

UNITED STATES OF AMERICA
U.S. NUCLEAR REGULATORY COMMISSION

REGULATORY INFORMATION CONFERENCE (RIC)
TECHNICAL SESSION (TH30): KEY INSIGHTS TO THE FUTURE OF
HIGH LEVEL WASTE MANAGEMENT

MARCH 14, 2013

8:30 A.M.

TRANSCRIPT OF PROCEEDINGS

Public Meeting

APPEARANCES

Session Chair:

Keith McConnell
Director, Waste Confidence Directorate
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission

Panelists:

Ronald Johnson
Secretary, Prairie Island Tribal Council
Prairie Island Indian Community

Phil Mahowald
General Counsel
Prairie Island Indian Community

John Sipos
Assistant Attorney General
State of New York

Ellen Ginsberg
Vice President, General Counsel and Secretary
Nuclear Energy Institute

Michael Callahan
President
CCMSC CORP

Christopher Hanson
Senior Policy Advisor
Office of Nuclear Energy, U.S. Department of Energy

1 PROCEEDINGS

2 KEITH MCCONNELL: Okay, good morning everyone. I think we'll
3 get started. We do thank you for coming. I'd like to welcome you to this session
4 on the Key Insights to The Future of High Level Waste Management. I'm Keith
5 McConnell. I'm the Director of the Waste Confidence Directorate in the Office of
6 Nuclear Material Safety and Safeguards. The primary focus of our session this
7 morning is going to be on two important and timely topics: first, Waste
8 Confidence, specifically on the efforts the staff has underway to revise the Waste
9 Confidence decision and rule; and secondly, on the Department of Energy's
10 strategy to respond to the recommendations and action plan from the Blue
11 Ribbon Commission on America's Nuclear Future. I think some of the speakers
12 have additional insight they'd like to provide us beyond those two topics. But that
13 is the principal focus of today's session.

14 To my right are our panelists, our distinguished panelists. And I'll
15 introduce them a little bit later. But we do have a couple administrative items that
16 we have to go through before we start. And let me -- before I get to those, first --
17 I would like to first introduce Drew Stuyvenberg. Drew is in the Directorate. He's
18 been principally responsible for organizing this session and doing most of the
19 heavy lifting, in terms of making sure that comes off as planned. So thank you,
20 Drew, for your efforts. But then in terms of the administrative items, as you've
21 heard in probably every session you've been in, in the last two days, please
22 silence your electronic devices. Set the cellphones, and PDAs and other devices
23 to silent, or vibrate, or I guess as I've heard in other sessions, to stun --

24 [laughter]

25 -- if you can have that on your settings. Also, if you do want to exit

1 the session we would ask, to the extent practical, that you leave between
2 speakers so that there's no disruption of the speaker or other members of the
3 audience.

4 Some other important information: We are audio recording and
5 transcribing this session. This is over and above what is normally done at the
6 Regulatory Information Conference. The reason we're doing that is so that we
7 can get the transcript up on our NRC Waste Confidence website as soon as
8 possible after the conference, so that those individuals who are interested in
9 Waste Confidence but are unable to attend can see and hear what was said, and
10 what the presenters provided in terms of our Waste Confidence effort. Also, like
11 all sessions and all presentations, the presentation materials for this session will
12 be available on the RIC public website sometime after the conference ends.

13 To move on and introduce our panelists in very brief form right now,
14 because we will provide more background when they get up to make their
15 presentation, we have Ron Johnson, who is Secretary of the Prairie Island Tribal
16 Council.

17 RONALD JOHNSON: Yes.

18 KEITH MCCONNELL: In addition, in the audience we have Phil
19 Mahowald, who is also here from the Prairie Island Indian Community. So thank
20 you, Phil, for coming. The next speaker would be John Sipos, who would speak
21 on behalf of the State of New York, then Ellen Ginsberg, who will speak for the
22 Nuclear Energy Institute. Michael Callahan will speak on behalf of the
23 Decommissioning Plant Coalition. And then last but not least we have
24 Christopher Hanson, who is from the Department of Energy and will speak to the
25 Department of Energy's strategy to respond to the Blue Ribbon Commission. So

1 thank you all, to all the speakers and the panelists that are here today.

2 In terms of the session format, the way we're going to approach the
3 session is first I'll give a very brief status of NRC activities with respect to the
4 Waste Confidence effort that's underway. Hopefully you haven't heard this two
5 or three times in the past, because we've been doing this presentation in a
6 number of different venues. But for those of you that haven't heard it, hopefully
7 you'll understand where we are in the process of developing a Generic
8 Environmental Impact Statement to support a revised Waste Confidence decision
9 and Rule.

10 We'll then move on to the panelists and allow them to provide their
11 perspectives, both on Waste Confidence, the Blue Ribbon Commission, and any
12 other related subject that they might want to address in their presentation.
13 However, we are going to try to hold the presentations to eight minutes, because
14 that does allow us to have on the order of about 30 minutes for a question-and-
15 answer session after the panelists get done.

16 In that regard, with respect to the question-and-answer session,
17 you can ask questions either by using the note cards that are in the seats or by
18 using the floor microphone. If you do choose to write a question on the note
19 card, just raise your hand and one of the volunteers will come by and collect it. If
20 you want to use the floor microphone, we would ask that you identify yourself and
21 any affiliation that you might have. Again, this is to help us in terms of the
22 transcript that will be produced at the end of the session. Drew Stuyvenberg will
23 collect and will actually facilitate the question-and-answer session after the
24 panelists speak.

25 So with that I'll move on again into just a brief summary of where

1 we are on the status of our Waste Confidence activities. It is helpful because
2 there's some, I think, uncertainty about what Waste Confidence means. It is
3 helpful to explain in some regard what Waste Confidence is. And what it is is a
4 set of generic determinations, or findings, or expressions of confidence by the
5 NRC Commission on spent fuel storage and repository availability. For example,
6 the two most prominent findings that have occurred in past decisions are finding
7 number two, that says a geologic repository would be available when needed as
8 the final disposition path for spent fuel from nuclear power plants.

9 And "when needed" has been defined variously over time. Waste
10 Confidence was -- the first decision was in 1984. But "when needed" has been
11 defined as either in the 2007 to 2009 timeframe or as subsequent revisions that
12 occurred in the first quarter of the 21st century, or as in 2010, "when necessary."
13 And that just reflects the DOE's program to develop a Yucca Mountain repository
14 program and when they might have expected that repository to be available for
15 the ultimate disposition of the spent fuel.

16 The second most prominent finding is finding number four. And
17 that finding has said that spent fuel can be stored safely and without significant
18 environmental impact for a period of years beyond the safe -- or beyond the
19 operating life of a nuclear power plant. And it's important to understand in terms
20 of Waste Confidence that all we're talking about is that period of time from the
21 end of the operational life of a power plant until the spent fuel is disposed of in
22 the geologic repository. So a very narrow window, in terms of both safety and
23 environmental impacts, that we're looking at, at the back end of the fuel cycle.

24 There are both safety and environmental components to the past
25 Waste Confidence decision, and the decision itself is embodied in our regulations

1 in Part 51, which is that part of our regulations that deals with our obligations
2 under the National Environmental Policy Act. It is relevant to new builds or the
3 licensing of new power plants, and the relicensing of operating reactors, and the
4 licensing of independent spent fuel storage installations.

5 The reason why we're here today and talking about Waste
6 Confidence is that the 2010 version of the Waste Confidence rule was vacated
7 by the Court of Appeals in the District of Columbia, and was remanded back to
8 the staff to fix certain deficiencies that the court had identified. And that's what
9 the Waste Confidence Directorate has as its task ahead.

