

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ALL EMPLOYEES MEETING
(MORNING SESSION)

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WEDNESDAY

MAY 11, 2005

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ROCKVILLE, MARYLAND

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The Morning Session of the All Employees Meeting was convened in the Plaza Area of the White Flint Complex at 10:30 a.m., Dr. Nils J. Diaz, Chairman, presiding.

PRESENT:

NILS J. DIAZ	Chairman
EDWARD McGAFFIGAN, JR.	Commissioner
JEFFREY S. MERRIFIELD	Commissioner
GREGORY B. JACZKO	Commissioner
PETER B. LYONS	Commissioner

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

(10:33 a.m.)

MR. REYES: Good morning and welcome to the 14th All Hands Meeting with the staff and the Commission. We have been doing these meetings every year since 1991, with the exception of one year -- 1993 -- where we didn't hold the meeting here.

It is my pleasure, as EDO, to welcome you to this here All Hands Meeting supported by a full Commission, and that has been --

(Applause.)

That means I get a lot of adult supervision, but --

(Applause.)

-- we welcome the fact that we now have a full Commission here at the NRC.

The purpose of this meeting is to facilitate communication between the Commission and the staff, for the Commission members to share their views, and to provide specific insight -- bear with me -- to answer staff questions, and for the staff to hear newly-appointed Commissioners. And we do need your questions.

In addition to headquarters, we have the regions and the TTC who are viewing this on video, and the rest of the inspectors at the sites who are hooked in by audio.

After the Chairman and the Commissioners make their remarks, there will be time for questions. There are microphones for your questions in the aisles. Please walk up to the mikes.

A reminder that questions pertaining to labor relations and to specific personnel situations should be addressed through the agency partnership process.

We also handed out question cards, if you would prefer to write your question. You can pass it to one of the volunteer staff, and it will be given to the volunteers that will be reading the questions. These questions, as well as those phoned in from the regions, the technical training center, and the resident sites, will be read by our volunteers --

(Laughter.)

-- this morning. And our volunteers this morning are Susan Cusseaux from

ADM, from Admin, Rhonda Bethea from NSIR, Susan Dickerson from Research, and Steven Poole from Admin.

For this morning's session we also have our sign interpreter. Her name is Patricia Barry from International Language Services. Thank you, Patricia.

I would also like to acknowledge the senior staff seated in the front row and the officials of the National Treasury Employees Union that are here with us today. Welcome.

It is now my pleasure to introduce Chairman Diaz and turn the meeting over to him. Chairman?

CHAIRMAN DIAZ: Thank you, Luis, and good morning everybody, and welcome to the NRC's annual All Employees Meeting. It used to be All Hands Meeting. I don't know why hands always get the call. It should be hands, feet, and everything else.

(Laughter.)

My Commission colleagues and I are very pleased to join you again in the tent on the green to answer questions that you might have, and we're going to try to do that to the best of our ability. I will provide some brief remarks, and they are going to be brief, and then turn to my fellow Commissioners if they have any comments, and then we're going to turn the meeting over to you.

As always, we really strongly encourage you to use this opportunity to communicate with us. I know that communications is now an issue that we all take very seriously, but we really welcome the opportunity to exchange with you.

I want to take the opportunity to welcome Commissioners Jaczko and Lyons to the first NRC All Employees Meeting, and to thank Commissioners McGaffigan and Merrifield for taking the heat one more time. And I do not refer to the weather.

I also want to compliment Commissioners Jaczko and Lyons for the speed at which they have assumed their new responsibilities and for the quality of their contributions to the Commission deliberations. And I'm not going to make any comments on Commissioners Merrifield's and McGaffigan's speed and –

(Laughter.)

-- which means that I -- they realize that I do trust and value their contributions. So I can get away with a joke even in that case.

This tradition started so many years ago, and it continues because it has worked. In many ways, we hear from you and you hear from us directly, and I believe it is a good thing.

