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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ALL EMPLOYEES MEETING ON "THE GREEN" PLAZA
AREA BETWEEN BUILDINGS AT WHITE FLINT

PUBLIC MEETING

Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, Maryland

Thursday, October 17, 1996

The Commission met in open session, pursuant to notice, at 1:35 p.m., the Honorable SHIRLEY A. JACKSON, Chairman of the Commission, presiding.

COMMISSIONERS PRESENT:

SHIRLEY A. JACKSON, Chairman of the Commission
KENNETH C. ROGERS, Member of the Commission
GRETA J. DICUS, Member of the Commission
NILS J. DIAZ, Member of the Commission
EDWARD McGAFFIGAN, JR., Member of the Commission

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P R O C E E D I N G S
[1:35 p.m.]

MRS. NORRY: Good afternoon, everyone.

Welcome to the second session of the sixth annual meeting between the NRC commissioners and the NRC staff. We have an opportunity, after the Chairman has finished her remarks, for all of the people in this tent to ask questions. There are microphones for that.

The regions will be asking questions from the communications equipment back there and then we will be relaying them to Sue Smith and James Heck who will state their questions.

What?

VOICE: Take a step backwards.

MRS. NORRY: A step backwards? Okay, is this much better?

VOICE: Take two more steps back.

[Laughter.]

MRS. NORRY: After we hear from the comedian up front, we will be ready to go ahead.

I think I will just make one more remark and that is that this meeting is open to the public but it is for the NRC staff so if there are questions from the NRC staff, those are the questions that would be appropriate.

Now, I would like to introduce Chairman Jackson.

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CHAIRMAN JACKSON: Thank you very much, Mrs. Norry. I would like to express my special thank you for all of the hard efforts of you and your colleagues in putting this together, especially in arranging the weather which, I will point out, I note, is a little warmer now than this morning.

And, as far as our comedian on the front row, he is going to be given a little bit of dispensation since he is sitting through this for the second time.

[Laughter.]

CHAIRMAN JACKSON: Let me begin by saying that, on behalf of my Commission colleagues, I want to welcome you to this special meeting of the Commission with the NRC staff. These All Employee Meetings have been held annually since 1991 to facilitate communication between the Commission and individual members of the staff and to enable employees to become better acquainted with newly appointed commissioners. Today's meeting serves both of these purposes.

Because this is the first All Employees Meeting in some time where we have had a full five-member Commission and since many of you may not have had the opportunity to meet all the current commissioners, I would like to introduce my colleagues to you.

On my immediate right is the dean of the commissioners, Commissioner Kenneth C. Rogers, who is

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serving his second five-year term as a commissioner. He previously served as president of the Stevens Institute of Technology in New Jersey.

On my immediate left is Commissioner Greta Joy

Dicus, who previously was with the Department of Health in the state of Arkansas and served that state as a commissioner and as Chairman of the Central Interstate Low-level Radioactive Waste Commission and was a member of the board of directors of the U.S. Enrichment Corporation.

On my far right is Commissioner Nils J. Diaz. Dr. Diaz came to the NRC from the University of Florida, where he was a professor of nuclear engineering sciences and director of the innovative Nuclear Space Power and Propulsion Institute.

And, on my far left, is Commissioner Edward McGaffigan, Jr., formally a senior advisor to U.S. Senator Jeff Bingaman of New Mexico and Commissioner McGaffigan was a member of the U.S. Foreign Service for seven years.

All of us have been looking forward to having this meeting with you.

Our format today will be the same as that used for our session last year. That is, following my opening remarks -- it says here "brief" but some told me they weren't so brief -- the Commission will entertain questions from NRC employees here as well as from our regional and

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field offices, which are connected to us by open telephone lines. This is your meeting and the agenda will be determined by your questions. This is your opportunity to ask us the questions that you would like to have answered.

I encourage each of you to participate actively and to be candid in expressing your concerns. The Commission needs to know what your concerns are if we are to be effective in setting Agency policy and you need to hear our responses so that you can be effective in carrying out your responsibilities.

My Commission colleagues and I will respond to your questions to the best of our abilities based on our understanding of your concerns as well as our individual perspectives. This informal exchange of views is the only reason we are here.

Before I turn the microphones over to questions, I would like to outline my assessment of what we have accomplished this year since our last All Employees Meeting and where I think we, as an agency, need to move in the future.

As you will recall, shortly after becoming Chairman, I described my early impression of the NRC as an excellent technical organization that was finding itself subject to an internal and external changes. In light of the strong impact of this changing environment, I suggested

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that it seemed inevitable that the NRC would have to change as well if we were to carry out our regulatory responsibilities successfully.

In retrospect, I think the picture I drew last year was reasonably accurate. The agents of change were very busy. Competitive pressures and economic deregulation did have a strong impact on the nuclear power industry and that industry has begun to react, somewhat tentatively initially, by consolidating its activities and merging to form new, larger operating units.