10 In terms of our recent activities, we have conducted environmental
11 scoping for the Generic Environmental Impact Statement that occurred from
12 October 25th to -- through January 2nd. During that period of time, we had four
13 public meetings, two on November 14th and then two webinars on December 5th
14 and 6th. From the scoping period, we received approximately 1,700 comments
15 from 700 commenters. We have published, on March 5th, the Scoping Summary
16 Report. And I believe it's in the back of the room, available both in hard copy and
17 in electronic media. And it's also available on the NRC Waste Confidence
18 website.

19 The near-term activity is -- we do intend to complete the draft
20 Generic Environmental Impact Statement and revised Rule for Waste Confidence
21 for public comment in September of this year. In that regard, we do plan on
22 having a number of public meetings. Right now, the expectation is we would
23 have eight public meetings scattered across the country during the public
24 comment period for the draft, and that would be in addition to two webcasts that
25 we would hold from here in Rockville at the NRC headquarters. And those are

1 likely to occur in the September timeframe.

2 If you're interested, we also have monthly public status telephone
3 calls. The next one is on March 20th. The concept for these is that we want to
4 keep people involved in the process, let them know where we are in our
5 development process so there are no surprises as we move forward with the
6 development of the draft Generic Environmental Impact Statement and Rule.

7 So with that, I think we'll move onto our panelists. And let me first
8 introduce Ron Johnson. Mr. Johnson is the Secretary of the Prairie Island Tribal
9 Council. He is currently serving his fifth term on the Tribal Council, having also
10 served as president, vice president, treasurer, and assistant secretary/treasurer.
11 During his service on the Tribal Council, Mr. Johnson has led important initiatives
12 including testifying before Congress on labor relations issues, serving as co-chair
13 of the National Congress of American Indians' Department of Homeland Security,
14 and discussing tribal nations' public safety and law enforcement priorities with
15 White House officials. Mr. Johnson has been actively involved with NRC
16 activities by representing the Tribe's interests related to the proposed
17 Independent Spent Fuel Storage Installation relicensing and nuclear waste
18 issues at the Prairie Island Nuclear Generating Plant. Please join me in
19 welcoming Ron Johnson.

20 [applause]

21 RONALD JOHNSON: Good morning. On behalf of the Prairie
22 Island Indian Community and the State of Minnesota, I want to thank you for the
23 opportunity today to participate in this panel discussion. Our Tribe is a successor
24 to the Mdewakanton band of Dakota. Mdewakanton means, "Those born in the
25 waters." The Prairie Island Indian Community reservation is located near Red

1 Wing, Minnesota, on the ancestral homelands of the Mdewakanton Dakotas.
2 We're approximately 35 miles southeast of Twin Cities: St. Paul and Minneapolis.

3 Our Tribe has the distinction of being one of the closest
4 communities to a nuclear power plant and spent fuel storage installation. A large
5 portion of our core reservation, which houses our community, our clinic, our
6 education, our tribal administration offices, public safety building, and health and
7 fitness center, and also our gaming enterprise, are within a one-mile radius. The
8 spent fuel storage installation is about 600 yards away from the nearest resident.

9 I've titled my portions of today's presentation or discussion,
10 "Through Tribal Eyes, for the Next Seven Generations." As Mdewakanton
11 Dakotas, we use the term "seven generations" to refer to a length of time, the
12 successive generations of our people that can be affected by our actions -- it's a
13 way of looking into our life, of not getting caught up in the present, of not focusing
14 how -- on here and now, instead of seven generations' philosophy, recognize that
15 the things we say and do today can have an impact beyond us and our lifetimes.
16 It helps guide us to decisions we make, to ensure that our people, our culture,
17 our traditions, and our way of life will be there for long into the future for the next
18 seven generations and beyond.

19 This, to me, is a good way to look to the future of high level waste
20 management. And considering the fact that the spent nuclear fuel must be
21 contained from environmental for tens of thousands of years, its reality is the only
22 way we can honestly consider how to deal with nuclear waste. The United
23 States Court of Appeals for the District of Columbia Circuit recognized that this is
24 -- in the decision last summer, striking down the Waste Confidence Decision and
25 Temporary Storage Rule, when it observed this type of storage, optimistically

1 labeled "temporary storage," has been used for decades longer than originally
2 anticipated. The delay has required plants to expand storage pools and to pack
3 spent nuclear fuel more densely within them.

4 The lack of progress on a permanent repository has caused
5 considerable uncertainty regarding the environmental effects of spent nuclear
6 fuel storage, and the reasonableness of continuing to license and relicense
7 nuclear reactors. Until recently, onsite storage has always been referred to as
8 short term or temporary. Reading through the NRC's just-released summary for
9 the report of the Waste Confidence Generic Environmental Impact Statement
10 Scoping Process, the preferred term now seems to be "continued storage."
11 Another one is "long-term interim storage." But it's not enough to simply change
12 a terminology. The fact that we -- oh, excuse me -- the fact that the waste has
13 remained on site far longer than originally anticipated and reasonable likelihood
14 that waste could be stranded indefinitely on sites creates some tensions with the
15 regulatory framework that was based on the expectation that the waste should be
16 shipped off to a permanent repository in a decade or two.

17 Our nation's failed nuclear waste policy, which looks back to --
18 more, then, like a game of kick the nuclear waste can down the road in 20-, 40-,
19 or 60-years' increments must be changed. Public trust and confidence has
20 suffered. We can't rely on the regulatory framework that is divorced from reality.
21 What do I mean by that? The current approach by approaching and renewing
22 the spent fuel storage installation license continues the classic and artificial
23 compartmentalization of the true environmental impacts. Here's an example:
24 When onsite storage was first proposed, it was a temporary solution for nuclear
25 waste until a permanent geological -- or geologic repository was established. We

1 were told that the waste would be removed starting in 1998, within one
2 generation. That expectation was the basis for initial incremental Minnesota and
3 NRC regulatory proposals -- approvals. Excuse me.

4 When the Minnesota legislators first approved temporary onsite
5 storage in 1994, it capped the total number of casks at 17, the number of casks
6 that would be needed to keep the plant running until the waste could be removed
7 to the repository in 1998. Unfortunately, 1998 came and went -- excuse me --
8 and in 2003 the legislators raised the cask limit to 29, the number of casks
9 needed to get the plant to the initial 40-year license term. In 2010, the Minnesota
10 Public Utilities Commission approved a Certificate of Need to allow up to 64
11 casks to be stored, the number of casks needed to get the plant to its 20-year
12 extended license. On the NRC's side -- excuse me -- the licensee obtained a 20-
13 year license for up to 48 dry casks in 1993. The 20-year license term and 48-
14 cask limit were also based on the promise that the permanent repository would
15 be available in a decade or two.

16 Fast forward 20 years to 2013, and there is still no repository and
17 no reasonable prospect for any -- one any time soon. The licensing now seeks
18 to renew its 48-cask license for another 40 years, through 2053. And that's the
19 problem. The 48-cask limit and 40-year license term are both artificial numbers,
20 not tied to reality, and only serve as a limit on the environmental analysis and
21 minimize the potential impacts of indefinite onsite storage of ever increasing
22 amounts of nuclear waste. In our view, it doesn't make sense to consider the
23 potential site-specific environmental impacts for only a 40-year license term when
24 NRC is preparing a generic non-site-specific Environmental Impact Statement to
25 support the Waste Confidence Decision that will consider the possibility that a

1 permanent repository will never be built.

2 We believe that the site-specific environmental analysis must
3 include the potential impacts of storing nuclear spent fuel indefinitely for 100 or
4 200 years, or even longer. And instead of just 48 casks, the applicant and the
5 NRC really should -- excuse me -- analyze potential impacts of the total number
6 of casks needed to store all of the waste generated during the plant's 60 years of
7 operation, which totals 98 casks. There are already enough fuel assemblies in
8 the spent fuel pool at Prairie Island to fill 30 more casks, which, combined with
9 the spent fuel already placed in 29 dry casks, currently places the total at 59.
10 The licensee projects that the 64 casks will be placed at the ISFSI by 2034 and
11 that the Minnesota Public Utilities Commission has already granted a Certificate
12 of Need for that amount. And on top of that, another 34 casks will be needed for
13 the plants decommissioned.