Let me also welcome all those NRC employees that are listening to us or seeing us from the regional offices, technical training center, other sites around the country, and all who are linked to this room, as well as some of those who are going to be in the afternoon session. The Commission does value the participation of the staff in these meetings.

Let me take a minute to point out something you know. Many significant personnel and programmatic changes have taken place in the Commission since last year, including at the Commission level. As you can see, it's a little busier right now in there.

One such area that has really undergone some significant changes is the high-level waste area. Last year at this time we believed we were only a month away from the anticipated submission by the Department of Energy of an application to construct a high-level waste repository. Since then, uncertainties have arisen and the application has been delayed. However, we continue to ensure that we are prepared to carry out our responsibilities in this arena.

On the other hand, last year there was a lot of whether we get started, we go or not, and in the new reactor arena, which seems to be gaining momentum.

As you have read in many places, the industry continues to explore the possibility of constructing new plants using certified designs. They're doing early site permits and considering combined construction and operating license applications.

Browns Ferry seems to be on schedule. TVA is now reconsidering the Bellefonte site.

Just a few weeks ago I presented the Commission's testimony to the Senate Committee on Energy and Natural Resources about new nuclear power generation in the United States. The hearing was fortuitously immediately followed by President Bush's

statement on the need for nuclear power deployment and the need for efficient licensing and regulatory processes. That touched close to home.

We are, I believe, at a critical point where we have to be prepared for such a contingency. Although much uncertainty remains, we could see three or even five license applications in 2007 to '09 period. If so, we will have a significant resource challenge, one that we need to begin addressing now, in fact one that we have begun addressing now.

I fully expect that the fiscal year 2007 budget currently in development in the staff will address this need, and would also pose some difficult decision-making on the part of the Commission.

In the ever-growing security arena, I noted last year that much has been accomplished, and much more was being done, and that I believe we were approaching a period of stability after our intense efforts to enhance security following the events of 9/11. I really was looking at October 29, 2004, as a milestone.

In many ways, this is still true, but challenges remain. And some are in the nuclear power plant arena, and some are in the radioactive sources arena.

The report of the National Academy of Sciences on the security of spent fuel pools have brought specific issues that we are addressing. In addition, the House-passed version of the Energy Bill contains some security-related provisions that, if enacted, will have some important impacts on our security programs.

We will have to see what the Senate does with the bill, but I think it is fair to say that Congress is focusing some attention on security issues also and that we may have some initiatives to address.

The Commission will soon testify in hearings on these and safety oversight matters. In the agency, all NRC offices have a very full plate, including Commissioner offices, Commission-level offices, the entire EDO organization, and the regions. And it is very important, probably very, very critical right now, that we all work together to achieve the agency's objective.

It is equally important that we recognize and value the diversity of our staff and the variety of opinions that are expressed by them. Diversity of viewpoints is a

strength and a potential source of valuable ideas. My colleagues and I are grateful for everyone's diverse contributions to our agency, including different professional opinions.

I want to touch on two other subjects that are of high interest to our employees and that have become particularly critical since our last employees meeting. The first has to do with space utilization at the White Flint complex. I'm sure all you have noticed that the space is at a premium in both One and Two White Flint North.

The Office of Administration is monitoring this situation on an ongoing basis, and it is addressing your space needs as they arise. I personally believe, however, that given the NRC's current staffing and projected future staffing needs it will be inevitable that at some point in the near future, possibly as early as 2007, we will need to seek additional space in the immediate vicinity of the White Flint complex to house staff and other activities now located within the complex. And we will do that in a very rational manner, I can assure you.

The other phenomenon that you may have noticed is the accelerated rate of retirements lately in the NRC staff. As you know, for some years now we have been predicting a rapid increase in the retirement rate, and consequent loss of critical skills. But many employees choose to stay rather than retire. I know a few of them.

We could be seeing this long-anticipated exodus of critical skills and veteran employees, and, therefore, we need to take appropriate actions.

