective program as a result.

There is some wasted effort there.

GARCHOW: That sounds like the right answer, but let me tell you where that leads.

Then somebody goes up to the control room because the process says you have to do an immediate operability determination.

Now I have a question that I don't have the right -- necessarily the information to even make a good qualitative or quantitative operability call, and then you're just sort of stuck.

So, there's a balance between taking the time to get enough information to do any kind of sound evaluation or just having a question of which there's an infinite number of questions that could be asked on a daily basis around a nuclear power plant.

It's a balance. There is no right answer.

WIGGINS: Is that what the issue more sounded like? Was it a question raised, and then, because the question wasn't addressed quickly, that got viewed as a problem in corrective action?

GARCHOW: I can talk to you off-line on that.

WIGGINS: This is specific, right, about an inspection that hasn't reported out yet.

GARCHOW: Yeah, it has actually reported out, I think.

The issue is there's a balance, and jumping too early in,

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Without all the information, may not be -- get you to where you want to get to where from either the NRC or the utility perspective.

So, the has to be a balance of having an adequate amount of time to actually go gather facts so that we're making judgements on

1 facts, not on partial information, because you can make wrong
 2 conclusions in both directions with incomplete facts, and you may not
 3 always be making the conservative decision.

4 WIGGINS: I don't know the specific either, so it's safe, so
 5 I'm not weighted down by fact, but you know, an inspector has to -- it
 6 takes a certain amount of maturity and judgement to know when the
 7 inspector has a question versus has an observation or a potential
 8 finding.

9 I mean, literally, I can go and give you a whole bunch of
 10 right questions if I decided to supply my question and just assume that
 11 the answer is all negative. I'll just in-op all your ECCS systems on
 12 NPSH concerns, because I'll just ask you, do you have adequate NPSH on
 13 it.

14 I mean that's an extreme. Clearly, that's not the kind of
 15 thing that ought to get in the corrective action program. More work has
 16 to be done in order to determine whether there is a potential issue.

17 So, I don't know what the specific is, but I guess it's
 18 right. Your counsel is correct that you've got to be careful about
 19 entering this prematurely. You've got to have something of a reasonably
 20 developed finding before you go through this.

21 I get a sense that we really haven't had -- this is a little
 22 bit my own bias.

23 The sense I got in the action matrix is there's like five
 24 columns to this thing, and as you get over into columns four and five,
 25 maybe three but not so much three, but certainly four and five, it gets
 pretty draconian in terms of what we're up to, and we haven't really got
 a good test of that, have we, yet?

ANN RILEY We really haven't had a bona fide, real live issue that's
 & survived through those bad colors that we could see whether everybody
 ASSOCIATE S, LTD. Court agrees that the reaction is the correct reaction. That's a true
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1 GARCHOW: You're not likely to get a pilot plant to
2 volunteer for that.

3 GILLESPIE: I wanted to kind of set the stage a little bit,
4 because this is an area where there's been very, very limited
5 information. There's been a couple of whites, I think a yellow that
6 turned to white on the flooding.

7 CHASE: We had a new PI come up just prior to the pilot
8 program starting, and we were low in the green band. We took action,
9 but before we could have the action implemented, it went white, and we
10 identified it to the region.

11 They eventually sent an inspector in, evaluated our root
12 cause, looked at our corrective action, and we went back to the region,
13 and we have since gone into the green.

14 So, our interaction with the action matrix is a positive
15 one.

16 GILLESPIE: Okay.

17 Dennis, you've been kind of shadowing with inspectors.

18 ZANNONI: Well, you know, it's really hard for us to reach
19 conclusions at this time. We really spend a lot of time right now on
20 the PI's and the inspections themselves and trying to come up with valid
21 comments that's going to help, we hope, when we submit them, by the end
22 of the year.

23 The assessment and getting to the action matrix and knowing
24 that there's not a lot of data to draw on -- we're kind of putting that
25 off a little bit. We figure, well, maybe there's still a couple weeks
left, right?

GILLESPIE: This is one of those times that we're really
hoping we don't test the extremes.

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ZANNONI: But basically, you know, we have to be selective
in what we're looking at, and we're plowing through the earlier parts,
as I said, and when we get time -- we'll find the time to look at this,

1 but right now, I don't have a lot to offer in the assessment.

2 I have to say, though, that I think what we've been seeing,
3 from the SDP and the assessment process, it's creating some better
4 communications, you know, and even talking about some of the issues,
5 because even when I communicate with my management or talk to the
6 utility, there's some language that's developed, and it's helpful, quite
7 frankly, in pinning down importance, because a lot of times, stuff would
8 come in, whether it's a 50.72, an LER, and all of a sudden, you know,
9 even from our perspective, get the same attention.

10 Well, now we're being more discriminating. It's helping us.

11 So, in that perspective, it's positive, but we don't have enough
12 knowledge, really, to comment, really, today on this.

13 GILLESPIE: Jack?

14 SPATH: Nothing to offer further.

15 GILLESPIE: This is a tough one, because it hasn't been
16 exercised, and I hate to say that we may be in a position that only
17 failure can tell us if we're successful.

18 RICCIO: How about back-testing it against previous
19 problems?

20 GILLESPIE: The staff can cover that. We actually did that.

21 We did it as the NRC, and we went back -- I forget how many years now.

22 I can only clog so many details in my mind, but I think we went back to
23 like 1990, something like that, with problem plants.

24 BRANCH: We did Millstone for the two years they were
25 operating prior to the shutdown. We did Cook two years prior to their
shutdown, St. Lucie and Waterford, '97, '98, because that was the most
current data.

ANN RILEY GILLESPIE: We tried to go back and retrospectively look at
& the plants, kind of make believe they weren't problem plants yet, and
ASSOCIATE S, LTD. Court look at the operating history that led up to that decision, to try to
Reporters get a fair -- what it looked like then. There were some difficulties in
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1 it. The data wasn't -- you don't have the same indicators, but the
2 inspection results took some interpretation.

3 But we did do that retrospective look, so we do have some
4 comfort that -- as best we could benchmark it, we did.

5 That was 007A. It was in the second inch-and-a-half of
6 paper.

7 WIGGINS: It sounds like we've heard a lot about assessment
8 of individual issues. That's what we've done up to this point.

9 GILLESPIE: How about assessment of the facility? We've
10 eliminated SALP, so you're not going to get a SALP report every 18
11 months from us. The PPR letter -- basically, once a year -- we've kind
12 of gotten this new terminology, mid-cycle PPR versus end-of-cycle PPR,
13 which is maybe a little longer letter.

14 What are your expectations? What would you like to see from
15 the NRC relative to plant assessment?

16 LEOPOLD: My understanding is I can now look it up on the
17 internet, and if I have questions, I'll just call you.

18 GILLESPIE: That's fair enough. What's missing is what I
19 had said earlier in the morning. The reporters had written in and said
20 we want your opinion. Here we're putting a process in place to try to
21 keep as factual as possible, and then we get four e-mails from four
22 reporters that say what we really want is not all those facts, we want
23 your opinion.

24 LEOPOLD: That's why we have politicians.

25 GILLESPIE: Okay.

Now I'm going to get to Jim.

Jim, we have eliminated SALP, so we have done away with some
information. The PPR letters have been phrased much shorter.

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RICCIO: Like the new SALP letters, actually, similar
categories, similar phraseology. It's not graded, but they read the
same way.

1 GRANT: I think you're talking about the ones that we put
2 out last April. That was an interim.

3 WIGGINS: I guess the relevant question is what people would
4 like it to include. It's pretty straightforward, I think. The
5 direction that the staff is taking on this -- it's clear there won't be
6 grades.

7 The closest you'll get to see is data and PI's and
8 inspection activity, inspection area data that have been colored by the
9 gates or the SDP, so you have green and whites and yellows and reds, and
10 then you can pull up this action matrix and figure out what column the
11 plant is in, and you can read down and you can sense a level of activity
12 that's going on in terms of inspection and whether the plant's running
13 or not, frankly.

14 That's what it's going to be told, so you get all that, but
15 you don't get a grade, hopefully, at best, you get all that.

16 Now, what we haven't discussed is -- you know, are people
17 expecting more than that?

18 Suppose there was a letter that just basically said here's
19 the conclusion. Through this period of time, there were whites in these
20 two areas, greens, whites, yellows, whatever, and as a result, here is
21 what we're -- we're in column three, let's say, of the action matrix and
22 we're continuing, and that's it.

23 That would be different than the PPR letters that Jim's
24 remarking about right now. It's devoid of anything else in terms of an
25 analysis.

GARCHOW: It's what's not being said, which is as important
as what's being said, because you have tools at your disposal, and your
charter with the government does not allow an unsafe plant to operate.

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So, de facto, this process, by being the fact that you're in
either column one, column two, in some respects, column three, and
maybe, depending if it's a non-reactor cornerstone, column four, the

1 conclusion that you're making, de facto, whether you write it down or
 2 not, is that, in the agency's opinion, that the plant is safe to
 3 continue to operate, and in fact, probably, at the time the PPR letter
 4 comes out, would be operating.