14 So knowing this, why should the assessment of the environmental
15 impacts be limited to 48 casks? It just doesn't make sense to us. In short, we've
16 lost confidence in the Waste Confidence Decision and Temporary Storage Rule.
17 At the same time, however, we still hold out hope that the NRC's efforts to
18 remedy the deficiencies identified by the D.C. Court of Appeals will bring the
19 regulations up to date and provide a reality-based assessment of potential
20 environmental impacts. And we believe that this is the best way to evaluate the
21 environmental impacts of long-term onsite storage in a manner consistent with
22 "seven generations" philosophy. Let's be sure we take an honest and realistic
23 assessment of how the decisions for onsite storage might affect the future of
24 generations. Thank you.

25 [applause]

1 KEITH MCCONNELL: Okay. Thank you. Thank you, Ron. Our
2 next speaker is John Sipos. He's the Assistant Attorney General for the State of
3 New York. Mr. Sipos has served as the State's lead counsel in connection with
4 the applications to renew the operating licenses with the Indian Point Units 1 and
5 2 facilities, north of New York City. In addition, he organized the State of New
6 York's participation in the 2008 to 2010 Waste Confidence rulemaking
7 proceeding and ensuing litigation. Mr. Sipos has also represented the State in a
8 petition seeking enforcement of the fire safety regulations at the Indian Point
9 facilities, as well as other rulemaking proceedings, decommissioning funding
10 matters, and litigation concerning regulatory exemptions and the design-basis
11 threat. Please join me in welcoming John Sipos.

12 [applause]

13 JOHN SIPOS: Good morning. I have a PowerPoint presentation,
14 and we'll see if I am able to operate this. That looks -- I'll just be working my way
15 through the clicker, I see. Well, good morning. I'm John Sipos and I'm here on
16 behalf of my client, the State of New York. And on a personal level, I'd
17 appreciate -- I appreciate very much the invitation from Dr. McConnell, Susan
18 Wittick, Andrew Stuyvenberg, and the rest of the Waste Confidence Directorate
19 to participate in this morning's panel. And unless otherwise noted, the views that
20 I express reflect those of the State of New York.

21 Given the Court's decision in State of New York v. NRC, and the
22 State's participation in the rulemaking proceedings, it likely comes as no surprise
23 that the State of New York has substantial concerns about the current approach
24 to spent fuel management. And in fact, the State has long had an interest in
25 spent fuel management and waste issues. And one can see that in connection

1 with the spent fuel processing facility that is located at West Valley in Upstate
2 New York and the Supreme Court's decision in 1992 back in New York v. United
3 States. And today I hope to share with you some of the State's concerns with the
4 Waste Confidence process and to suggest the roadmap for moving beyond,
5 quote, "business as usual," close quote, in examining those concerns in a robust,
6 transparent and objective manner that respects the State's vital interests.

7 One of the critical concerns for the State is the reliance by both
8 NRC and the industry on high-density storage of spent nuclear fuel in spent fuel
9 pools. And in the past NRC has sought to limit or prevent New York and other
10 states from raising concerns about spent fuel pool storage at specific facilities, in
11 licensing proceedings, or in rulemaking proceedings. But given recent events,
12 New York believes that it is now imperative for the federal government, the entire
13 federal government, to allow states to raise concerns about site-specific impacts
14 resulting from the onsite storage of spent nuclear fuel, as well as site-specific
15 alternatives and site-specific mitigation measures. We believe at the State -- that
16 in the past those considerations have been truncated.

17 This slide is from a recent presentation -- actually, now -- back in
18 2011, I believe -- by NRC staff to the NRC commissioners. And it illustrates
19 NRC's risk analysis under NUREG-1150, under the NUREG-1150 framework.
20 And as the slide accurately depicts, that analysis did leave out key systems,
21 structures, and components. The slide shows that the dark blue area was
22 included as part of NUREG-1150. And the remainder was not. And part of that
23 remainder did include other site radiological sources.

24 Recently -- and again, this is now back in 2011 -- NRC staff
25 recommended to the commissioners that, in addition to examining the

1 radiological risk posed by a single reactor at a site, that other site-specific
2 radiological sources also be simultaneously included in the analysis and, in
3 effect, produce a true site-specific risk analysis of the risk posed by the site, not
4 just one reactor. And yes, as the excerpt makes clear, those radiological sources
5 do, quote, "include spent nuclear fuel," close quote.

6 The State appreciates NRC staff's proposal to comprehensively
7 and simultaneously examine, quote, "other site radiological sources," close
8 quote, as a step in the right direction. However, the State believes that NRC
9 should not just examine those sources but should go further and also examine
10 site-specific mitigation measures and alternatives as part of that analysis. And
11 that's the language at the bottom of that slide. That is not in the slide, but that is
12 what the State is suggesting.

13 And these staff comments appear to be sober and common-
14 sensical and they validate the State's long-held concern. There have been,
15 however -- I've heard, while I've been here this week, there have been some
16 comments that have tended to minimize the concern by the states, by the tribe,
17 and by other citizen groups. And I say respectfully that those concerns are not,
18 quote, "hysterical," close quote.

19 The next slide is a slide culled out of a larger FOIA response that
20 was made available last year in 2012, but it goes back to a briefing, from what I
21 understand a morning briefing to the commissioners shortly after -- I believe it's
22 March 16th on 2011, approximately five days after the events at Fukushima
23 unfolded. And Fukushima was, of course, a very terrible multi-unit accident that
24 was taking place. It was probably, following Three Mile Island, one of the -- I
25 think it's fair to say one of the accidents that caused most concern. There were

1 multiple core melts.

2 And yet on the -- on that morning briefing in which there are
3 prioritizations, the number one priority was not Unit 1, not Unit 2, and not Unit 3,
4 but it was Unit 4, which had been offline. And we've highlighted it here on the
5 slide. The concern was the spent fuel pool. So I think trying to minimize the
6 concern of the State is -- it is not appropriate. And we believe that Fukushima --
7 but also reports and studies that have been done in the last 10 years or so also
8 validate the State's concern. And I'll come back to that in a little while.

9 Now, the next slide is a slide that attempts to put the State's
10 concern in context. And part of the State's concern about spent fuel pool storage
11 and dense spent fuel pool storage stems from the Indian Point facilities in New
12 York State. And I should also note -- and I was remiss in not doing this earlier --
13 it's also nice to see Jon Rund from Morgan Lewis, who I've gotten to know
14 recently as part of the license renewal applications involving Indian Point. Jon
15 and his colleagues represent Entergy.

16 And presumably what I say here comes as no surprise. But the
17 State does have concerns about the Indian Point facility and the spent fuel pool
18 storage there. Indian Point was a site that was approved by the federal
19 government in 1956 by the Atomic Energy Commission before there were siting
20 regulations, certainly before there were the siting criteria that we have today.
21 And the State examines the issues that we're discussing today through that lens.
22 I'd just like to move along here, but Indian Point is -- it's 24 miles north of New
23 York. And it's six miles from a New York City reservoir.

24 This is the topography around Indian Point, north of the city. This is
25 a larger view of the topographical situation in the Hudson River Valley, which can

1 funnel prevailing winds in a southerly direction towards the city. It is also very
2 close to New York drinking water resources that provide drinking water to many
3 New York State residents and the millions of people who live in New York. And
4 this is a general population distribution. As I'm sure most of you know, Indian
5 Point has the highest surrounding population of any operating reactor in the
6 nation, well in excess of 17 million people.