One telling statistic is that the list of NRC employees who were with the agency on the first date of operation in 1975 has declined from the more than 300 still with us on our 25th anniversary to approximately 182 remaining on our 30th anniversary.

I'm confident, by the way, that the recruitment activities, training programs, and critical skills, surveys, and analysis conducted by the Office of Human Resources will help us address this common crisis effectively. But it really means that we will all be aware of it, and especially everyone in management positions take necessary actions ahead of time.

Succession planning is now a critical activity at the Nuclear Regulatory Commission, and all senior managers are working aggressively to address it.

I tried to cover as quickly as possible a number of areas that I believe were in discussion in our sessions today. But in doing so, I probably left out many that are of particular interest to many of you. We, therefore, ask for your questions on the issue.

I want to conclude my remarks with the comment that it's both emotional as it is rational. My colleagues and I value the work that all of you do, whether you're in headquarters or the regions, work with a large or a small office, or are technical or non-technical. It takes really all of us working together to achieve our goals.

My colleagues and I thank you for your outstanding support, and I would like to ask for Commissioner comments, if any. Commissioner McGaffigan?

COMMISSIONER McGAFFIGAN: Thank you, Mr. Chairman. I agree with everything you just said. And if you've been to Commission meetings, you know that's a rare circumstance, but --

CHAIRMAN DIAZ: It is very rare. I'd like to make, SECY I'd like to make an SRM quickly.

(Laughter.)

COMMISSIONER McGAFFIGAN: You've got three to go, so I wouldn't get too --

(Laughter.)

I want to touch on a couple of matters. This is our 9th meeting. And if the arithmetic is right, there's been 14. So this is Jeff's seventh, so you've got the greater than 50 percent crowd here.

And then, you've got two new Commissioners, and we welcome them, as the Chairman said. I would welcome personally their confirmation by the Senate. And having a full Commission, I think we're best when we're a full Commission, and we are rotating off one a year or renewing one a year as we did for a while there in the late '90s and early 2000s.

From my perspective, a really major issue that we're facing is the one that the Chairman addressed last, the infrastructure issue, the generational change issue. I tend to put the two of them together. And we clearly are facing a lot of change.

Ellis Merschoff left recently, and Susie Black, Frank Congel, Pat Norry, John Craig, Paul Bird. And that's just the top. I mean, there's lots of people that pervade the agency that are retiring, and they're taking a lot of experience with them.

We were having a conversation yesterday with the Hungarian regulator, who is more of my generation. And we were talking about the young staff and his challenging the young staff to -- who believe their computer models and, in fact, only know how to work with computer models, challenged them to do sanity checks on their work.

And, in the slide rule generation, Chairman Diaz was barely in the slide rule generation --

(Laughter.)

-- and that's how I was brought up. And we were bemoaning education in this country nowadays. My children, you know, will have their TI-83, and they'll calculate, you know, what some graph looks like, and I will tell them, well, you might want to broaden your field, because I know there are further intercepts, because I know that stuff.

And then, lo and behold, they'll broaden their field or their ranges and domains, and they'll discover additional Y-axis intercepts or X-axis intercepts. But we've got to somehow pass on, from the slide rule generation to the digital computer generation, how to be a regulator. And we've got to give them good tools.

We have to make sure our reg guides are up to date, that our review plans are up to date. There's just a lot to do there, and I fear that we may be underbudgeted there. I mean, I know it's a priority of the EDO, but I fear that that's a place where we may not be giving adequate resources.

The last thought I'm going to give you -- Mr. Merschoff, at his going-away reception, almost the first words out of his mouth after the rest of us had roasted him a little bit was that his motto throughout his career was to speak truth to power. And I assure you he spoke truth to power, as did Pat Norry and Luis and others.

But that's something that should pervade the staff at all levels. That doesn't mean you file DPOs -- or -- necessarily, although we welcome them. Renee Pedersen is over there in the first row, and I think she is doing a great job as that program manager, but

she has also broadened it to include the non-concurrence process or processes and other ways, writing a dissent memo that isn't really a DPO that you ask be included in the Commission paper if that's appropriate.