5 You're de facto saying that.

6 Now, it doesn't mean there isn't problems, doesn't mean that
 7 there isn't areas the NRC's looking at further. It's what's not being
 8 said, I think, that's part of the communication, and Steve, I mean
 9 that's what we were talking about last year.

10 FLOYD: We had proposed some draft language for various
 11 types of assessment reports.

12 LOCHBAUM: Tom's present said NEI was recommending that
 13 there be no subjective language. That's subjective language.

14 The Commission briefings was very clear. The new guidelines
 15 for red, green, yellow is not safe and unsafe; it's acceptable or
 16 unacceptable.

17 I think to then draw the conclusion that that means safe --

18 GARCHOW: I misspoke, because I think when we had the
 19 conversations, it wasn't safe/unsafe, because that has all kinds of
 20 connotations to it. It was either acceptable or unacceptable. You're
 21 correct.

22 ZANNONI: But it's incumbent upon the NRC to communicate at
 23 some point that this plant is safe to operate.

24 LOCHBAUM: That's not the decision they've made. They've
 25 made a decision if it's acceptable or unacceptable. We'll continue to
 debate that one.

WIGGINS: Debate what? Whether the plant's safe or not?

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Court challenged Dave and you said show me that you don't have enough positive
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LOCHBAUM: Yeah. Because you can never prove it.

GILLESPIE: Jim, you provided the example when you

1 it takes a long time to pull all that data together. Lacking a finding
2 that it's unsafe or unacceptable, then the finding is it's acceptable.

3 GARCHOW: I used the wrong language, but that was the point
4 I was trying to make.

5 WIGGINS: What I was trying to get some input on -- and
6 maybe this is kind of an artifact of how the agenda is erected.

7 Because we haven't gotten that far in the pilot process, I
8 don't know that, at my level, I've seen what the assessment report will
9 look like that will come out of the either mid-term or final process.

10 Now, Jeff is -- he's indicating he hasn't seen it either at
11 his level.

12 So, it's kind of unfortunate.

13 We might need to hear from the staff on what the staff's
14 thinking is in terms of what that assessment report will have in it.
15 Then we can hear the public sector and state sector reaction to that
16 level of detail.

17 You folks decide whether you want to hear that or not at
18 this point.

19 GILLESPIE: Tomorrow, can we just touch upon the division
20 for the assessment report? Because we have basically, I think,
21 committed that we're going to try to not have shades of green. You're
22 either acceptable or you're in the matrix -- you know, acceptable is
23 here. You're either -- I hate to use this, but you're either a column
24 one, column two, column three, column four plant, is really how it comes
25 out, column five.

BROCKMAN: What you do is state what is the action that's
being taken. I don't care what column it comes from. If you're in
column four but I'm only implementing a column two action because that's
the right thing to do, that's the action that you're stating.

WIGGINS: Hold on. Let's not jump before we -- let's make
all the enabling steps.

1 What you just described is another aspect of the process,
2 and that is what happens if somebody concludes that the column actions
3 aren't the right things and what do you have to do to take another
4 action that the column wouldn't dictate, and I don't know that that's
5 gotten a fair airing either, because that raises a whole bunch of issues
6 with regard to one side, you know, locking people's hands, tying the
7 regulator's hands behind its back.

8 On the other side, looking at the other side of the fence,
9 it's, gee, it's just as subjective as it was before.

10 If you're going to end up with, you know, a column four
11 outcome, then because of how you got there, maybe you don't like the
12 particular PI for some reason, some of these that people raise, you
13 don't like it, you think it gave you a bogus reading, and to just not do
14 the column four activity and execute a column two activity, I don't know
15 that people are expecting that to occur, and we ought to -- that ought
16 to be discussed.

17 BROCKMAN: I think, in one and two, probably, your
18 flexibility is a lot more than when you get up to four and five, which I
19 don't think would be, but I'm going to go back and take the example that
20 we used at Calhoun, where they went white in the one PI, and what we did
21 was accelerate the risk-informed baseline inspection.

22 WIGGINS: Yeah.

23 BROCKMAN: That is not a special inspection that that column
24 calls to go out and be done, but it was the right thing to do, get the
25 inspection out in a temporal way that was an adequate inspection to go
out and review all the activities associated with this, as opposed to
generating an artificial inspection to go out there and then, two months

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Later, go out there and do the same thing again, and I think there's
going to be more in those lower areas.

It was appropriately put in a letter to them explaining what
all the actions were, but you hit the nail on the head as to exactly

1 there, as to when you get into the columns and the philosophy on it and
 2 what we should be looking at, is that prescriptive or is that here are
 3 the tools that you have in your tool kit, choose which ones you need.

4 LOCHBAUM: Is there ever a chance or a potential for a
 5 column two activity incurring a column four response?

6 BROCKMAN: I can't imagine, in my mind, that I could see a
 7 column four thing where all you would do would be a column two. You've
 8 gone way too far on the arena there.

9 I do see, though, the column one/two area -- you may use,
 10 like I'm saying, for a white finding, that you might use baseline, as
 11 opposed to a special inspection. That might be the appropriate tool to
 12 go use.

13 GRANT: You focus your inspection activities and now know
 14 something that you didn't know before.

15 BROCKMAN: You get more over to yellow and red, and I don't
 16 see that as something at all.

17 HOUGHTON: Just accelerating that baseline is doing the
 18 same thing.

19 BROCKMAN: It accomplishes the same task, but is, in fact,
 20 different than what the guidance is in all cases. In this case, it was.

21 WIGGINS: You made a tacit assumption. I don't want to get
 22 into the detail, but what you had to assume is that what you really
 23 thought you needed to accomplish would be more than adequately addressed
 24 in the baseline, without throwing out other things, other opportunities
 25 to go look at other stuff, and let me guess, this must have been a plant
 support area inspection?

BROCKMAN: Yeah.

ANN RILEY WIGGINS: Okay. So, you know, there might be some areas
 & where the baseline coverage is such that maybe that comes out that way.
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Court I don't know that it would be as easy to make that decision,
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1 issue.

2 I think what we're talking about -- I guess where I'm going,
3 there's a question of what will the market bear in terms of how you
4 enter this action matrix, and it's always seemed to me, looking at the
5 action matrix, the further you move to the right in it, the more care
6 you have to have in terms of what you're doing, it seems to me, because
7 the actions that are occurring are so demonstrably significant that
8 you'd better be right.

9 Now, I don't feel the same way about things on the left side
10 of the matrix. I think there's a lot more room in there that varying
11 approaches work.

12 I mean if the decision is that there's going to be a meeting
13 with the licensee, whether the branch chief does it or a division
14 director does it, I don't know that that makes a hill of beans in the
15 final analysis.

16 I mean if a division director wants to sit in on a meeting
17 that an action matrix says the branch chief ought to be having, maybe
18 the end-of-year assessment or whatever, I don't know that that's a big
19 -- I don't know that that should be big deal.

20 LOCHBAUM: I think it could be in terms of credibility and
21 consistency, because there's always the issue, if you see -- if I see
22 the same activities happen at two plants and one region does something,
23 the other region does something that seems to be less, then there's a
24 question of why did that happen, and unless it's explained good, so that
25 it does seem to be six of one and half-a-dozen of the other, then
there's the inference or the implication or perception that somebody got
a favor.

ANN RILEY WIGGINS: I guess my reaction would be you're seeing some
& Symbolism in who showed up. I have a problem with that, but I admit,
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Court that's a little bit of my problem.

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1 when I showed up. It didn't depend on what my title was. I seem to
 2 behave the same way regardless of whether I was a section chief or a
 3 deputy regional administrator.

4 LOCHBAUM: I wasn't seeing that symbolism, because I don't
 5 even understand those titles.

6 WIGGINS: That's what I'm getting. The lefthand side, all
 7 green, kind of everything's okey-dokey. The highest that the licensee
 8 would see per the matrix is the senior resident inspector or the branch
 9 chief. The highest he sees is the branch chief.

10 But one column over from that, they're seeing the division
 11 director. Is there a big deal if the division director shows up at a
 12 plant that's all green for a PPR meeting?

13 If you say no, then there's some flexibility that ought to
 14 be allowed in some of it.

15 BROCKMAN: Looking at the contrary, is it significant,
 16 though, if only the branch chief shows up for one that should have the
 17 division director, if it says that?

18 WIGGINS: That's where the staff really needs input from
 19 folks on how is it perceived. You know, is it perceived as breaking
 20 ranks with the program? Is that what it's perceived as?

21 LOCHBAUM: Here's what we're going to do and here's what we
 22 do, and when they don't match, there's a problem. If that happens a
 23 lot, then you've just undermined the whole credibility of the entire
 24 program. If it happens occasionally, it's no big deal, but if it
 25 happens frequently -- even if happens at the low end, or the left end,
 or whatever that was, if it happens a lot there, people aren't going to
 believe that you're going to do what happens when you get to the other

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BROCKMAN: Let me throw you a case study on this and ask

your thoughts as to how would be the best way to do it.

We were giving the public meetings last year, and it was a

1 plant who had done very well. The branch chief was supposed to go out.

2 The branch chief had a severe illness in the family, couldn't go. The
3 division director went out to cover for the branch chief, went up within
4 the chain of command.