7 The current approach by Entergy is to continue to have those spent
8 fuel pools at Indian Point fill at Unit 2 and Unit 3, and also to use the independent
9 spent fuel storage facility and dry casks. But at the end of any license renewal,
10 those spent fuel pools will be filled to the maximum. And the single dry cask
11 storage facility will also be filled. In end -- and Andrew is correctly pointing that
12 I've run out of time. And I'll wrap up. And perhaps we can discuss this some
13 more in the questions and answer. But the State believes that the time has come
14 for there to be a true site-specific analysis.

15 Indian Point, with its population, with its water resources that are
16 located in proximity, is a site of critical concern. There are tools that allow this to
17 be done, such as MACCS2, or GenII, or other codes like that. And we
18 encourage NRC to take the State's concerns and to deal with them legitimately,
19 transparently and robustly. I have some additional comments, but I will wait for
20 the questions and answers to deal with them. I thank you for your time. And I
21 look -- I appreciate the invitation. The State appreciates the invitation. And we
22 look forward to working with NRC in a constructive manner. Thank you very
23 much.

24 [applause]

25 KEITH MCCONNELL: Okay. Thank you, John. Next we'll hear

1 from Ellen Ginsberg. Ellen is Vice President, General Counsel, and Secretary of
2 the Nuclear Energy Institute. She supervises NEI's legal division, which is
3 responsible for representing the commercial nuclear energy industry on legal and
4 generic regulatory matters before the NRC and other federal agencies. In
5 addition, she's responsible for litigation on matters before the U.S. Court of
6 Appeals, in which NEI is either a party or a friend of the court. She frequently
7 handles legislative projects and represents NEI on all corporate and employment
8 matters. Please join me in welcoming Ellen Ginsberg.

9 [applause]

10 ELLEN GINSBERG: Good morning, everyone. Thank you, Keith,
11 and thank you fellow panelists for the opportunity to speak before you. I'm here
12 to talk about Waste Confidence, as is the title of this session. But I'm also going
13 to enlarge my presentation just slightly and take speaker's license, as it were, to
14 give a little bit more detail about where the industry is in terms of our
15 perspectives, what we see as the state of play, and what we see going forward.

16 So Keith has already given you a little bit of background on Waste
17 Confidence. Waste Confidence derives from a 1979 decision, State of
18 Minnesota v. NRC, decided by the D.C. Circuit. And originally it led to the
19 issuance of five findings on the technical feasibility of safe disposal in a mined
20 geologic repository, when such a repository might be available, whether or not
21 the waste can be managed safely until the repository capacity becomes
22 available, how long waste can be stored on site safely, and whether safe,
23 independent storage would be available when needed.

24 I would note, in 1990 there were some changes to the Waste
25 Confidence Decision. And that was, at the time, for a repository to be available

1 was determined to be in the -- at the end of the first quarter of the next century,
2 meaning 2025. The importance of that fact is that it was based on Yucca
3 Mountain not being available. The analysis that it -- or is that it takes roughly 35
4 years to establish a repository from beginning until end. And so the 1990 to 2025
5 took that into account. Keith has described a little bit about the changes in 2010.
6 And so I won't go through them, other than to say that Waste Confidence in those
7 two findings was changed as you see on the slide.

8 So Keith has talked a little bit about what Waste Confidence is. I
9 myself think it's interesting that often, when you talk about a decision, nowhere in
10 the regulations can you actually find the word "decision." What you find is that
11 the Waste Confidence analysis is embodied in this Regulation 51.23, or was
12 embodied in 51.23 before it was vacated. And the bottom line is that this is the
13 part of the Decision incorporated into the regulations that addresses onsite
14 storage. Going to the next question, the next question is, "So what?"

15 And the answer to, "So what?" is that because these environmental
16 impacts have been considered, and considered generically, by the Waste
17 Confidence Decision, and embodied in the Rule, they do not need to be
18 considered or revisited in individual licensing proceedings before the
19 Commission. This is extremely important to licensees because it creates
20 efficiencies in the context of the licensing process. I am unsurprised that John
21 has a different view on this. And I anticipated it, so I am prepared in the next
22 slide to explain what the Court's view is, as well.

23 So in 2010, as we've talked about, the Waste Confidence Decision
24 was revised and updated. The Agency's concerns were that the Yucca Mountain
25 licensing process had come to a grinding halt based on the termination by the

1 Federal Government, by the Administration. And so the question was, how do
2 we -- how do they address this in the context of Waste Confidence? I won't go
3 through this in great detail other than to say that the court decision that John
4 referred to, *New York v. NRC*, found basically three inadequacies.

5 The first was that there was no consideration of a complete failure
6 of the Federal Government to have a repository. The other two are sort of
7 derivative, and the other two relate to spent fuel pool leaks and spent fuel pool
8 fires. Interestingly on the first point, going to the complete failure, I know that
9 there are a lot of my colleagues who are -- and other environmental lawyers who
10 are -- sort of scratching their heads at what the Court directed the NRC to
11 consider, because generally under NEPA you don't go to a worst-case analysis.

12 So the Federal Government had to address what was a vacation
13 and remand by the U.S. Court of Appeals, and Keith has described a little bit
14 about the scoping process. Following the issuance of the decision, the NRC took
15 back the issue and is now going through, at the Commission's direction, the
16 development of a Generic Environmental Impact Statement to address the
17 questions asked by the Court or the deficiencies identified by the Court. In this
18 context, I'd like to note that the question about whether a Generic Environmental
19 Impact Statement is acceptable has been looked at for a very long time by the
20 U.S. courts and the federal courts.

21 And specifically I would note that going back as far as the *Baltimore*
22 *Gas and Electric* case, the Supreme Court stressed that the NRC's broad
23 discretion to structure its NEPA inquiries found that when there are
24 environmental impacts that would essentially be similar for all or a commonly
25 identifiable sub category of nuclear plants, quote, "administrative efficiency and

1 consistency of decision are both furthered by a generic determination on those
2 effects without the needless repetition of the litigation in individual proceedings."
3 So going back quite some time, the Supreme Court has already ruled on the
4 question about whether a generic approach to this is acceptable.

5 I'm going to move quickly through the next set of slides. But to give
6 you a sense of what else is going on, there are two other cases that are
7 important with respect to used fuel management. The first relates to NEI and
8 NARUC's challenge to the continued collection of the \$1 million per kilowatt hour
9 fee. The Court has ruled essentially in favor of NEI and NARUC, saying that in
10 fact the Agency -- the Department's approach to this is unacceptable, even if the
11 Agency -- even if the Department were to be offered deference.

12 Unfortunately, while we asked the Court to go ahead and direct
13 DOE to suspend the fee, to go to Congress and to suspend the fee, the Court
14 has not agreed to do that. In more recent activity, the Agency, the Department,
15 has issued a new fee assessment. And as you can see at the bottom of the
16 slide, the fee assessment doesn't have a lot of certainty because it analyzes 42
17 economic scenarios and comes up with somewhere between \$4.9 trillion in over-
18 collection or \$2 trillion in under-collection. A little hard to say there's any
19 specificity there.

20 So after the submission of that Secretarial Determination, the
21 renewed Secretarial Determination, we went back to the Court and asked the
22 Court to reopen the case. The Court has now agreed. And oral -- sorry -- briefs
23 will be due beginning in the end of April, and briefing will go through July.
24 Following that, we hope to have a decision before the end of the year. Another
25 case is Aiken v. NRC. This is a challenge to the NRC's failure to continue to

1 prosecute the -- or review the license application and reach a decision within
2 three years.

3 This was brought by the State of Washington, the State of South
4 Carolina, and several other litigants. The -- in this case, I would note that, I think
5 charitably, one could say that there was a scathing decision of the Agency's
6 actions. I'll just give you a brief sort of sense of that because I know my time is
7 growing short. And the answer is at least with respect to the concurrence there
8 were three scenarios set out, the last scenario being if Congress didn't -- either
9 appropriated funds or did nothing, the mandamus would likely have to issue.