But we argue all the time, as I said at the outset, and we're a stronger body because of that disagreement. And I think the staff is stronger for recognizing the disagreements that they may have and for encouraging them to be expressed and for dealing with them, because that's what we expect of our licensees, and it's what we do expect of ourselves. But every time I have a chance to reinforce that message, I like to do so.

So with that, Mr. Chairman, thank you.

CHAIRMAN DIAZ: Thank you. Commissioner Merrifield?

COMMISSIONER MERRIFIELD: Thank you, Mr. Chairman. I would associate myself with the comments of both the Chairman and Commissioner McGaffigan. The only thing I think I would add, the admission that I -- this is the seventh time I've had a chance to do this.

And I came to the agency in 1998. That was just a couple of years after a whole series of reactors had shut down, and it was also at a time where the agency had been challenged by Congress -- notably Pete's old boss Senator Domenici -- to change its way of doing business.

The amount of change that we have had, if you look back at 1998 and where we were, and where we are today, whether it's the status of the reactor program, some of the material issues that we're looking at, the extraordinary challenges that we've been faced with as a result of 9/11, this has been a period of extraordinary dynamism for our agency and the utilities and licensees that we oversee.

The Chairman spoke a little bit about some of the challenges we're going to face in the future, particularly as it relates to the potential for new reactor orders. And he mentioned there may be three, five, maybe more reactor orders that we may face in the course of the next two to four years.

We really are right now in a precipice of continued dynamic change in our

agency and continued dynamic change in the arena that we regulate. The one steadfast thing that has not changed is the quality of the staff that we have had here as an agency who have been able to consistently go up to the plate and hit the ball with a great degree of precision.

We are, as managers of the agency and as overseers of the agency, fully engaged with Luis Reyes and the EDO staff and senior managers to make sure that we are bringing in new people to this agency who will be able to continue that level of excellence in our tradition.

I think we've had great success in doing that. I see every reason that we will continue to do that in the future.

We're having a little uptick in terms of the number of people that are leaving. I think that is, in part -- perhaps maybe it's for some of the opportunities that are out there for people who are at the near end of their retirement age. But we are at a period of historic change.

It's important change, it's one that we have grasped I think very, very well, and one that we will continue to be able to address because of the people we have -- you all -- who make those things happen. And so as I said before, on occasions such as this, I have the greatest respect and appreciation for the work that all of you have done to continue to make this a great place to be.

CHAIRMAN DIAZ: Thank you, Commissioner Merrifield. Commissioner Jaczko?

COMMISSIONER JACZKO: Of course, I want to associate myself with the remarks now of three Commissioners, and the list is getting longer, I think. So I don't want to add too much. I just, again, want to thank the staff for the work that you do.

One of the common comments that I hear about this agency is the quality of the staff, whether it's from international partners, whether it's from other regulatory partners, whether it's from the industry or from stakeholder groups in general, all I hear are positive comments about the dedication and the thoughtfulness of the staff here. And I think that's really a wonderful thing, and it's one of the things that I've really enjoyed since being here.

I do also want to say that I appreciate the guidance and patience of my fellow Commissioners as Commissioner Lyons and I get up to speed. And I think -- I guess we're now probably officially up to speed, because there are now less-than-flattering photos of us in the hallways between --

(Laughter.)

-- White Flint and One White Flint and Two White Flint.

So with that, I would encourage you to ask questions. This is really a good opportunity for us to hear directly from the staff. And the only other place we probably have this many staff gathered together is when we're trying to get on an elevator, so --

(Laughter.)

-- I encourage you to ask questions and look forward to those questions.

COMMISSIONER MERRIFIELD: Greg, just to tell you, I think the longer you're here the more flattering the photos will be.

(Laughter.)

So it'll get better as time goes on.

CHAIRMAN DIAZ: Well, I never got that advantage.

(Laughter.)

Commissioner Lyons?