One of the first such mergers took place right here in our own backyard, so to speak, with the merger or the announced merger of Baltimore Gas and Electric and PEPSCO. In the meantime, state public utility commissions have begun to define rather precisely the responsibilities that existing utilities and new entities in the business of producing and distributing electric power will have in a new competitive marketplace.

The U.S. Congress has had a fairly broad agenda of energy-related legislative proposals to consider this year and can be expected to maintain its strong interests in such matters next year, no matter what the outcome of the November elections.

At the NRC, we have been busy reacting to change and to challenge over the past year and I think we can be

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proud of what we have accomplished. We have continued to carry out our regulatory mission of protecting public health and safety and to maintain our fundamental regulatory activities despite continuing budget restrictions and the national effort to reduce the size of government.

Sometimes, when we look at ourselves and our budget, we think of ourselves as a small, not-so-important agency. But if we look at the importance of our mandate, namely adequate protection of public health and safety and

the environment and the common defense and security in the use of nuclear materials in the United States, and if we look at the scope of that responsibility, combined with the net capital investment in the range of activities that we regulate, we are not small at all; our importance is very great.

Potential new activities will give even greater weight to what we do at a time when significant changes are occurring for those that we regulate. I believe that we have taken significant steps to position ourselves for future changes that are likely to impact us.

Last month, we issued a draft policy statement on economic deregulation of nuclear power plants outlining our concerns about the adequacy of decommissioning funds as well as the potential of these changes to impact reactor operational safety. Our relationship with the Department of

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Energy is being redefined rapidly. As you know, the Department has requested NRC involvement in its pilot project to develop a high-level radioactive waste solidification system at Hanford, Washington, in order to facilitate possible NRC licensing of a privatized Hanford facility soon after the year 2000.

During fiscal year 1997, NRC will begin the development of an overall review strategy to be made available as guidance for potential DOE contractors at the site. Also in fiscal year 1997, the NRC will begin assisting the Department of Energy through a memorandum of understanding in evaluating alternative approaches to tritium production. One alternative under consideration by DOE for evaluation is the production of tritium in commercial light water reactors. The NRC will be evaluating potential policy issues and licensing requirements to implement such an approach.

Possibly even more farreaching, we are being considered for a broader role in the oversight of DOE's nuclear activities. Such an increase in our regulatory responsibilities, if adopted by the Congress, would require adequate resources and sufficient time to develop a sound regulatory program but one that would not conflict with our current program.

Finally, we intend to assume regulatory oversight

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of the operations of the U.S. Enrichment Corporation by March 3 of next year.

On the international scene, the Convention on Nuclear Safety negotiated over a three-year period by representatives from over 65 nations will enter into force on October 24, thereby helping to ensure a safer global environment. In the United States, ratification of the treaty which the U.S. and particularly the NRC had major roles in developing, is currently before the Senate and we hope to obtain early Senate approval in the next Congress.

We also are finding international support for my proposal to establish an international nuclear regulators' forum in which nuclear regulatory officials from all over the world can exchange views, coordinate approaches and harmonize arrangements for the safe and secure use of nuclear energy for peaceful purposes.

Within the Agency, we have made significant progress in our strategic assessment and rebaselining initiative. I want to note here that the issue papers are out for public and NRC staff comments and we intend to be in a position to reach final decisions on them in the December to January time frame.

While we have been busy preparing ourselves for future change, we have also continued to improve our existing major safety programs. In the reactor area, we are

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expanding our use of PRA, probabilistic risk assessment, to ensure that the Agency's resources and activities are focused on the issues that are most important to safety. We have modified our processes for evaluating nuclear plant performance and we are taking steps to improve our program for protecting allegers against retaliation.

In the nuclear materials and waste area, we have improved our cooperation with the states on regulation of radioactive material. We have streamlined our materials licensing and inspection processes. We have adopted a new, performance-based licensing approach with respect to uranium recovery facilities and we have started a process, initially with respect to our medical program, to evaluate more broadly whether our materials program standards and

regulations are appropriately focused on the health and safety issues of significance for their licensees.

In research, we are focusing our efforts on PRA, on reactor component aging and on consolidating our efforts on thermal hydraulics into a comprehensive long-range plan.

Taken together, then, all of these efforts represent a significant attempt to improve our performance and to adjust to changing circumstances and we, as an agency, then, have much to be proud of in our record over the past year. I certainly am proud of all of our accomplishments and our efforts to be ready to address the

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new responsibilities we may take on during the next twelve months and beyond. And I think each of you should take pride in the individual roles that you have played in this overall effort.