10 Well, here we are and Congress has basically done nothing. There
11 are carryover funds and so, under that scenario, one would think that the
12 mandamus would issue. In addition, Judge Kavanaugh also said that as long as
13 there are some appropriate funds available, "the mandates of the Nuclear Waste
14 Policy Act should hold. In these circumstances, an Agency appears to have no
15 legal right to defy the law in the manner suggested by the NRC in this case."

16 That was the positive side. The dissent said, "Our duty is to
17 enforce these statutes, plain and simple. . . . Holding the case in abeyance
18 indefinitely, based on the mere *possibility* of future legislative action, shirks this
19 basic obligation and perpetuates the Commission's unlawful delay." Doesn't
20 leave much to the imagination.

21 In post-decision developments, there have been status updates
22 that have talked about what the state of play is with respect to the funding. I'm
23 somewhat entertained -- I don't know if Chuck Mullins is here, but Chuck used a
24 football analogy, talking about moving the ball down the field but not reaching the
25 goal line. Anyone who is interested, it's on pages 53 through -- 51 through 53 of

1 their filing.

2 So where are we? I mentioned that we would also talk a little bit
3 about the cost of inaction. The cost of inaction is literally right here. Look at the
4 bottom. There have been 84 complaints filed. And if you look at the next slide,
5 you'll see that the government, your tax dollars, is going to pay \$1.6 billion in
6 damages, reaching \$19 billion through 2020, and potentially up to \$32 billion if a
7 repository is built in 2042. I'm going to leave -- because time is short, I'm going
8 to leave to DOE a discussion of the proposal on used nuclear fuel management
9 going forward.

10 I will, however, leave you with a few thoughts about what the
11 industry's views are with respect to near-term activity. It appears that there may
12 be legislation proposed in both houses of Congress in the near-term. However,
13 from our perspective, the Senate's perspective is that no deal will go forward if it
14 includes Yucca Mountain. And the House's perspective may well be that no deal
15 will go forward if it doesn't include Yucca Mountain. Creates a bit of a problem.

16 The industry's top four used fuel priorities, however, are: completion
17 of the Yucca Mountain license review, and we think this is important because it's
18 a first-of-a-kind licensing process; the development of a consolidated storage
19 program; new management, a new management structure outside of DOE; and
20 access to the Nuclear Waste Fund fees and the Nuclear Waste Fund as it
21 currently stands. This is a slide that will take way longer to describe than the
22 time I have left.

23 But nonetheless, it is the industry's perspective -- it reflects the
24 industry's perspective about why we believe consolidated storage is necessary.
25 And as you can see, consolidated storage is still necessary because a repository

1 will not be available likely until the earliest of about 2042. And with that, I thank
2 you for your time and attention.

3 [applause]

4 KEITH MCCONNELL: Okay. Thank you, Ellen. Now to share his
5 perspective is Michael Callahan, who is president of CCMSC Corporation, a
6 public affairs consulting business. He is participating today on behalf of
7 Governmental Strategies Incorporated, and the Decommissioning Plant
8 Coalition. Mr. Callahan brings his experience to intergovernmental relations,
9 appropriations, infrastructures, security issues, trade, and nuclear safety for a
10 wide variety of clients and issues. Prior to initiating his business, he led the
11 Congressional liaison efforts of the Nuclear Regulatory Commission and served
12 in direct support of two NRC chairmen. For the past 14 years Mr. Callahan has
13 worked on new reactor licensing issues; radiation detection authorization and
14 appropriate issues; nuclear security and nuclear waste issues, especially on
15 behalf of the Decommissioning Plant Coalition; license renewal; and the matters
16 requiring attention in support of new builds or new nuclear construction. So join
17 me in welcoming Michael Callahan.

18 [applause]

19 MICHAEL CALLAHAN: I'm here today simply because Susan and
20 Keith called, and I can't say no to them.

21 [laughter]

22 Keith is one of the many people that I -- is one of the many people
23 who, while I was here at the Commission, did outstanding work with each
24 successive job they held and were rewarded with, in the end, with the toughest of
25 tasks ahead of them, laying before the Agency. And I for one am glad you're

1 doing this.

2 KEITH MCCONNELL: Thank you.

3 MICHAEL CALLAHAN: If I can go to the pointer here. I'll deal
4 briefly with Waste Confidence. As Ellen noted, it arises from a series of court
5 decisions. The Decommissioning Plant Coalition believes that it -- as such, it --
6 the NRC's efforts should be confined to the deficiencies identified in the court
7 decision. The DPC hasn't had any comments with respect to the two findings --
8 the two remand points with respect to spent fuel pool matters, because we -- our
9 sites either do not have spent fuel pools or they're in the process of dismantling,
10 and decommissioning, and restoring the site, except for the standalone ISFSI.

11 If you've never been to a permanently decommissioned facility, it's
12 rather stark. A number of our members have just the ISFSI with a very limited
13 number of casks on site; completely different operation from an ISFSI where you
14 have an operating reactor. We also think it's important to address the "No
15 Repository" in proper perspective. We think that at its base the Federal
16 Government has acted and will act to preserve the health and safety and the
17 security of its citizens. The fact that we're fixated right now on this delay in a
18 repository program in Yucca Mountain doesn't indicate that there's any less of an
19 assumption or a reliance on the basic responsibility of the Federal Government.
20 And we hope that's kept in perspective as we move forward with this Waste
21 Confidence activity.

22 I want to go forward and talk about some other high level waste
23 management, spent fuel management, issues from the Decommission Plant
24 perspective. First of all, starting out, we all recognize that there are limitations on
25 the NRC into setting broad policy that -- we often hear, "We don't set national

1 policy," and that's correct. And we also recognize, as all of us in this room do,
2 that it's very difficult to make progress. Right now, we have current conditions
3 where we have an Administration statement and an Administration position
4 pursuant to the Blue Ribbon Commission findings.

5 There's a lot of interesting material in that position. For example,
6 one of the lesser ones is the admission by the -- this position had to go through
7 OMB. And OMB actively contemplates discussion -- discussing putting the
8 Judgment Fund on budget. Now, that's a remarkable position for any
9 administration to take. So that's just one example of the remarkable things that
10 have occurred currently in -- with respect to the Administration position.

11 There's a stalemate in the House and Senate. Yes, it's there. But
12 God bless Mr. Shimkus and Mr. Upton if you're a supporter of Yucca Mountain.
13 And God bless Senator Feinstein and Senator Alexander for being indefatigable
14 with respect to consolidated interim storage. It's a stalemate. They carry on
15 dialogue. That's better than simply ignoring the fact that there's a problem. It's at
16 least where we are.

17 Want to make sure everyone knows the U.S. taxpayer is now
18 officially paying for the failures put before them. You saw the litigation lineup
19 here a little while ago. The first payments have been made to the litigants. So
20 the -- we now have interim storage. The U.S. government is paying for it. It's
21 involuntary. It's all the things that we say that, all the responsible groups that
22 review this say, we should be not -- we shouldn't be doing: involuntary, paying for
23 it out of the Judgment Fund, et cetera.

24 We've been engaged a lot with the NRC on -- with activities
25 regarding standalone ISFSIs. The best development we've had recently is we

1 really see a change in the staff of reaching out to us when they issue some of the
2 new regulatory initiatives, new research initiatives. We've also had executive
3 visits to our sites for the first time in many, many years. And we hope that those
4 will continue and -- because you really need to get to our sites to appreciate what
5 the difference is between an operating site and a permanently shut down site.

6 And one of the most refreshing things of the current conditions is
7 our reengagement with DOE. Jeff Williams, Pete Lyons, pursuant to the BRC,
8 have now reached out to us. It's the first time in years we've had any sort of
9 dialogue with the Department about what the onsite conditions are, what would
10 need to be done to get any movement away from our sites. What can we do?
11 Everybody in this room -- well, let me back up.