5 Now, you're looking at this, boy, the ante's been up, there
6 must have been a message to tell here that wasn't in there.

7 Do you try to cover that somewhere, from your perspective?
8 That's what I'm asking within the perspective aspect of the different
9 stakeholders, you know, what would be your recommendations, if you
10 could, on dealing with that?

11 LOCHBAUM: Make that individual the acting branch chief.
12 You've got so many acting folks around.

13 GILLESPIE: The point here is the meeting is planned for the
14 branch chief almost independent of who -- whoever shows up should be
15 acting for that branch chief.

16 I think the major point here isn't trying to deal with
17 anecdotal exceptions, is that if we're going to put an action matrix out
18 that says here's what this agency is proposing that it's going to do
19 when this situation occurs, if we're going to advertise it as such, we
20 need to do it to maintain the agency's credibility.

21 If we need to adjust that, we need to adjust it in the
22 beginning.

23 If we want to put branch chief/division director -- if we
24 want that flexibility, I think the message I'm hearing is build in the
25 flexibility up front so we're not mis-advertising what we're going to be
doing, so we're not in a defensive mode later saying, well, we did it
this way because or we did it that way because, and things will happen,

ANN RILEY But 90 percent of the time, we should be relatively consistent with the
& Proposed approach.

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LOCHBAUM: That's fair.

GILLESPIE: Which means we have to look at the matrix as a

1 public document, as maybe more important than we were looking at the
2 matrix relative to the stand it may have.

3 Let me ask the states, if this agency puts out a matrix and
4 says here's what we're going to do when X happens, would your
5 expectation, looking at us from the outside, that we do it?

6 ZANNONI: Just like I said this morning about the PI's
7 response into the white, you know, we're looking for consistency. I
8 think people pick that up. The questions that I receive a lot are
9 geared toward consistency. They want to know how the NRC's going to
10 respond, and if we go out and tell them this is the way they're going to
11 do it and there's some changes to that, it does go to the credibility
12 issue.

13 RICCIO: It also goes back to the IG reports on disparities
14 between regions. It would get into a lot of things, and I think you do
15 have to think about it as a public document, because I've been having
16 discussions with the folks to my right here even about how the previous
17 action matrix was handled.

18 They can come out to the same conclusion that you did, and I
19 think you should be aware of that.

20 GARCHOW: On the action matrix, the only comment that I had
21 in our notes was that it's still not as intuitively obvious or logical,
22 as you run through the action matrix for the non-reactor safety events,
23 because to use Jim's words, the draconian parts right out to the right
24 of the action matrix -- I think that it just doesn't pass, necessarily,
25 the logical and the sanity check that you would ever get to that same
point of draconianism for a fact that you might have had repetitive
problems in a series of non-reactor areas.

ANN RILEY That's balanced by the -- if you're having management issues
& at a plant, it's hard to -- you know, they're going to be popping up all
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Court over, not just in non-reactor areas.

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1025 So, I think there needs to be some flexibility even still in
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1 how you work to the right of the action matrix when you're dealing in
2 the non-reactor safety events and the non-reactor safety cornerstones.

3 So, one shoe doesn't necessarily fit all as you work to the
4 right.

5 GILLESPIE: I think those areas right now are still actively
6 being worked, because no one feels comfortable with the equivalency of
7 reactor safety to health physics to safeguards.

8 ZANNONI: As we've normalized and checked and been
9 benchmarking and thresholds and so forth, I think this particular column
10 three, where you say what are we going to do if we have a single yellow,
11 is especially important to be done for the areas, what I'll call the
12 soft areas, that you just spoke to.

13 Do you, in fact, want to take those areas, the same action
14 that you would for not violating any regulatory requirement, being
15 perfectly in accordance with your physical security plan for a yellow
16 SDP, for one or two zones which just happened to be out, that you
17 couldn't get replacement parts for?

18 Same thing for drill participant. Drill participation is
19 not a regulatory requirement. Maybe it should be, but that's a
20 different issue.

21 But in terms of the percentages and things like that, I
22 think we want to encourage that to be bench-marked, also, and make sure
23 that we -- is this really want we want to do if we trip this threshold,
24 because consistency is important, especially for licensees to be able to
25 predict what's going to happen. I think we're all in agreement with
that.

GARCHOW: I think that goes to Dave's comment. I agree we
need to do that, and we need to do that, you know, in a sooner than
later concept, so that we don't do that at the time that a first plant
somewhere happens to get yellow and then, all of a sudden, the rules
somehow find a way to get changed.

1 I think that undermines the credibility of the entire
2 process.

3 So, I think that I underscore the timeliness of working
4 through those SDP processes require security, EP, the radiation, the
5 non-reactor safety events, because it's just not going to come off well
6 if that discussion occurs the first time somebody works through one of
7 those and ends up in an unfavorable spot, and I will tell you, from a
8 utility perspective, if that occurs, we're going to be lobbying -- you
9 know, we'll be forcing the dialogue to do what's right in the context of
10 risk, but in the end, that's not going to bode well for the whole
11 process when that occurs.

12 WIGGINS: Is this significant enough that the -- again, even
13 risking coming up with a conclusion, are we getting close to formulating
14 arecommendation of something that has to be straightened out before we
15 go to the next phase of this activity? Is it that important?

16 A lot of what we've discussed thus far has been kind of
17 like, well, you know, these are growing pains, they're evolutionary in
18 nature, you can kind of work your way through them.

19 We've been able to work out way through things to this
20 point, and of course, all we've had is PI's and inspection areas that we
21 had to work our way through SDP exercises.

22 We haven't really had enough stuff that we really end up in
23 columns three, four, and five.

24 Is it that level of concern that this has to get -- this
25 really has to get straightened out?

FLOYD: I think the problem that you get into here is that I
don't think the public will be able to understand the difference between

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safety margin, is what the words are that go along with yellow.

So, we've got to be careful that the same thresholds that have been set in those areas mean the same things as they do in the reactor cornerstone area.

GILLESPIE: It may be a valid conclusion. I think the last briefing that the staff's going to give us in December -- because what I do know is going on right now, at least the HP and the EP people on the NRC working group are actively meeting almost every two weeks with the industry working groups on exactly this topic.

So, I think, right now, there is a sense of urgency on both sides.

GARCHOW: I guess I'd like to recommend that for purposes of how these kind of -- I think I know how these panels work.

Maybe we can ask Heidi to book-keep this, but without making a conclusion, I think that we've heard enough discussion that we need to have this formally discussed and consensused upon before this panel walks away, not predisposing a conclusion one way or the other, but I don't want to lose this thought that we need to have a good airing on this non-reactor cornerstone significance determination and how that goes through the action matrix.

That needs to be aired by this panel in a consensus before we move on.

WIGGINS: In other words, the panel needs to be comfortable that that's been taken care of. Otherwise, there's a big open question that the panel will have in its report for the staff to address later, but that's what I was getting at.

This is the closest thing I've heard to -- since we've been doing this, this is the closest I've heard to something that had to be done, otherwise it could -- it sounds like it could really upset the next phase, because if you have, you know, stakeholders saying that, you know, you can't make these kind of evolutionary decisions in this

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1 regard, because it will be viewed as breaking faith with the program, I
2 mean that means you've got to straighten it out before you start.

3 GILLESPIE: The best program going in, anyway, even though
4 it will evolve after that.

5 Going on to the next topic -- let's keep that one for
6 tomorrow. This may be the closest we're going to -- this is a close
7 one. The example might be --

8 GARCHOW: This is an open issue.

9 GILLESPIE: This is an open issue, but I know some groups
10 who are actively working it, and maybe we can get some insights tomorrow
11 as to the status.

12 GARCHOW: It's perfectly solvable by January 22nd, but we'll
13 need to hear a lot more before we make that conclusion.

14 GILLESPIE: And I don't know that we're going to hear it
15 today or tomorrow. It may be when we meet in December.

16 GRANT: Are you limiting this question to just the
17 non-reactor safety cornerstones? Why are we doing that?

18 GARCHOW: The question -- I think there's been enough
19 discussion in the pilot plants and in the industry forums -- there's
20 been just a lot of discussion around the non-reactor safety SDP
21 processes and then how that would flow through the cornerstones.

22 I think -- help me out, Steve, because you're closer to this
23 every week, but the general logic through the reactor cornerstones and
24 then actually have yellows and multiple yellows when you're in
25 initiating and mitigating events -- I think we all pretty much have come
to the conclusion that all has a logical risk-based -- and if you get
over in column four and five on those systems, that you're probably in

ANN RILEY the space where those are the appropriate actions that the NRC should be
& taking.
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Court BROCKMAN: I want to support Jeff here. I think what he's
Reporters saying is the issue we've got in there is we need to make sure that,
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1 across the board, within the action matrix, that they're based on
 2 equitable assumptions and thresholds coming in, and if we identified one
 3 in reactor safety that was way out of bounds, I mean we should look at
 4 all of them and make sure we've got an equitability coming in there.

5 Right now, it appears -- we've heard a whole bunch in some
 6 of the non-reactor safety ones, but I wouldn't want to leave our open
 7 question uniquely focused there. It's really a wide open question,
 8 making sure they're right.