Unfortunately, much of what we have accomplished has been seriously overshadowed by events primarily in New England. The Millstone, Connecticut Yankee and Maine Yankee plants are likely to leave in many people's minds a more permanent stamp on the record of the last twelve months and to characterize the performance of the NRC more than any of the accomplishments that I have described that have occurred over the same period.

In part, this result is only to be expected. A regulator lives a difficult life. Those of you who are sports fans or have participated in a formal debate know how much more difficult it is to maintain a defensive posture than it is to mount an offense. An offense requires a focus, a clear goal and some ability to move forward to actually carry it out. A defensive posture requires effective plans against all contingencies.

Regrettable as it may seem, it only takes one event to call into question the ability or the willingness of a regulator or, in the sports genre, an umpire or a referee to accomplish his mission.

Having said that, it would be a serious mistake,

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however, on our part to dismiss the events at Millstone in particular as presenting merely an interesting set of technical problems that will ultimately be addressed and resolved with time and increased attention by the NRC. As I noted last March when I addressed all of you on the Time Magazine article about Millstone, if we honestly assess the performance of the utilities in question and our own performance, we would agree that not all aspects of nuclear operations and nuclear regulation are as they should be, despite all of our efforts to the contrary. And although we have much yet to learn about the situation at Millstone and it would be premature to state final conclusions, we do know enough about the conditions at those plants to begin to ask ourselves some thought-provoking, probing questions about whether we have succeeded in establishing the safety culture we have been trying to establish throughout the nuclear power industry, whether we are succeeding as well as we should in anticipating problems in advance, and whether we are asking ourselves the right questions about the way we have done things in the past or are doing them now and whether NRC personnel both in headquarters and on site, in evaluating licensee activities are sufficiently familiar with regulations and requirements that apply to the specific activity being focused on.

When I look at the recent events at Millstone, I

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see two broad decisions that, if we could go back and change, we would. We should have put more NRC resources on discovering the problems at Millstone at an earlier stage and possibly turned the facility around prior to its reaching its current status. The other is that we stopped doing design-basis inspections too early and relied on industry to address the problem without maintaining an appropriate regulatory focus to assess whether, in fact, they were dealing with the issues in a timely manner.

Now, this is not to say that we cannot rely on the industry because we have to rely on the industry and they are the ones responsible for the safe operation of their facilities. Our responsibility to regulate, to set appropriate safety requirements and to insist upon compliance with existing requirements. We cannot delegate our regulatory responsibility to the industry.

Now, I want to address a few more remarks toward our expectations of licensee performance and the emphasis of our own regulatory oversight. I see a real danger in being

ensnared by false distinctions that I hear between safety and compliance in our regulatory program. In fact, the concepts are inextricably bound.

A licensee's compliance with our regulations and safety conditions is, in fact, fundamental to our confidence in the safety of licensed activities. As I have said any

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number of times, if there are requirements on our books that have nothing to do with safety, we should remove them through the well-established processes that we have to make such changes. That is untenable, as a regulatory agency, to imply that regulatory requirements can be ignored.

I recognize that, as an agency with limited resources and staff, we must make informed choices in applying our resources to the most safety-significant activities or challenges requiring our oversight. This drives the importance of risk-informed regulation. By focusing our resources on those most significant issues and maintaining high expectations for licensees' adherence to existing requirements until and unless they change, we will strengthen the quality of our oversight and public confidence in it and we will enhance consistency and objectivity in our evaluation and enforcement and thereby help to ensure fairness for everybody.

Of course, an event like Millstone quite obviously suggests a need for change, change in the industry as well as change at the NRC, and we should welcome the opportunity that Millstone affords to correct and to improve our performance as a regulatory body responsible for protecting public health and safety. I do have concern, however, that some of you may view any suggestion for change as a criticism of both your personal performance and the Agency's

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overall performance.

I personally believe that such a view is mistaken, for any organization must change over time and in response to the challenges that it faces. We are, in effect, learning as we go and Millstone provides a timely lesson. In fact, change and learning are built on the foundation of the past, of what we have done and how we have built our programs.

So let me say again, the NRC is a highly technical but highly competent agency that employs many extraordinarily gifted and dedicated people. What we need to do is to work together to continue to have a strong, respected organization, and we are strong and respected, and an important part of working together is communicating clearly with others and listening carefully and attentively to what is being communicated to us.

Communication and improvements in how we do business are also the key features of our strategic assessment and rebaselining at this stage of its evolution. As you know, issue papers have been published for comment and we will soon be holding a series of meetings across the country to obtain comments from the general public and other stakeholders. We are also looking forward to hearing from each of you in this process.

I know many of you are concerned about the impact

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of strategic assessment and rebaselining on your own careers, on your own jobs, but I want to assure you that, to date, we have only made preliminary decisions on the issue papers. We are counting, in fact, on your input to help guide us in making final decisions and we want you to identify any and all concerns that you may have. Be candid, be straightforward, be thoughtful but, by all means, please provide us with your comments.