12 Two, three years ago, I think there was a pervasive thought that,
13 "Gosh, this stuff might be there for 100 to 300 years." Well, we're now in a
14 situation where we believe that consolidated storage is equally likely, if not more
15 likely, than extended onsite storage. We need to engage with and participate in
16 those discussions between House and Senate stakeholders. Those discussions
17 -- that contention or those discussions will continue, and we need to be part of it.
18 We need to be engaged with the DOE and we need to continue our engagement
19 with the NRC.

20 There are some things we shouldn't do. There's a number of
21 initiatives underway in the NRC that go out and look to the 60-, 100-, 300-year
22 timeframe. And every once in a while we begin to hear conversation, we begin to
23 see documents that bring those future concerns back to present-day licensing
24 discussions, present-day regulatory discussions. And we can't be doing that.
25 And when we make changes at the standalone ISFSIs, there has to be significant

1 safety benefit. And that's going to have to be an inherent part of our discussions
2 about licensing reform for the standalone ISFSIs when we get to that part of
3 regulatory reform, licensing reform.

4 And we can't be slow to act on any of the things that we're outlining
5 here. I'm going to give you just a moment to read this. It's one of my -- one of
6 the things I remembered, and went back and actually captured through a visit to
7 the Library of Congress. But pay particular attention -- [more] - "I do wish that I
8 had been more active in saying that steps have to be taken in order to break the
9 logjam in the high-level waste management program. We took a perfectly
10 defensible but ultimately ineffective position" . . . Now, Chairman Selin said this
11 before the House Committee on Energy and Commerce in 1995.

12 I don't think he was alone at the end of his term among chairmen or
13 Commissions in perhaps thinking this. But here we are, still in the same
14 situation. And the point in bringing that up is that there is a safety and security
15 management and policy role for the NRC. And if you can -- if you're not willing to
16 say that steps need to be taken and begin to articulate what they are, we're going
17 to continue to be in the perfectly defensible and ineffective position. The NRC
18 has a pulpit, has a platform. It needs to be used. And we need to move forward
19 on consolidated storage.

20 I'll leave the summary up. I'm out of time. I like to stick to time. I'd
21 be glad to answer any questions. I appreciate being here. Thank you.

22 [applause]

23 KEITH MCCONNELL: Okay. Thank you, Mike. And what we'd like
24 to do now is to shift gears just a little bit and turn it over to Christopher Hanson,
25 who's a Senior Policy Advisor to the Assistant Secretary for Nuclear Energy at

1 the Department of Energy. Mr. Hanson was the lead staff person for the
2 Department in developing the Administration's recently released -- in January, I
3 believe -- *Strategy for the Management and Disposal of Used Nuclear Fuel and*
4 *High Level Radioactive Waste*. He previously managed the Department's
5 interaction with Congressional Appropriations Committee from the Office of the
6 Chief Financial Officer. Prior to that, he was a consultant at Booz Allen Hamilton,
7 where he conducted numerous financial and management analyses for the Office
8 of Nuclear Energy, the Civilian Radioactive Waste Management Office, and the
9 Environmental Management Program, the Government of the United Kingdom,
10 and private sector clients. I would note that the other panelists have kind of laid
11 the groundwork for you, Chris --

12 [laughter]

13 -- because there is a direct tie between Waste Confidence and the
14 Department of Energy's strategy. So please join me in welcoming Christopher
15 Hanson.

16 [applause]

17 CHRISTOPHER HANSON: Thank you, Keith. And thank you to
18 my fellow panelists. And thank you for all being here this morning. I think by the
19 clock I have about 30 seconds, so --

20 [laughter]

21 I won't keep it quite that brief, but I also won't linger over a
22 presentation I'm sure many of you have seen before over the last couple of
23 months since the Administration released the strategy. But I do want to review in
24 brief this morning the Administration's *Strategy for the Management and Disposal*
25 *of Used Nuclear Fuel and High Level Radioactive Waste*. As many of you know,

1 the Blue Ribbon Commission on America's Nuclear Future provided the
2 Administration with a series of thoughtful recommendations on a path forward for
3 used fuel and high level waste, including endorsement of interim storage and
4 funding reform as well as the need for a new organization. The Administration
5 very much appreciates their work and they gave us a lot to think about and
6 consider in a policy context moving forward. And I think as you'll see in this
7 presentation, and if you've had the chance to look at the Administration's
8 document, the -- certainly the preponderances that we agree with, not just the
9 principles that -- many of the principles that the BRC laid out, but actually with
10 specific recommendations as well.

11 The Administration's strategy serves three main purposes. The first
12 is a policy statement of the federal commitment to address the problem of used
13 fuel and high level waste. The second is a specific response to the work of the
14 BRC. And finally it's a starting place for discussions with stakeholders such as
15 the folks in this room as well as those in Congress. The documents intended to
16 achieve these purposes by laying out or proposing a 10-year program of work
17 that includes siting, designing, licensing, constructing, and commencing
18 operations of a pilot interim storage facility; advancing toward the siting,
19 licensing, design, construction of a larger interim storage facility; and also making
20 progress, demonstrable progress, on the siting and characterization of a
21 permanent geologic repository. As I'll note here at the beginning as well as at the
22 end, we need Congressional action to accomplish some of these things. And we
23 look forward to working with all of you as well as Congress on specific proposals
24 that arise.

25 The strategy has three main elements, one focused on system

1 design that again includes an interim storage facility, a larger consolidated
2 facility, as well as geological disposal that is intimately linked with a consent-
3 based siting process. As many of you know, this was something that received a
4 lot of attention in the Blue Ribbon Commission Report. The Administration
5 agrees very strongly on the need for a consent-based process that is phased and
6 adaptive. And then finally, I think the third thing that's also related to system
7 design, and we'll ultimately -- probably needs -- the chart needs another arrow --
8 but ultimately also related to consent-based siting is funding reform and a new
9 organization or governance.

10 The pilot interim storage facility is something that, with timely
11 authorization, we think we can accomplish in the next 10 years in the early
12 2020s. The idea here would be that it would focus on retrieving the spent fuel
13 from currently shut down reactors. The larger consolidated interim storage
14 facility would be -- would have, I think the way it's kind of conceived -- and again
15 this is I think at a conceptual relatively high-level policy standpoint -- a larger
16 capacity to provide some flexibility and also ideally the ability to help the
17 Government start to work off some of its liability for the failure to perform against
18 the standard contracts. We can also see one or both of these facilities start to
19 service some defense waste needs as well.

20 The Administration continues to support geologic disposal and has
21 -- and this strategy proposes to undertake a set of activities, again within 10
22 years, that make some progress on that with the idea of the availability of a
23 repository in the 2040s. Transportation: likewise, we agree very strongly with the
24 Blue Ribbon Commission. I think they spoke very favorably of the track record at
25 the Waste Isolation Pilot Plant. And we agree that that's a -- the process,

1 particularly interactions with stakeholders along transportation routes is
2 something that can and should be built upon for a foundation going forward.

3 The strategy right now emphasizes just one of each of these
4 facilities: the two types of storage and a repository. But based on a consent-
5 based process, there may be the case out there in the future -- we're leaving
6 open the possibility of one or more of these, moving forward. Again, consent-
7 based process is something the Administration endorses where, you know, we're
8 talking about, you know, engaging in extended negotiations with host jurisdictions
9 and, you know, ideally achieving consent at multiple levels to rebuild, I think,
10 some of the public trust and confidence necessary for us to succeed.

11 We'd also agree with the BRC that there is a need for a new
12 organization. There are multiple workable models. The Administration doesn't
13 take a position on a specific model at this point but knows that there are a
14 number of them out there. As the RAND Corporation noted in a study that they
15 performed for us and that's available online, it's not as much as the form but
16 actually the authorities and attributes that are ascribed to that entity, rather than
17 actually what you call it.