9 GRANT: If you're trying to make these appear equivalent,
 10 then I'm not sure which way that needs to go. I'm just saying why limit
 11 it just to that discussion. It sounds like it's a broader discussion on
 12 threshold.

13 FLOYD: We need to be consistent, is the issue.

14 GILLESPIE: Okay.

15 I think the question, then, on the table is consistency, but
 16 the essence is a sense, I think, that Dave's expressing that enough
 17 people worked on the reactor safety side and that got so much more
 18 attention than the other sides that the amount of documentation and
 19 logic and back-up to that that the idea of -- and I guess you could say,
 20 if you had an over-exposure, an over-exposure could you get you red in
 21 the HP cornerstone.

22 Is that a plant shutdown? Is that equivalent to requiring a
 23 plant to shut down?

24 LOCHBAUM: It should be.

25 GILLESPIE: What I'm saying is there's people with a view
 that say that's not equivalent. So, I think it's a question we should
 leave open.

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Tom?

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HOUGHTON: I think there's two parts.

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One is what is a yellow or red in these other areas. That's
 one question.

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1 The other part is what does it mean to be in column three or
 2 column two or column four, and perhaps the staff could explain tomorrow
 3 what happens if you're in column two or three, so you can put this
 4 within context, because column three is not column four and five, it's
 5 less than that.

6 There is some guidance that's been written on it, but I
 7 think you ought to have that context before you try to decide.

8 GILLESPIE: Right now we're just leaving the question of
 9 consistency on the table, saying we need more information to make a
 10 judgement.

11 Enforcement.

12 I'm wearing down. I don't know about everyone else.

13 Enforcement -- we really have one question that everyone's
 14 got on the table. Are enforcement actions taken in the manner
 15 consistent with the assessment of inspection findings that resulted from
 16 the SDP?

17 We have not had a lot of significant inspection findings
 18 that have resulted in enforcement. Would anyone like to start this one
 19 off?

20 Greg?

21 GIBSON: Sure.

22 The issue that we want to underscore is kind of a little
 23 different.

24 First of all, we applaud the changes that the Commission has
 25 made in the area of enforcement. I think that really will focus
 resources on correcting the issues, getting corrective action programs
 going, rather than getting into endless debates on severity levels and
 things of that nature. We think it's all very positive.

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But one of the most important areas that we have, which
 differs from other major initiatives that the industry has undergone, is
 these frequently asked questions, that we have a mechanism by which a

1 reasonable differing professional interpretation or differing
 2 professional opinion can be raised on an issue.

3 How do we handle this? Do we count it? Do we not count it?

4 Those questions can be raised and identified to NEI. We've been doing
 5 that repeatedly.

6 That is a very important element, and it gets into
 7 enforcement in the following way.

8 I don't think anybody would disagree that there needs to be
 9 a very, very strong enforcement policy against any willful person ever
 10 trying to game the results, and certainly, it appears prudent to have an
 11 enforcement policy for errors, because errors need to be avoided.

12 That's prudent, too, and everybody needs to use best efforts
 13 and produce data that the NRC can rely on. Everybody agrees with that.

14 But there is one area where we can see a diminishing number
 15 of FAQs that will be raised. We've raised probably -- I think there's
 16 like 60 or 100 that have been identified and NEI has documented in
 17 99-02D.

18 Probably we'll get, I don't know, 30 or 40 or 50 more in the
 19 first year of operation, and as the program goes on, those will diminish
 20 down.

21 Unfortunately, I can't tell you right now what are going to
 22 be the questions that would be important to us. We certainly don't want
 23 to be making the wrong call, but it's difficult to guarantee that there
 24 won't be an issue in the future, that somebody would say, gee, I thought
 25 this is the way it was supposed to be, I've got a position here that
 seems to be supported by the NEI, 99-02F or Q, whatever version we're up
 to, and it's okay.

ANN RILEY I'd hate to think that enforcement is the regulatory tool to
 & communicate information of that nature. It just seems like continuing
 ASSOCIATE S, LTD. Court on with the FAQs beyond the pilots, beyond the first year, if there's an
 Reporters 1025 amnesty period -- and I'm not sure that Bill will talk to that tomorrow
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1 -- that's been discussed, of a period for getting the data in line,
2 getting the infrastructure to support the generation of the PI's.

3 That's good, and that addresses that other bucket about
4 errors, but I can't tell you what questions are going to come down in
5 the future that would be important for us to have resolution, and I
6 don't know how to handle it. I don't have a real alternative, other
7 than trying to avoid that issue.

8 LIEBERMAN: Could give a specific as to what you're
9 referring to, because frankly, I'm not really following the relationship
10 to asking questions and enforcement.

11 GIBSON: Okay.

12 FLOYD: Suppose you have a problem with a safety system and
13 a licensee, in good faith, doesn't think that that's a safety system
14 functional failure and, therefore, doesn't count it, and the inspector
15 disagrees, and they generate a frequently asked question,

16 Greg's concern, I think, is am I now subject to 50.9 for
17 failure to provide accurate data, because now the NRC disagrees with my
18 call on whether or not that was, indeed, a safety system functional
19 failure or not.

20 That's the issue, right?

21 GIBSON: Right. And I'm trying to bifurcate from the
22 standpoint of I don't want to talk about willfulness, and I don't want
23 to talk about errors.

24 It's just the question of I've got an honest, differing
25 professional opinion on what the guidance -- perhaps it's not written or
perhaps we're suddenly in a unique situation down the road.

Some licensee one day will be there, and how do we handle

ANN RILEY, and what regulatory tool will be used, and I'd like to encourage it
& to be this FAQ process that is serving us well right now.

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LIEBERMAN: Is that any different from the old system? If
there's an issue of lack of reasonable notice, then an enforcement

1 action probably should be taken. If there is reasonable notice and this
2 particular licensee just didn't get it --

3 GIBSON: I'm thinking more in terms of implementation of the
4 maintenance rule. There were a number of maintenance rule citations
5 that went to the enforcement panel, took up a lot of time, rather than
6 just answering the question and getting everybody normalized.

7 They wound up going through enforcement, and that was the
8 regulatory tool that was used in lieu of an FAQ process, which this one
9 has.

10 GILLESPIE: Let me try to re-zero myself on the question of
11 enforcement.

12 The question of enforcement and its relationship to the SDP,
13 I think, in general terms, is that, if a non-compliance is found but its
14 severity, if you would, or its grade is -- through the SDP process -- is
15 green, then it's a non-cited item.

16 If the severity comes out white or greater, then it's a
17 cited violation requiring a response.

18 Does anyone have a problem with that relationship?

19 On the specific question right here, that's a little
20 different relationship than we've had before. In general, that's where
21 we're coming from.

22 GARCHOW: I guess I have a problem with that, unless I
23 misunderstood what you said, but if you just say that -- I'll go back to
24 security, right? I happen to have a number of un-compensatory hours
25 that are greater than the threshold we're using for a process to gear
NRC involvement in my site for oversight purposes.

The fact that I have that number of hours -- I'm in full
compliance with my security plan, I'm in full compliance with my comp
hours, and I'm following every regulation you've mailed me in the mail,
I've not violated anything, so I would not take the link that you just
said from the fact that I'm in white over to being in violation.

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1 GILLESPIE: It's conditional. What I said was, if a
2 non-compliance contributes to you being in the white, then it requires a
3 response.

4 WIGGINS: What Frank is talking about -- with certain
5 exceptions that have to bear on, you know, integrity and the integrity
6 of the process, whatever, what we're doing is, in effect, taking the
7 supplement out of the enforcement policy, which was a criterion-based
8 discussion, at best, and we're replacing it with a process that's
9 essentially determined by the SDP analysis.

10 So, you have an inspection area, because you don't cite
11 PI's. The inspection finding does involve a violation of some
12 requirement. It's how will you treat it. And what Frank is saying is,
13 the way the intent is, providing you pass the first gate, yes, there is
14 a violation of the requirement, then it would be treated as as non-cited
15 violation, and discussed, I assume --

16 GILLESPIE: And discussed.

17 WIGGINS: -- in the report as a non-cited violation if it's
18 green, and if it's white or greater, it would be some sort of a noticed
19 violation which may or may not require a response, and then, at some
20 point in time, then the civil penalties would be added to the mix.

21 GILLESPIE: No. Right now, civil penalties are in willful

22 --

23 MADISON: You could under some circumstances.

24 WIGGINS: That came out of the Commission, right? The
25 Commission said you have to have that in there. You've got to have a
capability -- there might be some non-willful thing that is so egregious
on its face that the staff will have to figure out a way to --

ANN RILEY GILLESPIE: But dealing with the day-to-day reality, I
& believe the generality is, if it's white -- if it's graded to the SDP
ASSOCIATE S, LTD. Court process as having contributed to something risk significant to be white
Reporters or greater, then it requires a written response, and there's other
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1 associated things that go with being white or yellow or greater in the
2 action matrix relative to meetings between the NRC and various levels of
3 management of the utility that also go along with that.

4 So, it's not just a notice of violation. There's interfaces
5 and communications which take place, which in the past have been called
6 enforcement conferences.