In that regard, I would like to draw your attention not just to those issue papers that may directly impact your individual jobs but to Issue Paper Number 23, which is entitled Enhancing Regulatory Analysis, which is directly applicable to the issues I have discussed today and to the general direction of the Agency. We welcome your comments on what you see as the major problems and issues affecting the agency and any solutions you may care to offer.

Now, let me turn the meeting over to you and I would ask each of you who wishes to ask a question, to use one of the microphones that have been placed around.

Please feel free to direct your question to me or to any one of us and if your question is intended for all of us, I will then refer it to each of my colleagues in turn.

So, may I have the first question, please?

MR. HECK: Good afternoon. This is a question

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from headquarters. It is an anonymous question.

What is the Commission's view on the role of enforcement in the Commission's regulatory process, especially civil penalties? Have we been using civil penalties enough?

CHAIRMAN JACKSON: Well, I think that at any given time one can't answer the question "enough". But let me speak to what I think is the more fundamental issue which is the role of enforcement in a regulatory program.

We are an oversight agency and we are an agency that provides that oversight relative to standards that we lay out that have, at their root, safety and protection of public health. If you have an agency that lays out standards and then oversees licensees' activities relative to those standards then the enforcement function is part of evaluating and assessing and taking appropriate action relative to any difficulties relative to licensees living within our regulatory requirements.

We are looking at -- the enforcement policy has undergone some revision recently and it is continuing to be evaluated both with respect to being sure that the risk and safety significance of whatever occurs is clearly folded into our evaluations as well as looking at the pervasiveness of regulatory noncompliance. So it is very important in sending clear messages about the importance of the licensees

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living within our regulatory regime and their own responsibilities to operate their own facilities safely.

So enforcement and inspection and program evaluation, they are critical elements of our overall regulatory process and of our oversight function.

Yes?

MS. SMITH: This is another anonymous headquarters question and this question is for the Chairman.

The opportunity for clerical and paraprofessional staff within the NRC are limited. There has only been a limited number of upward-mobility positions in the past two years. Several positions were recently filled noncompetitively within the Commission, the EDO and the Office of Personnel.

What can be done to create more opportunities for clerical or paraprofessional staff?

CHAIRMAN JACKSON: Well, I think that what opportunities should exist for all of our people have to be referenced to what the jobs require and the qualifications of people to meet those jobs because of the particular nature of the agency that we are. Having said that, I think that we have to continually evaluate our ability to provide a conducive work environment and opportunities for people to move along in their careers and to improve their relative job status.

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What that then requires is career planning, appropriate appraisal and counseling on the part of the management, clear advertisement of available opportunities. But it also requires a proactiveness on the part of the individuals who are interested in any different positions to make themselves as competitive as they can be.

Each commissioner has the opportunity to build his or her staff the way that commissioner feels will help enhance his ability or her ability to carry out that role and, in the process, interviews any number of people. Commissioner McGaffigan I think went through 40 people I think he said.

So I think all of us who are hiring people in our offices at this level are trying to be as open as we can be and I think -- but I think I will take the question as a suggestion in terms of looking carefully at our personnel policies and seeing what we might do in that regard to see if there is an issue there.

QUESTION FROM AUDIENCE: I would like to direct this question to all the commissioners.

Last year, the Commission described the 17 million high-level waste appropriation as the absolute minimum. This year, Congress is appropriating 11 million for the high-level waste program, making the program subminimal.

How do you see the situation, which I know you

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can't do anything about, affecting the waste confidence rulemaking? The waste confidence rulemaking mentions reasonable assurance of having a geologic repository by

2025.

CHAIRMAN JACKSON: Well, I think there are two issues here and they are related but they are actually distinct issues. One has to do with our ability to maintain our technical competence to undergird any decisions that we would make relative to the licensing of a high-level waste repository. The linkage is if our ability to carry out such a licensing process is compromised and it then redounds back to whether a repository would come into existence, then it affects the waste confidence decision.

But the bigger issue that affects the waste confidence decision is the country reaching clarity on what the overall comprehensive high-level waste management program is tracking, you know, according to Commission perspective to the construction and operation of a high-level waste geologic repository.

But we have also said that an integrated waste management program that has on-site storage, centralized interim offsite storage and a geologic repository are all components of a coherent national radioactive waste management program. We still believe that the repository is the end game and we are looking and monitoring what

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particularly may happen in the next Congress.

We are operating under the existing Nuclear Waste Policy Act and its amendments which are focused and link the nation's high-level waste program to the construction of a high-level waste repository. If that is significantly jeopardized in the large by budget considerations, then we would have to look again at our waste confidence.

So what I am saying to you, the reason I say there are two issues, one relates to our own specific technical confidence, but the other relates to where the nation's high-level waste program is going and, in the end, that is what -- our fate and what happens to our budget, in fact, is linked to what's happening to that. So that is what we are focusing on and need to speak out on and have. I have been and we have made those messages clear to the Congress.