18 The Administration supports funding reform. In the strategy, we lay
19 out a three-legged proposal for that that includes ongoing discretionary
20 appropriations, reclassification of either receipts or spending so that they no
21 longer compete with other priorities within the budget, and then ultimately access
22 to the balance of the waste fund.

23 I want to just add a couple of short points about -- the Blue Ribbon
24 Commission recommended that we undertake some things along -- in terms of
25 early interactions around transportation planning and engagement of

1 stakeholders there. We're doing those things. We're undertaking some generic
2 research into geologies and, I think, starting to look at deep bore hole disposal.
3 So there are activities that are ongoing that I can speak to in more detail.

4 But in conclusion, I think, again, the preponderance of the
5 Administration's policy is to agree with the Blue Ribbon Commission. And we do
6 think that we will need legislation to move forward on many of these things. And
7 we look forward to continuing the discussion. Thank you.

8 [applause]

9 KEITH MCCONNELL: Okay. Thank you, Chris. This concludes
10 our formal presentation. So I think we have somewhere in the order of 30
11 minutes or so to answer questions from the audience. I do appreciate the
12 presenters' efforts to stay within their timeline. That was, I think, very helpful. So
13 I'll turn the microphone over to Drew and he'll explain the procedures for asking
14 questions.

15 DREW STUYENBERG: Thank you, Keith. I just wanted to remind
16 everybody -- I have a number of cards up here already with questions on them.
17 If you do have additional questions, feel free to fill out a card. Hold it up and one
18 of the volunteers will bring it up to me. I'm going to get through as many as I can
19 today. And another option, too, is if anybody wants to directly ask a question,
20 there's a stand mic located in the center aisle that you can also use. If I see
21 somebody there, just wait for me to acknowledge you and then you'll be able to
22 speak.

23 The first question I have today -- and just so everybody knows,
24 some of these are pointed to specific panelists. If that's the case, then the other
25 panelists may feel free to respond after the initial panelist responds. So the first

1 question is: When will DOE provide its position on consent-based siting, on what
2 "consent-based siting" means? If DOE wants Congress to act, more and more
3 time will be wasted and the can kicked further down the road. And this is
4 specifically for Chris Hanson.

5 [laughter]

6 CHRISTOPHER HANSON: Oh, that is on. Okay. The light wasn't
7 on. Yeah -- [laughs] -- we hope to be able to -- soon to start to engage
8 stakeholders on what the consent-based process means. So for instance, you
9 know, should there be a grant process? Should there be multiple stages to that
10 process, et cetera? We have some ideas about that and a framework that we're
11 putting together. And we're going to be looking for feedback on that moving
12 forward. So I hope to have something very soon to start to share with folks.

13 DREW STUYENBERG: Thank you, Mr. Hanson. Our next
14 question is for the entirety of the panel and whoever wishes to respond. I'll be
15 happy to acknowledge whoever would like to start. If mandamus is issued in
16 Aiken County, what activities should the NRC undertake with the remaining
17 funds? I know this was an issue that came up in Ellen's presentation, so maybe
18 Ellen would wish to start.

19 ELLEN GINSBERG: I can't speak on behalf of the Agency. But I
20 think it would be reasonable for the Agency to take the TERs and take a look at
21 them, and develop the SERs as it was on the precipice of doing before the
22 program was terminated. But I would also say that that's just speculation, and
23 the Agency needs to make that decision. However, the industry is eager to see
24 that the NRC makes progress in this regard. And so if mandamus is issued,
25 obviously we would look to participate in whatever proceeding is available at that

1 point.

2 DREW STUYENBERG: Thank you. Any comments from other
3 panelists on that question? Okay. The next question is directed to Mr. Johnson
4 and Mr. Sipos. What is the ultimate goal in pushing for site-specific analysis in
5 the context of waste disposal? How will these analyses encourage federal
6 agencies and leaders to address or identify long-term storage?

7 JOHN SIPOS: Yes. It's difficult to project exactly what the
8 outcome would be. However, in the license renewal context there is a site-
9 specific analysis of severe accidents that is to be done. And that does produce --
10 it does identify mitigation measures. And the State is suggesting that something
11 similar to that in an open, robust, objective process be done. And I am optimistic
12 that there could be identifications of mitigation measures. And I see there is no
13 reason not to get on with it. There are probably common sense mitigation
14 measures. Let's get that out of the way for Indian Point, the site with the most
15 people around it, and the water resources.

16 RONALD JOHNSON: I'm going to defer to Phil.

17 PHIL MAHOWALD: Sure. Good morning. My name is Phil
18 Mahowald. I'm General Counsel for the Prairie Island Indian Community. I think
19 our concern with respect to a site-specific analysis would just be to echo Mr.
20 Sipos's comments about specific local mitigation measures, and really to truly
21 analyze the environmental impacts. Because from our perspective you end up
22 with a gap in the analysis because, with the artificial compartmentalization of the
23 licensing process, you have a 40-year -- seeking a 40-year license renewal for
24 the ISFSI right now. Well, if you have scoped out of that Waste Confidence
25 issues, you're not really able to talk about that. But I think what we're trying to

1 say is the reality is you have to think about this as a long-term solution, not just a
2 -- or a long-term situation, not just a 40-year license, because once that waste is
3 on that pad it's not going anywhere unless and until there's a permanent
4 repository or a consolidated site. And so we believe that there just needs to be
5 that site-specific analysis, because the duration that that waste is going to be on
6 the pad or in the spent fuel pool is a heck of a lot longer than anybody every
7 anticipated. And the regulations need to be updated to recognize that reality.

8 DREW STUYENBERG: Thank you. I see we have a question here
9 at the microphone. If you could, identify your name and any affiliation before
10 asking your question. Thank you.

11 STEVE NESBIT: Steve Nesbit with Duke Energy Corporation.
12 This question is for Mr. Sipos. I think you might have gotten to this if you'd been
13 able to finish your presentation. But as clarification, what's the position of the
14 State of New York. What's your ultimate goal? Is it the position of the State of
15 New York that you would like to see Indian Point reactors cease operation? And
16 if so, do you have a similar position or not, with respect to the other reactors in
17 your state, Ginna and Nine Mile Point?

18 JOHN SIPOS: And FitzPatrick. There are a number of questions
19 there. Let me see if I can deal with them very quickly. The State of New York in
20 the license renewal proceeding for Indian Point Units 2 and 3 has opposed the
21 license renewal for those two facilities. But I think your question also goes to the
22 spent fuel pool or the management of spent nuclear fuel. And I would almost put
23 what -- the first response aside for a moment. There are -- I believe there are
24 common sense mitigation, site-specific mitigation measures that would be
25 beneficial at the Indian Point site, whether or not it receives two operating

1 licenses to go forward, to reduce the site-specific risk at that facility. And there's
2 been a lot of discussion during this RIC about spent fuel pools at other technical
3 presentations. One potential option would be to remove fuel that is in the Unit 2
4 and Unit 3 spent fuel pools and to transfer that to cask, thereby drawing down the
5 inventory of the fuel that's in the pool. For Unit 3, for example, up until last fall
6 there was I think 36-and-a-half years' worth of spent fuel pool -- spent fuel in that
7 pool. Reducing the density would be an option that should be looked at. And as
8 to the third part of your question, there are four other operating reactors in the
9 State of New York along Lake Ontario. Those facilities have received 20-year --
10 each of those facilities has received a 20-year license operation -- operating
11 extension.

12 STEVE NESBIT: Right. I wasn't asking about the status of the
13 license renewal. I just wanted to know what the position of the State of New York
14 was. Does the State desire for those reactors to continue operation or to shut
15 down?