7 So, those, in and of themselves, have an aspect of
8 enforcement to them as an integral set.

9 WIGGINS: I guess I would wonder -- maybe we can address the
10 first type, the stuff that's in green.

11 Right now, even with the current program we have, we're
12 getting some level of questioning with regard to how non-cited
13 violations are viewed.

14 There's a particular issue that played out at Seabrook a
15 number of months ago that, you know, Bill will tell you, that between
16 the region and eventually OE, we're responding to a whole number of -- a
17 large amount of people that are seeing a non-cited violation as NRC's
18 failure to enforce its regulations.

19 If past is prologue, that means we have a little bit more
20 discussion we have to do with folks other than staff on how this -- you
21 know, what is a non-cited violation. Is it, in fact, an enforcement
22 activity?

23 I wonder if any of the people here, Jim or the states, have
24 commentary about how non-cited violations are taken?

25 LIEBERMAN: Before they answer that, if I can just give some
background, when we looked at the new policy, one of the things we
considered was giving a new name to non-cited violations and calling

ANN RILEY them infractions, meaning it's a violation, we'll write it up in the
& inspection report, but we'd only use a notice of violation if we issued
ASSOCIATE S, LTD. a piece of paper.
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1 violation, meaning it's a legal violation, be written up in the
2 inspection report, but no response is needed.

3 The question is, do people understand the significance of
4 that? Was it perceived as a joke?

5 GARCHOW: From one utility's perspective, we see -- I mean
6 the lecture of the staff is it's a violation of the law, and that isn't
7 a joke. So, it has to be corrected, and it has to be reviewed, and the
8 cause has to be identified.

9 I mean we try to make that -- try to make that not lose
10 sight of what that actually is. The fact that it had risk significance
11 or not risk significance relative to an NRC process to determine how
12 much oversight I should have -- that's a whole other discussion.

13 But the real issue, when it comes out in the report, is it
14 was a violation of the law, had no risk significance, or very little.
15 That's just the add-on as you go through the process. It's still a
16 violation.

17 HOUGHTON: I think the other pilots can speak, too, but
18 from what we've been hearing from inspection reports, I also take green
19 very seriously and felt that, if they got a green, it was a violation
20 that it was important to address.

21 In certain cases, they felt that it shouldn't have even been
22 a green, but they didn't want greens.

23 GARCHOW: We still have some education of our internal
24 staff, though, to get that message promulgated throughout even the
25 utility organization. So, I mean we still have some work to do
internally to make sure that people clearly understand what that is and
what it isn't.

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BARNES: Yeah, you're right, green is not good, and that's
been the theme all the way through here in terms of a finding is a
finding no matter what, and it has to be dealt with.
A non-cited violation is treated like a violation. So,

1 there hasn't been any backing off in terms of responding and going after
2 the issues, but certainly there's a perception there, isn't there?

3 RICCIO: There certainly is, and there has been. You can't
4 wipe out all level four violations and say that you're not -- you know,
5 granted, you're focusing on something that, to your mind, is more safety
6 significant, but you're still ignoring what were violations of NRC
7 regulations.

8 WIGGINS: That's the crux of the point, though, Jim. The
9 supposition you made is the treatment of an action as a non-cited
10 violation is equivalent to ignoring it.

11 Now, the regulator wouldn't agree to that. They wouldn't
12 agree that that's ignoring it.

13 Now, that's just us, and you know --

14 RICCIO: Are you treating non-cited violations the same way
15 you treated them in the past?

16 WIGGINS: No.

17 CHASE: No, we're treating them as a cited violation.

18 WIGGINS: Non-cited violations in the past -- it depends how
19 far past you want to go.

20 They have been typically related in the past to trivial
21 issues, okay, or to issues that were -- that arrived on the scene
22 courtesy of the licensee's own action, licensee-identified items, and we
23 treated those things that way with the intent of supporting the
24 licensee's efforts to go out and find and fix problems on their own,
25 without waiting for us to come do it.

In so doing, it serves the regulator's intent that the
regulator is always interested in having its regulations complied with.

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Now, the next step is where we currently are, which is not a
Pilot plant, like for the rest of the world. We've taken a look at --
we've implemented an interim policy now that makes greater use of
non-cited violations that include things that even the staff finds,

1 providing the severity level -- we're talking severity level fours right
2 now.

3 So, the vast majority of fours are treated as a non-cited
4 violation, and then there are kick-outs that -- you know, the next
5 increment is, well, if you don't like what's going on, then there's a --
6 it isn't exactly that. There's some criteria, and then you can cite the
7 four, and then you go up to the threes, and the threes are still cited
8 and all that.

9 What I'm saying is that, you know, people -- I'm not saying
10 it's universal, but at least on one issue that I'm aware of, people are
11 seeing the application of the non-cited violation for an NRC-identified
12 issue at severity level four as the staff abdicating its responsibility
13 to enforce its regulations. The staff doesn't see it that way.

14 Now, what's your perspective on it?

15 RICCIO: I'm not sure what event you're talking about up at
16 Seabrook, so I'm not really sure who's saying about what, but I just go
17 back, again, to the South Texas report that you guys generated, and the
18 conclusion there was the reason South Texas got outside of its bounds of
19 operation was because what was being leveled as non-cited violations
20 were not -- you know, the significance of those and the aggregation of
21 those was not being brought home to the licensee, and if that was the
22 case in the previous program, I fail to see why it should be any
23 different under the current program.

24 WIGGINS: Well, that speaks to the effectiveness of the use,
25 which is different than the -- I don't want to spin your own words at
you, but it's similar to what we've been hearing, that people have
equated the use of non-cited violations as the staff ignoring its

responsibility to enforce its regulations, and that's where the basic
disconnect is, because in the staff's view, it's not ignoring that, it's
decided to not ignore it, in fact, it's to address it.

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RICCIO: It's acknowledging it, but it's not taking any

1 action upon it.

2 WIGGINS: It doesn't have a notice.

3 GILLESPIE: Let me ask the state representatives, because
4 the states are kind of neutral parties looking in on -- you're viewing
5 in on this.

6 Bob, how do you take -- when you see a non-cited violation
7 versus a cited violation, when you see an inspection report come across
8 your desk in the state?

9 LEOPOLD: I wouldn't know what to make of it. A non-cited
10 violation?

11 GILLESPIE: Versus a notice of violation which stands out at
12 the end of a report.

13 LEOPOLD: Not knowing your framework, it would sound like
14 gibberish to me.

15 GILLESPIE: Dennis?

16 ZANNONI: Well, our original perception, to follow up what
17 Jim said, was that. You know, we had to look at it to see what was
18 actually going on. Fortunately, we have the staff that can try to dig
19 in and find out what was happening, and we'd have to explain it to our
20 management.

21 So, we were able to, I think, figure out that, even though,
22 on the surface, it looked like a pull-back in enforcement, I think we
23 accepted and came to the conclusion that the way that they're handling
24 the non-cited violations is adequate.

25 GILLESPIE: Jack?

SPATH: I would echo Dennis' comments. I mean we certainly
take note of the non-cited violations and make sure we understand what

ANN RILEY they're about, but we also, I think, appreciate the fact that the NRC
& ASSOCIATE has assessed that particular issue and said, well, okay, you know -- we
S, LTD. Court would take less -- we'd be less concerned about the non-cited violation,
Reporters 1025 obviously, than the cited violation.

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1 A cited violation, we might spin up our concern level a
 2 little bit higher. A non-cited violation -- I think the only
 3 observation I would make independent is -- and this is -- you know, I
 4 don't have any documentation, but it seems like there is a large number
 5 of non-cited violations, and maybe that's the nature of the beast.

6 GILLESPIE: You know, I do think that, to a degree --

7 RICCIO: There's been a great proliferation of level fours
 8 coming out about problems with the design basis. So, that's why there's
 9 a big proliferation of fours.

10 You're seeing a lot of what used to be fours as non-cited.

11 FLOYD: The numbers that we looked at actually showed that
 12 there were more -- a combination of level four and non-cited violations
 13 this year than there were last year.

14 WIGGINS: There's going to be still some -- I mean the
 15 amount of non-cited violations you have is really strongly a function of
 16 what you look at or expect to be looked at, really.

17 Even if you just apply a system that says, if there is a
 18 violation, one has to identify it as such, what that does is it rolls in
 19 all the licensee's efforts that are out there that are finding problems
 20 that are non-trivial, and I won't hazard a guess on the percentage, but
 21 I'll tell you, some more than trivial percentage of the NCBs that are
 22 floating around are as a result of an application and this idea that, if
 23 it is a violation, it doesn't matter who found it, it's called an NCV,
 24 and that's the way it is.

25 It's a little less meaningful in terms of what content you
 get out of it than maybe in the old system, where you can compare cited
 ones to non-cited ones and knew that the non-cited were either trivial

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 1025 of were licensee-identified compared to the cited ones where NRC
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 identified.

In the end, I think it doesn't surprise me there's a bunch
 of non-cited violations. In fact, a funny way of looking at it is that

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1 people are looking in places where they probably are.