COMMISSIONER LYONS: Well, as the most junior of your Commissioners, I have the opportunity of associating myself with the remarks of all four of the Commissioners who have spoken before me.

I've now passed my three-month anniversary with you, three months where I have tremendously appreciated the opportunity to learn certainly from my fellow Commissioners but also from all of you. And in the process of that learning, and in the process of visits to now a number of sites, a couple of the regions, I'd like to echo the comments that have been made probably by all the Commissioners about the quality, the expertise, and the dedication of the staff here at the NRC.

I'm just tremendously impressed with the role that all of you are playing and the role that you are very, very dedicated to. If I were to single out any one group of

employees, I'm particularly impressed with the role that our resident inspectors play.

At each of the sites, I have been just so impressed -- I hate to overuse that word, but so impressed with the responsibilities that they bear in their daily job, and the view that they take towards discharging that responsibility. Throughout the staff I have been incredibly impressed, though.

With that, I'm looking forward to your questions and looking forward to continuing my learning process. And maybe at some point in the future Commissioner Jaczko and I will conjoin -- well, I guess we can never join the 50 percent crowd, or at least I certainly won't.

(Laughter.)

But in any case, it's good to be here for this first meeting that I'll share with you.

CHAIRMAN DIAZ: Thank you, Commissioner Lyons. It used to be that some colleagues and I had an ongoing discussion of whether this agency was either a learning organization or the learned organization. I think you are getting into the threshold of coming into the learned, and we welcome that very much.

With that, we'll turn the meeting over to you. Questions, please?

COMMISSIONER McGAFFIGAN: That's the first microphone question we've gotten in three years.

(Laughter.)

PARTICIPANT: I have a question for new Commissioner Jaczko. I attended your talk at the Regulatory Information Conference in March during which you discussed a number of issues that included how you plan to be fair and open-minded and would rely on science and public policy to make NRC policy decisions.

You also mentioned at that meeting that NRC is not a political agency. However, the events leading up to your recess appointment this year, which were well chronicled in the electronic nuclear newsletters, were anything but non-political. Normally, the appointment process for new Commissioners is very straightforward. In fact, it's almost boring. But in your case, the circumstances of your appointment may be considered by

some to be troubling.

Therefore, notwithstanding your comments at the RIC, and recently to Congress, regarding your future policy decisions, taking into account your prior responsibilities in government and the circumstances of your recess appointment, how can you assure the public in general, and NRC staff in particular, that your future decisions in all technical areas will be free from political considerations?

COMMISSIONER JACZKO: Well, I think that --

COMMISSIONER MERRIFIELD: Greg, we told you they didn't pull any punches.

(Laughter.)

So we did forewarn you that we do have a questioning attitude among our staff.

COMMISSIONER JACZKO: I think -- well, first I'll say, while I believe the Commission is not a political body, unfortunately or fortunately, the Congress is. And a lot of the issues surrounding confirmation and those processes right now are very political, and probably always will be.

But I think in many ways this was a challenging question, but I think the answer is very simple. The best way that I can ensure that I will make thoughtful and objective decisions and reasonable decisions is to perform my job as a Commissioner and to make those decisions, and to do them in a way that I think is, as I said in my speech at the RIC, is transparent, and it's the clear the reasons that I'm making my decisions are clear, and that decision-making process is as transparent and open as it can be.

I have said now many times that I do think that I will be fair and objective in all decisions that I make, and I think, I guess as the cliché goes, the proof of the pudding is in the eating.

So I think by next year when we're back here again for this meeting, I think that that is what I expect is the impression that most of you will have of me, and that's one of the things that I'll work for over the next year.

CHAIRMAN DIAZ: Thank you very much. I think I need to add something

to it. You know, I have not seen a boring Commissioner confirmation in many, many years. And since we're relaxed, maybe I'll tell you a little story.

I was supposed to come to Washington in 1990. That's -- I was going to the Department of Energy in 1990. And fundamentally, you know, got to a point that it got a little bit too political for me, and so it didn't happen. Eventually, when it started to happen, it was the beginning of 1995. And so it took me about 18 months to go through that process.