Commissioner McGaffigan was recently on the Hill. I don't know if he has some illuminating comments he wishes to make.

COMMISSIONER McGAFFIGAN: One point I will make to you in addition to what the Chairman said, which I agree with, is we have requested in our FY '98 request \$17 million so we are going to try to get back to that.

I think this year we were a casualty, that the reduction to 11 million which happened -- I was doing defense work at the time --

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CHAIRMAN JACKSON: We can't blame you, then.

COMMISSIONER McGAFFIGAN: But I think it is very regrettable and I can go into some detail, not in an open session, as to what my theory is as to why that happened. Because I think the signal the Chairman got at the time of the House Appropriations Committee was a very positive signal, give her everything she was asking for, but then that got caught up in so much different politics both on budget and Yucca Mountain.

The other point I will make is I hope it doesn't affect our ability to do the rulemaking. I think we are going to do the best we can with the resources we have. We have some carryover funds and we have even some possibility, which we will have to discuss in budgetary terms, to augment that if it is necessary during the current fiscal year. But it is a very important program, it is something we I think uniformly support the \$17 million and we will try to do a better job persuading the entire Congress next year to get us that amount of money.

CHAIRMAN JACKSON: The point I want to make, the real point of my remarks is that, individually, as an Agency, we are going to be doing what we have to do to have the money that we need. But at a certain level it won't matter if we have \$17 million for our high-level waste effort if there is no national program and that is the point

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I really want to make.

Commissioner Dicus, did you have any comments?

COMMISSIONER DICUS: No.

CHAIRMAN JACKSON: Thank you.

QUESTION FROM AUDIENCE: This is a follow-on question to the first question on the enforcement program and it is directed to the entire Commission.

Does the Commission believe that NRC regulatory

enforcement today is sufficiently aggressive?

CHAIRMAN JACKSON: I think that the Commission is examining that. I think we have already become within the current context more aggressive and we have asked for specific changes in the enforcement policy and they are being developed through the Office of Enforcement as we speak.

Commissioner Rogers?

COMMISSIONER ROGERS: Well, I think I totally agree with the Chairman's comments that we are looking at this.

I would say one aspect of enforcement that has troubled me over the years is its timeliness, that sometimes the enforcement action itself may be appropriate but it comes at such a late date in the history of things that it really doesn't produce very much effect at all because some of the perpetrators of a misdeed, if they are misdeeds or

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whatever, have retired, left, died of old age, what have you, and the best that we can accomplish is simply putting the licensee in the newspaper.

I think that that is an issue, I know the Office of Enforcement has always been concerned about trying to act more rapidly. I think that is something that we just have to keep aggressively pursuing because I think the timeliness is related to the effectiveness. They are not totally separable issues so that the size of the penalty, the way it is administered, so on and so forth, are all important but if they come -- if this all comes at a very late date, it doesn't have very much effect.

CHAIRMAN JACKSON: Commissioner Dicus?

COMMISSIONER DICUS: I think you are hearing that we are in pretty much agreement up here at this table on what some of the approaches might be and I certainly underscore the timeliness together with the effectiveness. It is not -- it may not be so much the quantity of aggressiveness that is necessary as much as it is the type and being able to appropriately being able to monitor the effectiveness of what we do.

We must have in place those mechanisms that do that and if we find that, perhaps, we are not being as effective as we should be, then we have to have the flexibility to quickly make a modification in what we do to

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ensure that we can meet our mission.

CHAIRMAN JACKSON: Commissioner Diaz?

COMMISSIONER DIAZ: Yes, I think we are going to see now one of the values of the Commission. First we used the word timeliness, then effectiveness. I am going to add another one, consistency. So you go from one to the other to the other. They are all indispensable and we have discussed the issue and we are very concerned about it.

I believe that you know regulation, regulatory enforcement are just elements of what we tend to call a safety culture and, as far as I am concerned, I have been looking at it from all possible viewpoints and I believe the underlying support structure is a tracking infrastructure and that tracking infrastructure permeates every level at which the Commission works and especially should apply to the enforcement area.

CHAIRMAN JACKSON: Commissioner McGaffigan?

COMMISSIONER McGAFFIGAN: I really don't have anything further to add. We are serious about enforcement. We are certainly looking at it, as Chairman Jackson said, in terms of improving our enforcement policy and all the ways all the other commissioners have already said.

CHAIRMAN JACKSON: You have heard effectiveness, you have heard risk and safety significance, you have heard pervasiveness, you have heard timeliness, you have heard

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consistency and you have heard the ability to be sure that we are properly tracking things. I think that is your message.

QUESTION FROM AUDIENCE: Thank you.

CHAIRMAN JACKSON: Yes.