2 They're doing a lot of design reviews. The 50.54(f)
3 projects are coming -- it's what Jim's talking -- kind of what he's
4 referring to, more or less, that, you know, these things are still
5 operating in a number of plants, things are still being found, because I
6 think the facility's getting pretty -- they're getting better every --
7 you know, getting better as time goes on at asking tough questions of
8 themselves, so they find it, and then the staff is dispositioning it
9 through the policy.

10 GARCHOW: Over time, this gets easier, though, if we
11 continue to try to risk-inform the regulations in the same manner that
12 we're risk-informing the oversight. It tells you something if you're
13 talking about trivial, non-cited violations.

14 That would mean that I'm wasting a little bit of my time
15 de-focusing from maybe more safety-related issues. You may be using
16 more of your time de-focusing from safety-related issues.

17 So, I know there's an effort underway.

18 Let's go -- the real problem -- let's go back and look at
19 the regulations so that, when we truly are out of compliance, it's in
20 some area -- you know, we don't want to be out of compliance, but if we
21 are, it's in some area that the regulation actually makes sense from a
22 risk standpoint, and until we get to that point, I think the non-cited
23 violations is a good bridge to bridge us to the point until we can go
24 back, go through, and make some risk sense rather than a compilation of
25 regulations that, in its totality, makes it very hard not to find small
little nuances of non-compliance every time you start to dig into an
area with any kind of depth, because I think, when we look in areas, we

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Find them and report them, and when the NRC looks in, we find them and
Report them, and that will continue to occur until we change the
regulations to a way that are more risk-informed.

BORCHARDT: I just wanted to make a point.

1 There is a provision within the current policy and the way
2 we do enforcement that the truly trivial items don't even make it into
3 the inspection report, and those are called minor violations.

4 GILLESPIE: We hit that earlier.

5 BORCHARDT: So, those things are NCV, we're serious about.
6 They need to be acted upon and corrected.

7 GARCHOW: You're serious about the fact that it's clearly a
8 -- there is a regulation out there that we're in non-compliance with,
9 and I think we both agree with that, but when run it through the
10 significance determination process, you see that, very quickly, it falls
11 out to not being risk-significant.

12 Those are the types of issues that lend themselves, when we
13 see what this looks like over a couple of years, to go see does the
14 underlying regulation need to be risk-informed so you don't even go
15 through the process to that point and waste both NRC resources and
16 utility resources.

17 BAJESTANI: From utility perspective, cited violation or
18 non-cited violation, you know, it's gets into our corrective action
19 program, and really, what we care is fix the problem and we make sure
20 that we have the measures in place to prevent recurrence.

21 So, cited or non-cited violations, that's the approach that
22 we take.

23 WRIGHT: How does NRC handle non-cited violations
24 differently than they used to handle the same violations that were
25 cited?

 BORCHARDT: How do they handle them differently? It's just
the fact that a notice of violation isn't prepared, and then, of course,

ANN RILEY the licensee doesn't have to formally respond in writing to the NRC.

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Court inspection report, the laying out of the facts for what the violation
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1025 was ought to be comparable. So, that shouldn't change.

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1 WRIGHT: So, the followup is the same.

2 BORCHARDT: No, it's not the same. It will be a sampling
3 under the new process of some percentage. Is it 20 percent? Whatever
4 the percentage is -- I don't know.

5 WRIGHT: So, before you followed up on all of them, and now
6 it's 20 percent.

7 BORCHARDT: Right.

8 WRIGHT: Okay.

9 GRANT: It went from 100 percent to 20 percent.

10 When you say we take NCVs seriously, I don't know how to
11 quite take that.

12 NCVs are within the licensee's purview to take care of.

13 You say that you treat them the same one way or the other,
14 except the fact of the matter is, if you do nothing with the issue
15 within your corrective action program or you make it a five-year study
16 program or something like that, the NRC never goes back and gets, you
17 know, another bite at that apple, if you will.

18 GILLESPIE: We may or may not.

19 GRANT: Currently. Well, even if you went back in and you
20 found out they hadn't done anything, if the issue isn't white, okay,
21 it's still a green, and at most, it would be another NCV.

22 So, I think that, when we get to talking about the
23 enforcement aspects of this and, once again, how it meshes with the
24 assessment and with the SDP, we're going to have to figure out what
25 corrective action program changes need to be made to make sure that
doesn't happen.

 Otherwise, you end up with the perception, I think, that
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Court we're not going to engage on that.

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 WIGGINS: So, that's a question we ought to have the staff

--

1
2 FLOYD: I'd like to offer just a little perspective on this,
3 though.

4 If you look at the numbers, it's running about 1,400 of
5 these a year, roughly, industry-wide, which is an average of about 14 a
6 unit.

7 There's 37 inspection modules, each one of which says go
8 sample some items from the corrective action program to see if the
9 action has been taken and you think it's timely and the action is
10 successful in closing out the item, okay?

11 That's 37 modules against an average of 14 items a year
12 identified.

13 Now, I just can't imagine, in my mind, that the NRC
14 inspector, if an item passes the threshold of being a finding and rises
15 to the level of a non-cited violation, which to use Bill's words, is
16 something that at least had some significance -- it was more than
17 trivial -- that that wouldn't be included in the 37 modules that they're
18 going to go look at, an average of 14 items at a unit, and then that, in
19 turn, is followed up by a 100-hour minimal, or more, annual corrective
20 action program, and I can't imagine they're not going to sample at least
21 some of those same items again.

22 So, I'm not sure how many of these things actually fall
23 through the cracks in the end analysis and don't get looked at, even
24 though the total sampling, I agree, is 20 percent.

25 LIEBERMAN: But if they look at it and they find out it
wasn't appropriate treated, the outcome is just another non-cited
violation.

ANN RILEY GILLESPIE: That now has to be corrected, because now you've
& get another cause. Now you've got failure to do root cause analysis,
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Court failure to identify cause.

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FLOYD: It's a different violation at that point.

1 GILLESPIE: Now you're going down a different path.

2 WIGGINS: We ought to really wait for the staff discussion,
3 because that's an interesting question about, you know, when is too much
4 of that -- when is that activity too much, because that starts -- one
5 can make a case that might bear on the integrity of the overall process.

6 Now, I'll be more than happy to sign up for what Steve's
7 saying, just as long as he'd allow me the fact that that won't -- that's
8 an add-on to what we're going to do with the rest of the corrective
9 action inspection. It doesn't displace other things.

10 FLOYD: I can't imagine you're not already going to look at
11 the average of 14 in 37 modules.

12 WIGGINS: We can ask that question when we get some real
13 live inspectors tomorrow.

14 GILLESPIE: Let me jump to the end, because I can see
15 everyone's drooping, and it's been a lot of information, a lot of good
16 discussion's taken place, a lot of points have been captured, and it's
17 been a long day.

18 What I'd like to do is offer our guests, who are invited
19 back to hear the staff tomorrow, because this will give the states an
20 opportunity to hear the details, and we'll even let you ask questions as
21 if you're us, so you get to kind of be here and quiz them in order to
22 get some information transferred, but would any one of the guests like
23 to -- don't feel obligated to do it, but we'd like to give you the
24 opportunity to sum up, if you've got opinions on the overall program.

25 Jack?

SPATH: I actually have a couple of comments under the
heading of overall.

ANN RILEY GILLESPIE: Good.

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SPATH: I'll try to make this quick, and again, for whatever
Court reason, I keep coming up with three comments in each category, so I'm
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1025 going to be consistent.

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1 First, you know, one measure of the success of the overall
 2 process as we read it in the NRC documentation and even in the panel's
 3 report outline is the efficiency of the new process relative to the
 4 current oversight strategy, and while we certainly understand the
 5 importance and perhaps the driving force behind having an efficient
 6 oversight process, we feel like we think the process should also be
 7 evaluated on its ability to assure -- and I have the word here "safe,"
 8 but based on current discussion, maybe I should say acceptable and
 9 consistent operation of the plants.

10 Unfortunately, this latter measure is, again, something, as
 11 I've alluded to before, probably is only going to be measurable or
 12 discernible over time, and then I would add the same admonition that we
 13 added before, was particularly during these early stages of this new
 14 process, during the transition or implementation phase, that it behooves
 15 NRC to proceed with all due caution and vigilance.

16 The second comment is relative to NRC's ability to compare
 17 or calibrate the results of the new oversight process, and we suggest
 18 that you do that perhaps with the industry self-assessment process,
 19 self-assessment evaluations, and the reason being is we think it would
 20 be interesting to note if there is any great disparity between what
 21 comes out of the new NRC process and, say, the INPO process, we wouldn't
 22 expect to see and would hope not to see great disparities, but if there
 23 is great disparities, then that would, from our perspective, say, hey,
 24 we need to take another look, why are they significantly different?

25 GARCHOW: Can I jump in there?

SPATH: Yes.

GARCHOW: In a perfect world, the whole construct of what

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INPO is trying to do for us is grade us within a measure of getting to
 excellence, as opposed to an oversight process which is trying to
 determine if we're acceptable or unacceptable to operate and use of
 tools and enforcement, stuff we've talked about today.