I was coming here in May of 1995, I was told not to leave the country, stick around, because I was going to have a very quick confirmation and be here by January 5th of 1995, which never happened. Never happened.

The point, though, is that this is a complicated process. Sometimes it's long, sometimes it's complicated, and it is political. There is no doubt about it.

However, what I can assure you is that in my nine years in here, almost nine years, I have not seen any Commissioner make a decision that is political. We have different opinions, we have different ways of looking at it, we have sometimes really, I mean, far apart, but they have not been political.

And I think the body that the Commission assembles, eventually every single person that comes in here, at least in the last nine years, captures that fundamental and necessary way of doing things that the Commission has is we get in here by a political process, but the decisions are not political.

COMMISSIONER McGAFFIGAN: If I could, I would just -- again, I think it's a very good question. You know, Commissioner Jaczko may not have liked to get the first tough question, but I -- but I entirely --

COMMISSIONER JACZKO: That means I'm done with tough questions, then.

(Laughter.)

COMMISSIONER McGAFFIGAN: Send them all my way. No.

But the Chairman is exactly right, and I -- I have the same note in front of me. There is no boring confirmation or reconfirmation process. I actually stumbled into this job

around February of '96, I expressed an interest, and I got paired with Nils. So the reason Nils is here is I pulled him along with me.

(Laughter.)

CHAIRMAN DIAZ: Yeah.

(Laughter.)

COMMISSIONER McGAFFIGAN: But Commissioner Merrifield and Commissioner Dicus, who were paired, Commissioner Jaczko and Commissioner Lyons, who are paired, that's not an unusual process. And I would totally endorse what the Chairman said. I've been here almost nine years, and I don't recall -- we have disagreements, but they're not Democratic or Republican.

I remember saying at one of these previous meetings that it -- and back at that time I think it was Trent Lott and Tom Daschle were the two leaders, and I said thank God they don't have opinions on almost everything that we do. I mean, we are unique as an agency in being given this very broad power under the Atomic Energy Act, and Congress asking us to do the details.

And that is an extraordinary power we all take very, very seriously. And I think by having a bipartisan Commission that doesn't make partisan decisions, but a bipartisan Commission assures the Congress that we're doing reasonable things.

And I will finally say that in the first three months, if the proof is in the eating of the pudding, or whatever Greg said, I think Commissioner Lyons and Commissioner Jaczko have a three-month track record now of votes. And I think they are entirely in the mainstream of Commissions that have gone before them and will follow them in the future.

CHAIRMAN DIAZ: All right. Next question, please.

COMMISSIONER MERRIFIELD: No.

CHAIRMAN DIAZ: I'm sorry. I --

(Laughter.)

-- don't want to belabor that too much.

COMMISSIONER MERRIFIELD: I'm not going to --

CHAIRMAN DIAZ: You're not going to pass. Okay.

COMMISSIONER McGAFFIGAN: The SRM will not say that I brought Commissioner Diaz to the Commission. Chairman Diaz.

COMMISSIONER MERRIFIELD: Mine wasn't boring either. I mean, if you look back at history, Commissioner Dicus was trying to get a second term on the Commission. And the Republicans in the Senate wanted to make sure that one of the Republican slots was filled, and there was some difficulty about that given some of the names that had been floated.

And I came out of left field, or right field I guess since I'm a Republican --

(Laughter.)

-- and put my name in the slot in April of 1998. And there was a whole lot of political wrangling and a lot of knives got stuck in my back through that process by folks up on Capitol Hill, only to have it result in my ending up on the Commission on October 23rd of 1998.

That was relatively quick by the standards already given. And I will tell you it wasn't pretty, and the renomination process was not something I want to do again any time soon either.

I mean, it is the nature of Washington, D.C. that the nomination process has become more politicized. The important thing to focus on is: how does the Commission work? And how do we interact with each other? And I would agree with the comments made by both Nils and Ed.