MR. HECK: Okay, we have another question from headquarters and it is once again anonymous.

In some of our support organizations, there appears to be an increase in the hiring of contractors. It is a two-part question.

Number one, will this lead to NRC staff without assignments or an overage of Agency staff? And, number two, why doesn't the NRC survey Agency staff to identify those

able to perform other duties before hiring more contractors?

CHAIRMAN JACKSON: The EDO's responsibility in overseeing the day-to-day management of the Agency is to ensure that the tasks get done in the most effective way possible. It is also important when that is done that our policies are sensitive to people and what happens to them.

But, in the end, we want to have an agency that operates the way it has to operate, in the most cost-effective way that it has to and we try to be balanced, we try to balance sensitivity with respect to employees with what kinds of jobs really need to be done here.

Next question?

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MS. SMITH: This question came from Region III and it was asked at this morning's session. It is to the new commissioners.

What are your opinions of the National Academy of Sciences' recommendations regarding NRC oversight of medical facilities?

CHAIRMAN JACKSON: I introduced Commissioner Dicus as a new commissioner this morning in that regard. I am not going to put her on the spot. I am going to start in inverse order and ask Commissioner McGaffigan.

COMMISSIONER MCGAFFIGAN: My reactions to the Academy report frankly is that we do have to stay in the medical regulation business. I don't think, as I said this morning, the medical community does a very good job in the areas where it self-regulates. If you watch 60 Minutes or any of the other TV news shows, you can see no end of horror stories where state medical boards don't discipline their fellow physicians very rapidly.

One thing I will tell you, I heard several -- in interviewing people, the 40 people that Chairman Jackson referred to, I heard several horror stories about how some other agencies in government and how some of our agreement states who have a broader view of medical issues than we do because they regulate X-rays, mammograms, other devices, accelerators, some of the horror stories that we have of

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physicians taking off their dosimeters in order to continue to perform surgeries. That's a risk they are taking themselves but it then can sometimes pervade their view of the risks for everyone else around them.

So in answering the question for Region III, my bias as I arrive at the Agency is that there is a role for us to do, we do it responsibly and, because we do it responsibly, we get a lot of grief. There are things we can do to improve if we have overregulated in detail as some of the allegations are. I think the staff has already got ideas as to how to deal with some of that. But to give up our fundamental role in the medical arena is not something I come to this agency prepared to do.

CHAIRMAN JACKSON: Commissioner Diaz?

COMMISSIONER DIAZ: Well, I agree that the NRC has an important role to conduct and maintain regulation over the medical area.

I had made a statement this morning that I would like to have stricken from the record.

[Laughter.]

CHAIRMAN JACKSON: Don't repeat it.

COMMISSIONER DIAZ: Maybe that's a wise thing, but I will go ahead and say it again. I spent six years, about half time, as a nuclear medical physicist in three different facilities and I had decided that I would have a safer job

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by working in nuclear rockets, which I did.

[Laughter.]

COMMISSIONER DIAZ: Besides that point, I think there are some good points in the Academy report but I do believe and I support the Commission on the issue of maintaining NRC activities in that area.

CHAIRMAN JACKSON: Commissioner Dicus?

COMMISSIONER DICUS: I notice we are all giving the same answer this afternoon as we did this morning, so that's good and I will try to remember what I said this morning.

As you know, it is one of the issue papers and I think it is one of the issue papers that we did not give, as a Commission, a preliminary view. We are clearly very interested in hearing the comments we get back from all of the stakeholders to really look at what is the best thing to do with the medical program.

I know from my familiarity with the states, both

the agreement states and the nonagreement states have expressed a great deal of concern the NRC does get out of the medical use program and I would think that is probably unlikely. I think as you have heard we probably do need to make some modifications in that program and what we will look at and the comments we get back from our stakeholders, hopefully in those will be a lot of thoughts on what we can

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do to improve what is basically a good program, make improvements in it.

CHAIRMAN JACKSON: Okay. Any other questions?

QUESTION FROM AUDIENCE: The Commission gets a number of pen pals that write frequently and in some cases have an agenda. My question to you, we are hearing a lot about how to protect allegers from the outside. My question to you is, what is the Commission doing to protect its staff from unwarranted and unjustified allegations?

CHAIRMAN JACKSON: Well, I think that when allegations are made, we have created a new allegations review process with an allegations review coordinator whose job it is to see that allegations are dealt with and allegers appropriately.

As you know, the Commission did issue policy statements having to do with the freedom of employees in the nuclear industry to raise safety concerns without fear of retaliation as well as a policy statement having to do with maintaining confidentiality relative to allegers.