1 So, they actually, both of these processes, have a wholly
2 different construct.

3 So, we could, as a utility, be not even in the space of
4 having concerns relative to increased NRC oversight but relative to the
5 high standards that the industry has set via our INPO organization could
6 end up in an INPO category that would be not excellent, and it's just a
7 totally different construct, because INPO's trying to get every plant to
8 the highest standards of excellence to keep the entire fleet operating
9 to the best that we possibly can, holding ourselves accountable as an
10 industry to do that.

11 That's a wholly different construction than this process.

12 RICCIO: That's all nice and fine in a nice, you know,
13 ethereal point of view.

14 I think I'm probably the only one who's actually had the
15 INPO reports and compared them to NRC inspection reports, and I found
16 grave disparities, and it wasn't just on focus.

17 So, I think the concern is legitimate, but I wouldn't be --
18 I understand INPO shoots for excellence, but they are capturing things
19 and, in the past, have captured items that NRC hasn't, and some of which
20 were safety significant as we were using the terminology at that point,
21 but I think you do have to be wary of having a disconnect, also because
22 you're relying more and more upon INPO data, and if there is a
23 disconnect that occurs between what INPO is saying and what the agency
24 is saying and that again gets its way into the public domain, you're
25 going to have problems with this system just like you did with the last.

GARCHOW: We're not using INPO data. INPO doesn't create
one data source at all.

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We happen to be using INPO as a clearing house to collect individual plant performance data in a way that's consistent across the industry, and this process happened to leverage a little bit of that, having already been developed to help us along with the indicators, but

1 INPO themselves don't create any of the performance data that you see or
2 may have seen in the LANO or, previous to that, the INPO data.

3 That truly is the same industry data that's coming from a
4 power plant at a time going through our process of submitting that to
5 INPO.

6 GILLESPIE: We have a slight disconnect, because I was on
7 the other end, having to respond to Jim's report some years ago, and it
8 actually wasn't the data, it was the INPO evaluation reports, and Jack's
9 just saying --

10 SPATH: And I'm not trying to criticize either. I'm just
11 trying to say there's another process out there. Take a look at it.
12 How does it compare? It's a benchmark, something you can use to help
13 perhaps calibrate your system. It would be imprudent not to.

14 GILLESPIE: Two universes are looking at the same place and
15 evaluating operations, but it is for a different purpose.

16 SPATH: And I understand that, and I accept that and
17 appreciate that.

18 GILLESPIE: You were getting at the evaluation report.

19 SPATH: And I think that your comment can be taken into
20 account, should be taken into account.

21 And my last comment is relative to the issue of the -- what
22 is called the annual public meetings.

23 As part of the process, you will have annual public meetings
24 with the plants to discuss the assessment of performance, and as we have
25 recently witnessed in New York State, "public meetings," if I can use
that in quotes, seems to mean that the public is allowed to observe but
not truly participate in the meeting, and my understanding of the way

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Court and talk to the public and answer questions and what have you, and I
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1025 guess our sense is that we would suggest and recommend that NRC look at,
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1 you know, ways that interested members of the public, stakeholders might
2 be able to more fully participate in the meetings in a constructive way.

3 I understand that there is business that has to be
4 accomplished and you need to achieve those objectives, but it seems to
5 us that perhaps the NRC, for example, could provide a period at the end
6 of the meeting where, still on the record, you know, the public could
7 raise questions or provide feedback, and we believe it should be focused
8 specifically to the topic of discussion, which is the performance
9 findings that are presented at the end of the meetings.

10 GILLESPIE: I think that's a fair point to make. I know,
11 when our guys went to New Jersey and held a public meeting on this new
12 program, Bill was willing to talk about anything that the audience was
13 willing to bring up, and they brought up everything except the new
14 program, but it was a great -- we got feedback on that from public
15 affairs.

16 It provided a great relief valve and a sense of
17 participation. So, we actually -- I'm using that as an illustration
18 where I think we had a lessons learned -- there was an institutional
19 gain from doing that.

20 SPATH: One of the objectives that you have is to build
21 confidence, and I don't think you necessarily build confidence by
22 saying, okay, we can't talk -- you can come in and watch but we can't
23 talk to you, and there is the issue of trying to keep the discussion
24 focused on the matter at hand, and I understand that that sometimes is a
25 challenge, but we're public servants, guys.

GILLESPIE: I have a lot of sympathy for that comment.
That's something we need to take under, I think, consideration in a lot

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ZANNONI: In the interest of time -- it is getting late, but

I want to refer back to, actually, a letter we wrote to the NRC back in
May, May 20th, because we're on the docket, and I'm going to submit the

1 two letters, and we made some observations in there, and some of them
2 are still legitimate today, as you review your program, and one is the
3 speed of the program, and at that time, the implementation and the
4 roll-out was going to be January 1. So, it was actually positive that
5 it was delayed.

6 So, to the NRC's credit, we view that as, again -- it's some
7 time to take a different look, better look, longer look, have more
8 people involved, because we see that this oversight program will only
9 improve on more people commenting and bringing their comments and
10 insight to bear here.

11 The other comment that we made was, you know, extend the
12 comment period itself, because it ended at the end of this month, and
13 so, that was another positive, I think.

14 One month's better than no days, so that was a positive.

15 We could use a little bit more time, because this is a
16 complicated program to review, and we don't have the resources that a
17 lot of other agencies do, but we do believe it's important enough to
18 spend some time taking a look at it, getting some perspective, and
19 you've already heard some good insight already.

20 We made the comment that the NRC inspection program must
21 still rely on on-sight presence of the regulator. We think that that is
22 very positive.

23 This obviously hinges strongly on the utility of the
24 performance indicators and the value of the baseline inspections.

25 You know, if the performance indicators are set too high,
the baseline inspections are not robust enough, and the role of the
inspectors, we feel, would be diminished.

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So, we value their participation at the site, and hopefully,
the new oversight program will make room for them and not completely
eliminate them.

The NRC action matrix, we commented, need to have a clear

1 and unambiguous path to unacceptable performance and shutdown. We've
 2 raised that. I don't know if it's even been addressed or things are
 3 going to be commented on, but again, the people ask us, well, you know,
 4 how are the plant's doing?

5 They should be also entitled to know when the plant won't
 6 operate, and if it means one red or if it means a combination of
 7 different things, that needs to be clear, and that's already been talked
 8 about today.

9 But overall, I think, you know, this panel, I know, has a
 10 deadline, and I know the program's got to move along, but you have to
 11 still be open to the fact that certain aspects of it may not work and
 12 you need the wherewithal to say that there could be a better way, could
 13 be a different way. I know a lot of resources and energy went into this
 14 program, and they're on the fast track to implement it.

15 Overall, if I take a step back, even though these are
 16 preliminary, we don't -- we see actually a new inspection program as
 17 still covering a lot of -- most, if not all, of the same areas that the
 18 current inspection program does.

19 So, that gives us some level of assurance that that part
 20 hasn't changed a whole lot, but we see it as more streamlined, more
 21 efficient, but again, I still want to defer our overall comments to the
 22 ones we submit on the docket December 30th, because they're going to be
 23 more specific and, I think, more helpful.

24 We are still plowing through this, and I appreciate the
 25 opportunity to participate, and I'll be here tomorrow.

SPATH: Frank, could I just quickly tag on to something that
 Dennis said? Because we had talked about this before, and I would want
 to second his comment about the NRC's on-site presence.

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We, too, think that that is critical to providing confidence
 and assurance that the plants are being overseen properly, and I believe
 New York would be quite concerned if we foresaw down the road a

significant reduction in the on-site -- NRC's on-site presence.

LEOPOLD: I guess I'd like to start off by commending you. It looks like an awful lot of work and thought has gone into this, and you've come a very long way.

I compared it earlier to a QA process, and part of that means that you can't -- you're never done. You're going to constantly have to change this, just the way you're going to -- the plants are going to have to constantly adjust.

So, I would be really disappointed if you roll something out January, March, June, whenever you roll it out, and think that it's going to stop there and be finished.

Two other quick things.

Because of another hat I wear, security is a really significant issue, and I've heard that there's a lot of disagreement about how security issues are ranked or flagged or whatever we call it.

You definitely have to work that out, because you can't ignore it.

And lastly, I would like to also say that, as a state that doesn't do any monitoring beyond the Nuclear Regulatory Commission, we hope that you would have staff on-site to continue monitoring and would feel distressed if that didn't happen.

GILLESPIE: Jim.

RICCIO: First of all, I want to say that it's obvious that a lot of work went into this, and I understand that it cannot be lot of fun to put out your work product and have all of us come in and take pot shots at it.

One of the things I am concerned with, however, is that this seems like we're here discussing how to keep the agency in check rather

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than keeping the industry in check, and we've talked a lot about how the enforcement process is going to work and how, you know, each of the different indicators are going to feed into the process to trigger different action by the agency.

1 The reason we're here to begin with is not necessarily
 2 because the agency was overreacting, although to listen to NEI, that's
 3 why we're here, is that you're creating a great burden upon these
 4 licensees, and I think we should maintain our focus on the fact that
 5 you're going to have to work through this process and achieve a
 6 comprehensive and also a position that you can support and substantiate,
 7 and I'm not sure you're there yet, and I can see down the road you're
 8 going to have instances -- and I thought it would take longer than just
 9 a day to get to this point, where all of a sudden you're having
 10 discussions about what is the risk significance of the cornerstones, and
 11 you're going to get instances where I believe you're going to have the
 12 industry arguing that -- no offense -- that a security cornerstone does
 13 not -- a security yellow does not equate with a reactor safety yellow,
 14 and that's going to be a problem in your ability to explain this system
 15 to the affected public.