16 JOHN SIPOS: And the State did not intervene in those license
17 renewal application proceedings. So you can, I believe, draw the conclusion
18 from that. [laughs]

19 STEVE NESBIT: So which one is it?

20 DREW STUYENBERG: Sir, I'm going to --

21 STEVE NESBIT: Okay.

22 DREW STUYENBERG: I think Mr. Sipos has answered the
23 question. I'm going to ask that we move along because time is short. Thank you
24 very much. This next question is for Michael Callahan. This question is: Are you
25 suggesting that the NRC should use the Waste Confidence Rule to push used

1 nuclear fuel to consolidated sites? If so, what safety issues are you suggesting
2 as a driving factor?

3 MICHAEL CALLAHAN: No. And it's why I separated those
4 remarks from our brief remarks on Waste Confidence. Waste Confidence effort
5 underway should confine itself to the deficiencies that were in remand.

6 DREW STUYENBERG: Thank you. Do any other panelists have a
7 response to that? Okay. Thank you. This next question is for Chris Hanson,
8 and that's: Does the DOE have any disagreements with the conclusions of the
9 Blue Ribbon Commission? And if not, why has it taken so long to respond to
10 their report issued a year ago? [laughs] Easy question, right?

11 CHRISTOPHER HANSON: Oh, yeah. Absolutely. Well, there are
12 -- I think there are a couple areas of disagreement, and one is certainly around
13 funding. The Blue Ribbon Commission proposed that the standard contracts be
14 renegotiated so that contract holders could keep in escrow the fees and then pay
15 only what the Government needed at any one time. I think the Administration
16 disagrees with that. The BRC also said that they thought the Administration
17 could take unilateral action on reclassification of the fees, I think going so far as
18 to -- I think questioning whether or not we needed the consent or authorization of
19 Congress to do that. And the Administration agrees -- disagrees with that as
20 well. So I think those are probably some of the two highest profile things. We
21 understand where the BRC was coming from. But, you know, ultimately what the
22 BRC did say around funding was that -- that they wanted, you know, access to
23 the fees as they came in. And they wanted -- they thought that access to the
24 body or the current balance of the waste fund was necessary. And we do agree
25 with those points. And the strategy lays out a different path for getting there. So,

1 in terms of the reason it took so long, I think the BRC gave us a lot of information
2 and a lot of substantive recommendations to work with. And we gave that a lot of
3 thought and consideration.

4 DREW STUYENBERG: Thank you. I see we have another person
5 at the podium or at the stand mic. If you'd like to go ahead, sir --

6 STEVEN KRAFT: Thank you. I'm not as tall as Dr. Nesbit, here.
7 Steven Kraft, Nuclear Energy Institute. After 35 years of working on this
8 problem, being involved in the Waste Confidence re-looks [spelled phonetically]
9 as long ago as 1984. I now work exclusively on Fukushima-related activities.
10 Mr. Sipos posted a chart that -- my apologies, sir, it was unreadable from where I
11 was sitting, but thank you for sending it in advance to the NRC, because it is on
12 their website. So through the magic of personal electronics, I will read the
13 highlighted line from that report. That -- the Commission was getting hourly
14 reports as to what was going on at Fukushima in those days. And this is about
15 Unit 4, as you pointed out.

16 And it reads, "Core offloaded to spent fuel pool. Secondary
17 containment destroyed," which it certainly was. "Walls of spent fuel pool have
18 collapsed." Well, one part of one wall did, as we now know. "No spent fuel pool
19 pooling possible at this time," certainly true. "TEPCO request
20 recommendations," which they did. They did to us at NEI, they did to INPO.
21 Everyone remembers the photographs, the pictures of the helicopter water drop
22 and the attempts with the fire trucks.

23 And ultimately this country, through DOE, dispatched that very
24 large concrete pumper that was ultimately used to put water in the pool. And
25 there were great concerns. Rodney McCullum and I were in our emergency

1 response center at the time at NEI. We well remember the, what turned out to
2 be, extremely erroneous and damaging reports that that spent fuel pool had
3 collapsed. Water was gone, it was drained down. We didn't know where that
4 information was coming from. But that raised a great deal of concern.

5 But we do learn. And while that information was certainly current
6 and it was true at the time, two years later in yesterday's session, as you pointed
7 out, NRC staff said -- technical staff said that what -- the Fukushima accident, as
8 awful and as devastating as it was, demonstrated just how robust spent fuel
9 pools are. In fact, BWR Mark I's, which is what Fukushima Unit 4 was, which has
10 got the spent fuel pool like Indian Point in probably, you know, the one place
11 where everyone talks about.

12 So the question is, in New York's analysis of the situation going
13 forward, are you in fact taking advantages of lessons learned from Fukushima,
14 the way the industry is in terms of provisions for water being introduced from
15 outside the plant, et cetera? Thank you.

16 JOHN SIPOS: Thank you. There are lessons from Fukushima.
17 And we hope that all interested parties take those to heart. And I had that exhibit
18 or that excerpt up to show that whether or not -- to show that actually it was a
19 concern and that it is a site -- it could be a site-specific concern. There was a
20 report last week, I think in Reuters, that examined the inventory of each of the
21 four pools and the common pool at Fukushima. And those profiles may be
22 different, what was being faced that day, than the dense storage that we have at
23 Indian Point. So I think your point is -- part of your point is well taken. But there
24 are different profiles for each pool. And the State submits that that should be
25 analyzed, that site-specific risk at that site, given its unique location.

1 And we would hope that we would be able to do so in an objective,
2 transparent, robust manner that is respectful of the State's interests in the federal
3 system, and that the State receive access to reports, and studies, and analyses
4 that have been prepared over the last two years and over the last decade. And
5 I'm not referring to an Environmental Impact Statement here or an Environmental
6 Impact Statement there, but I'm referring to reports prepared by federal national
7 laboratories and contractors to the federal government.

8 DREW STUYENBERG: Thank you, Mr. Sipos. You looked like
9 you had wanted to follow up, Ms. Ginsberg. Is that correct?

10 ELLEN GINSBERG: Yeah. I just also want to add that we often
11 get hung up on this notion of what the process is by which we get -- by which the
12 public has opportunity to provide its views. There are multiple opportunities for
13 the State to participate in ongoing activities. With respect to Fukushima, there
14 are 2.206 petitions. There are petitions for rulemaking and there are
15 adjudications, among many others. And I just want to make sure that we're not
16 confining ourselves to any one process, because many of the issues that John,
17 and Steve, and others have talked about this morning can be well addressed in
18 the regulatory context, the general regulatory context; not just the context of
19 either license renewal or some other adjudicatory process.

20 JOHN SIPOS: And if I could just briefly respond, the State has
21 experience with 2.206 and does not believe that that would provide a specific or
22 sufficient avenue, nor does the suggestion that a waiver petitioned through 2.335
23 satisfies State's concerns. And we need to look only to what is going on in the
24 Limerick proceeding for that. We would like a forum where the analysis is
25 examined in a fair, open, objective, robust way, not unlike a proceeding under

1 Section 189 of the Atomic Energy Act.

2 DREW STUYENBERG: Thank you both. With that, I think that
3 exhausts our time for the question-and-answer period. And I'm going to turn this
4 back over to Keith McConnell to close out. I'm sorry, ma'am, we'll try to get your
5 question on a note card if we can for a possible follow up. But thank you very
6 much. Keith?

7 KEITH MCCONNELL: Okay. Thank you, Drew. With that, I would
8 like to conclude today's session by thanking all of our panelists for giving us their
9 time, their expertise, and their insights. I'd also like to thank you, the session
10 attendees, for your time and attendance this morning. I would like to remind you
11 that if you would like a copy of the Waste Confidence Scoping Summary Report it
12 is available on the table in the back of the room. And we also have information
13 there regarding next week's weekly status -- or monthly status teleconference.
14 Again, thanks to everyone, and enjoy the remainder of the conference.

15 [applause]

16 [Whereupon, the proceedings were concluded]