I think we are well aware of the fact that most of the correspondence that comes, comes into my office in that regard, that there are those who are repetitive writers, who have repetitive issues and the statement that I have made, and I think this is what is guiding how we are trying to respond is we try to deal as responsibly and in as timely a

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manner as we can with allegations that we do a fair assessment of whether or not there are any safety issues involved and the issue then becomes how the alleger is dealt with and dealt with professionally and how the issue is dispositioned.

I think if there are allegations made about the performance of any NRC staff that comes from a source in an industry that we regulate, then we have a responsibility to follow up on it, but in a way that is not a witch hunt relative to our own people and that the assessments that are done are fair and fair to our employees and that if an allegation is substantiated, then we will deal with that by our personnel system as appropriate and, if not substantiated, then it is so stated.

I don't believe -- and if we are, then we need to change -- that we should be on any witch hunting mode with respect to our own people. I think, though, we all have to recognize, I mean, it is something I deal with in my position, the commissioners deal with and all of us, that people feel in many ways as strongly about nuclear issues as they feel about social issues and you might say, well, you know, we need to be more protective of ourselves. I think if one steps into these kinds of jobs, you have to kind of accept that that is part of the game.

What I think is important is how, as I say, we

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deal with those who bring concerns to us in a professional way, not that we agree, you see, with everything that is alleged but that we deal with it fairly and that we are fair to our own people at the same time. That is all we can really do and that we are timely in our response and consistent. We are definitely on the consistency streak here.

Yes.

MR. HECK: Question from Region III and this is a subject you touched on earlier.

What functions currently being performed by the regions are being considered for either elimination or transfer to headquarters?

CHAIRMAN JACKSON: There are no specific decisions with respect to the regions and any transfer of functions. We are looking at our overall oversight programs in the reactor area and in other areas as part of the strategic assessment.

That is, in fact, why I invited and asked that our own employees give us their input to the issue papers and the issues contained therein and any options that are positive because that will form an important part of our evaluation process coupled with the studies that are

underway relative to our resident inspection program and other aspects of our oversight program. Until all that

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evidence is in, you know, we are not making any precipitous moves.

At the same time, I think we all recognize the importance of the regional operations to our regulatory program. Inspection and enforcement are key elements of how we carry out our program and that we know, to use Commissioner Diaz's term, that the right safety culture exists and so I don't think you need feel that there is some specific action or some specific activity that is going to disappear tomorrow.

But I think it is fair to say that we are definitely doing an overall assessment of various elements of our oversight program, just as we are looking at the enforcement area and we are looking at them both as part of strategic assessment but also in terms of lessons learned coming out of the various specific problem areas that we have been dealing with over the course of the last year.

MS. SMITH: This is another question from anonymous here at headquarters.

Over \$20,000 from the NRC recycling program was donated to the day care center, which also cares for nongovernment employees' offspring. Shouldn't the money from a program that all employees participate in go to something that benefits all NRC employees instead of a self-regulation few?

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CHAIRMAN JACKSON: I don't think I could really specifically address that one. I will ask Mr. Thompson to look into that.

Yes?

QUESTION FROM AUDIENCE: Coming back, Chairman Jackson, to soliciting staff comments on the issue papers, there were three issue papers that weren't released for stakeholder comment because, you know, they are regarding internal organizational matters. However, they may not be important to outside stakeholders but they are important to staff.

Are there plans to release those at a future point for staff comment?

CHAIRMAN JACKSON: Whatever decisions are made that would end up affecting the NRC organization and people's jobs, you know, are definitely going to be discussed and we will have interactions with NRC staff on those particular issues but we have not yet come to any decisions in those regards at this particular time.

QUESTION FROM AUDIENCE: I have two questions. I would like to start with one, kind of the devil's advocate.

CHAIRMAN JACKSON: Can you speak a little closer to the microphone?

QUESTION FROM AUDIENCE: Is this better?

CHAIRMAN JACKSON: Yes. Thank you.

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QUESTION FROM AUDIENCE: I said I have two questions I would like to ask. The first one is kind of a devil's advocate position in what you said in your opening remarks regarding compliance and safety. Don't you agree that there are some regulations which are safety related but are not as important, perhaps, as some others?

For example, we may have a requirement for some sort of inspection or report to be done on an annual basis. Whether it is done in 12 months or 13 months may not matter that much.

CHAIRMAN JACKSON: Well, I think we do have enforcement discretion properly applied that allows us to have a valve, a gating valve, as appropriate. Having said that, the whole point of having periodicity or having certain time frames is to create regularity or periodicity and if one then starts wandering all over the map, one loses that.

You heard Commissioner Diaz speak about the need and necessity to have appropriate tracking systems and part of periodicity relates to that. And, as I say, we do have valving mechanisms to allow us to make adjustments as appropriate.

But the issue is not if there is a particular test or whatever it is that we deem to be important and have safety significance, then it is not something that we want

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to be arbitrary about how it is done. I think that the mechanisms we have in place allow flexibility but the

flexibility cannot be all over the board because, in the end, then you can end up with a situation like the Millstone situation.