16 Again, the proof is in the pudding, and I should just pull
 17 out all by Chairman Jackson quotes and roll them by, but you know, we're
 18 going to have to -- okay. I'll pull out one. Regulation is as
 19 regulation does. I'm sure I've got a few.

20 But you know, again, we're going to have to sit back and
 21 wait and see how the whole thing fleshes out, but again, to all you guys
 22 that have been working on this, we realize that, even though we're
 23 sitting here, you know, trying to shoot it down, that a lot of effort
 24 has gone in to make this process better than it was.

25 I just hope that you keep -- you know, you're going to have
 to actually enforce this on the licensees at some point, and every time
 these guys have a little -- pull back on your reins, I'd be a little bit
 wary of that.

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GILLESPIE: I appreciate both those comments and your prior
 comments of viewing what we're doing from the other side.
 We are groping here for balance, and it's a difficult

1 balance to know where we are in this -- it's kind of like a broad gray
2 area.

3 I think it would be obvious if we're under-regulating and it
4 would be obvious if we're over-regulating, but we're kind of in this
5 broad gray area where we're groping for just the right amount of
6 regulation, just the right amount of intrusiveness, and we're going to
7 oscillate back and forth, and I think is the public interest groups that
8 should call us to task if it looks like it's always getting nudged in
9 one direction.

10 RICCIO: I've already nudged you guys in the other direction
11 over the last few weeks.

12 GILLESPIE: I think the nudging -- we should be trying to
13 oscillate around some ill-defined middle ground, and it is a difficult
14 middle ground to define.

15 So, I appreciate the -- it takes both sides of an argument
16 when you're trying to grope for the middle, and we need that.

17 We need both sides, which actually begs for the challenge
18 the staff's going to have next year, or a year from June, when they're
19 putting their annual report together, because I think, at that point,
20 similar public involvement with the year's worth of data is going to be
21 necessary to get the same kind of inputs so that we're going to have an
22 opportunity for the give-and-take to take place and for the words to get
23 on the record, for the transcript to be made, to kind of force the
24 consideration of both points of view, and I think that's a challenge the
25 staff's going to have next year, and Alan's already grimacing, but we've
gone down the path of being a little more open with the decision process
here, and it's a path that I don't think we can divert from.

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GARCHOW: I think there's a perspective we all need to take,

I recently just got done completing a program with around 44
people from about 38 different countries, some of them in the eastern

1 bloc, some of them in southeast Asia, and I couldn't help, since I just
2 came out of that process of six weeks, recognizing that this process is
3 really not typical across the world, that we would have these kind of
4 dialogues and this kind of public process to get to any policy issue,
5 not just nuclear power.

6 So, it became clear to me, after spending time with other
7 entities, non-utility entities, figuring out how they work through their
8 government's regimes, that there are other systems out there that aren't
9 nearly as participative of these systems are, and I guess I'd say I
10 found this just a wonderful dialogue day, that we ought to not lose
11 sight that this is not true all over the world that these kind of
12 dialogues occur on these kind of matters, and I think we take it for
13 granted.

14 GILLESPIE: Greg, any closing comments?

15 GIBSON: Well, I'd just like to sum up three main issues.
16 Again, the shadow plant program was somewhat self-serving.

17 We wanted to position ourselves so that, you know, we got
18 lessons learned not only from the plants but also so that we could make
19 intelligent comments and set up the infrastructure for our own plants,
20 and hopefully, that will serve us well as move forward into this.

21 But again, from our standpoint, I would encourage this panel
22 to look very carefully at the action matrix to make sure that, for each
23 one of those columns and what the regulatory response will be, that it
24 is, indeed, what you want it to be for a particular level, especially in
25 the areas of the PI's where I can certainly think of some security
issues that, by gosh, you ought to be red and you ought to be yellow,
and I definitely could think of those. This isn't one of them that I

ANN RILEY picked to be yellow. I mean maybe we want to rethink even having a
& yellow threshold for that particular thing. I don't know.

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But I think that's the job of this particular group.

The second issue that I would suggest is to take a look at

1 the area of security.

2 We were struck that not only is the SDP -- as I've
3 mentioned, it hasn't changed. Maybe it's being worked, and maybe it's
4 even been out, as the other one, recently, but there hasn't been any
5 progress on that, and the problems with the security PI have been --
6 I've participated in two public meetings that I flew in to provide the
7 staff and the public forum with information on those, and I think that
8 security may be an area that this panel wants to focus on in terms of,
9 you know, have they been able to get the support that they need to
10 resolve these issues, because I'm comfortable going into the final
11 implementation phase of this and getting ready for April 1st with those
12 two areas in the state that they're in.

13 So, I'd encourage that these issues be resolved and
14 reviewed.

15 And then the very last item is, again, the question of do
16 you want it fast or you want it right? Fourteen days is doable. You
17 can do anything.

18 On the other hand, one slide I didn't go into is, without
19 any senior management review, the average time to get it into the shadow
20 plant program from the plants that we have was 17 days, a little over 17
21 days.

22 I'd encourage this group, especially the pilots, you know,
23 certainly -- the VP says let's do it, you'll drop whatever things you
24 may be doing and do it. We can get it done.

25 But for a long term, for the next five years, 10 years, is
this a timeframe that everybody can help the data come together on in a
prudent timeframe.

ANN RILEY GILLESPIE: I think that's a good point, and it will be
& interesting to see, when we meet the next time, what the different views
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1025 Dave, I know you had some reaction to the concept that you
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1 don't want to get data in that's continuously changing, because that
 2 challenges the credibility. Yet we are trying to be timely. We're
 3 issuing quarterly reports.

4 I know the pilot plants, for whatever effort it's taken,
 5 have done it within 14 days.

6 As a matter of fact, they've been doing it once a month in
 7 14 days, and it's a balance we're going to have grope with, but it also
 8 -- it does impact public confidence, and so, it will be interesting to
 9 see if Jim -- or if you submit separate comments from Dave -- what your
 10 view would be on that, because there is a danger to changing numbers the
 11 next quarter and the next quarter.

12 WRIGHT: You'll lose the perspective of the previous
 13 assessment period.

14 GILLESPIE: Yeah.

15 I don't have a good feel for the balance. I'd like to just
 16 sit here and say, by god, they all did it in 14 days on a monthly basis,
 17 that's it, but I don't know that that's a fair thing to do, although I
 18 don't think 90 days extra is warranted.

19 GIBSON: No, we took care of that with getting rid of the
 20 strontium 8990. That went off the table.

21 GILLESPIE: Okay, but is an extra week warranted, and would
 22 the gains from an extra week be a sense of fairness? Anyway, that's the
 23 kind of issue I think we have to wrestle with.

24 Tom?

25 HOUGHTON: We would like the 14 -- the 14-day versus 50.9,
 I think, is the biggest issue on our mind, is the resolution of that
 nexus.

ANN RILEY I think the most encouraging thing about this panel is to go
 & back and re-look at people who haven't seen it before, raise the
 ASSOCIATE S, LTD. questions that we thought we knew all the answers to two years ago, and
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1 Dave feel that the public deserves in terms of what's the meaning of the
2 program and how is it being used.

3 So, I think that's where value on the panel will come in
4 expressing those bases for what we're doing.

5 GILLESPIE: I don't think this panel is going to express
6 bases. We may express the need for the bases to be expressed.

7 HOUGHTON: Because the public confidence issue is one that
8 needs to be clear to people what it is we're doing.

9 GILLESPIE: I think the comments that we heard earlier today
10 and some of the comments that even the panel members, collectively, have
11 kind of just initially put together, bear a lot on the communications
12 aspect, fully articulating the basis for things in inspection reports,
13 fully articulating the basis for why something is there, fully
14 articulating why this indicator doesn't have a yellow, you know, why is
15 it only a green and white.

16 It's a lot of work to be done in the next year. It sounds
17 like we may have -- now that we've created a structure, there's more
18 things to make the structure better to do than there was to make the
19 structure in the first place.

20 The number of comments can, at some point, be overwhelming.

21 HOUGHTON: Certainly, a number of people said, gee, we want
22 to be sure that we don't do away with residents. I don't know where
23 that worry came from, but the industry certainly has not supported the
24 idea of doing away with resident inspectors.

25 GILLESPIE: With that, I would like to thank everyone. I
would invite anyone who wants to come back and bear with us and hear the
staff's presentation tomorrow. The staff is going to try to go through
where they stand on each of these criteria.

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I know Bill and Alan and the guys were working on a lot of
material last night, and -- it looked like a lot, but thank you very
much, and eight o'clock in the morning, I believe, back here. You have

1 to take your stuff with you, because we may be in a different room, so
2 check on the front board.

3 [Whereupon, at 3:59 p.m., the meeting was recessed, to
4 reconvene at 8:00 a.m., Wednesday, November 17, 1999.]

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