QUESTION FROM AUDIENCE: And my second question is, do you know whether the NRC will be participating in the buyout program?

CHAIRMAN JACKSON: I can't speak to that specific personnel issue.

Yes?

MR. HECK: Another question from Region III.

It was Region IV this morning. What happened? Mr. Callum is not here, that's what happened.

MR. HECK: We and our licensees seem to be getting hauled into court more and more. Is there anything we can or should do differently?

CHAIRMAN JACKSON: Well, one has to be careful about putting things in baskets. If one wants to say we and our licensees get called into court, if you are talking about linked issues that's one thing but if you are talking about the general trend, that is another. What licensees get hauled into court for sometimes relates to us and sometimes it does not relate to us.

I think we are trying in our regulatory program,

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and it is an ever-evolving push to excellence, is to be as clear, as consistent in what our requirements and standards are with respect to our expectations of our licensees, with respect to those standards. That is the kind of situation that keeps us out of trouble. We are also talking about having our licensees live within our requirements until and unless they change.

Having said all of that, we also are moving to having risk and safety significance more involved with how we do things. It is very important in doing that that we have the right kind of infrastructure in place within which we make decisions.

But, having said all of that, you know, and having greater objectivity, consistency, risk-informed, I have said in response in another context to an earlier question that people feel as strongly about nuclear issues as they feel about some social issues and we do live in a litigious society.

MR. CRANE: I am Peter Crane in OGC. I would like to follow up on Dr. Howe's question of a few minutes ago.

I understood you to say that when allegations come in from the outside against an NRC staff member that part of the responsibility of public service is that you have to be willing to have those allegations looked at and I doubt anybody would disagree with that.

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But sometimes what comes in from the licensee crosses the line into abuse and vilification as the folks in the medical section know from hard experience. And letter after letter comes in accusing them of fraud, incompetence, ignorance, mental instability. Letters come in saying people should be sent off for psychiatric care and I think there are people in the staff who would like to know that, apart from the need to look at allegations responsibly, that when staff members are abused by licensees that the Commission will support them against that kind of behavior.

CHAIRMAN JACKSON: I think, you know, that is what we try to do and I think perhaps we need to give more attention to that. I think we, again, have to be sure that we have looked at where the safety issue is or is not in something but I think we are not going to have our people vilified.

But I think we have to -- it is a careful line that one has to draw to be sure that we are appropriately protecting our staff but also to be sure that we understand that whether or not there is an issue that we have to deal with and I think in my responses to letters that come in to me in that regard that that, in fact, is what we try to do.

If you feel that, in fact, we are not sufficiently doing that, then I think we need to look at that. But I want to argue against our developing a siege mentality where

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we feel that, you know, we are here and we know what we are doing and we are going to circle the wagons. Because, if we are not open, then we are not learning. But I think, at the same time, we want to be sure that our people are not abused.

COMMISSIONER McGAFFIGAN: I might just add that my opinions about medical issues that I expressed earlier have

only been reinforced by some of the vilification of staff that comes in on these incoming letters because we treat it for what it's worth, I can tell you, at least this commissioner does.

CHAIRMAN JACKSON: I think we all do.

Yes.

QUESTION FROM AUDIENCE: A question of the Commission.

I was just wondering, New Hampshire has a pilot program whereby you can select your energy as you would your long distance carrier and I just wondered what impact you feel this is going to have on the nuclear industry, what impact it would have on our job here and, if you dare, possibly put a time frame on these changes.

CHAIRMAN JACKSON: I certainly will not put a time frame on these changes, I would not dare to do that.

You heard me say in my opening remarks that this whole restructuring in the electric utility and electric

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power generation and distribution business is a particular concern to us and a particular concern from the point of view of operational safety in nuclear plants but also from the point of view of a specific responsibility that we have to look out for and that has to do with decommissioning funding.

So, in addition to issuing policy statements which, you know, we can issue as many policy statements as the day is long but we are doing certain specific things. Namely, we are focusing on inspection in terms of what effect economic stress might have on operational safety and sensitizing our inspectors to be sensitive to that, being able to document it but particularly looking at it as part of our overall evaluation of plant performance.

Secondly, we are specifically strengthening our own abilities to do certain kinds of financial reviews. As these various changes in the industry occur, to look at whether we need to have some concern about the financial capacity of these plants to do what has to be done. We primarily come at it from the operational safety side.

And, finally, we are probably moving along the line of some kind of rulemaking in the space having to do with certain reportability requirements but particularly as they relate to decommissioning funding and decommissioning funding assurance itself.

You are letting us off early. Are you sure you want to let us go? [Laughter.]

CHAIRMAN JACKSON: You're sure? Thank you very much. [Applause.]
[Whereupon, at 2:40 p.m., the meeting was concluded.]