You know, we all know what our political parties are. I mean, I'm a Republican. I'm not going to apologize for it. I'm very proud of being Republican. I always have been. But our political stripes get checked at the door, and we are -- I think by joining this Commission, and making -- and swearing, as we do, to the Constitution, it's a recognition that our role here as overseers of a safety body that is non-political.

And I have -- I'll agree with -- again, with Nils and Ed. There has not been a single vote in the seven years that I've been here that I would characterize as being political. And I would disagree with everybody on this Commission, and sometimes very, very strongly, but it was out of a disagreement philosophically on safety issues, not a

disagreement philosophically on political issues.

And the history and the way in which individual members of this Commission carry themselves is such that we have to learn to trust each other, we have to learn not to seek underlying motivations in what we're doing as Commissioners, but to look honestly and candidly at the views of our fellow members to try to determine what is the best public policy outcome for protecting the public health, safety, and the environment, in the facilities and materials that we regulate.

And I haven't met anyone yet who has been on this Commission who has not engendered those very same -- that very same philosophy.

CHAIRMAN DIAZ: And since that makes four of us, let's make it five. Commissioner Lyons, would you like to comment on this? It'll be unanimous I hope.

COMMISSIONER LYONS: Well, in my case, I won't say it -- it certainly wasn't boring, but it also was a very, very rapid process for some of you who followed this. I think it's reasonably well known that an Admiral had been proposed for the slot that I eventually filled.

If you had asked me on New Year's Day this year if I might be going to the NRC, I would have said no. If you had asked me on I think it was January 5th, you would have gotten a very different answer. So in my case, things moved very quickly.

Part of the political process, as has already been mentioned, that effectively requires the pairing, and that's where Commissioner Jaczko and I were paired in that process. But at least in my case it moved very quickly, and I was probably as surprised to be here as you were to see me here.

(Laughter.)

But that doesn't detract from my interest in being here.

(Laughter.)

CHAIRMAN DIAZ: All right. Thank you very much. Next question, please.

PARTICIPANT: This question is from the regions. While understanding the importance of succession planning, it seems that identifying certain employees for future positions as part of succession planning is, in effect, preselection that negatively impacts

the merit selection process. I would appreciate your comments on this concern.

CHAIRMAN DIAZ: I'll tell you what. Since I have the ability to delegate, I'm going to delegate to the EDO, because he is in charge of succession planning, and relieve the Commission from this question.

MR. REYES: Thank you, Chairman. And, in fact, I'm glad you asked the question, and it's something that I spend a lot of time on.

Our succession planning in the agency has been limited to the executive core, specifically to the office level, and just recently to the division director level. So our succession planning, in terms of identifying individuals for potential positions, is at that level.

The process is such that we end up with half a dozen names, a group of names, who we think are potential candidates for an office director position, or a division director most recently. And what that is -- it gives us a little bit of a road map on what assignments we can give to different individuals to make sure we have a bench strength to deal with this relatively high attrition rate at the executive ranks.

Now, we do not have our succession planning process like I just mentioned for the GG positions all the way to the 15. And what we do have -- and I want to thank every one of you who participates in the process -- our strategic workforce plan has a good skill inventory of the good talent that we have in the agency. And we have a pretty good knowledge of what skills we're going to need in the future.

Therefore, it helps us identify this gap analysis of what skills we will likely have in the future, between expected retirements and new kinds of things -- digital instrumentation just to make an example that you may be acquainted with.

And that allows us to do several things. One is in the recruitment; the other one is in the graduate fellowship program. As you know, we advertise and compete to pay some employees to go and get advanced degrees.

So the succession planning, in terms of identifying a group of individuals for a position, is only at the executive level. We do have a merit system. It's a competitive system. We endorse that, we use that every day. It is not our intention to change that at

all. But we do have a need to identify, specifically at the executive level, a process that would allow us to have good development.

Now, if you look at the other two components of our succession planning, we have an SES or executive candidate development program, and that process is completed. We also have a leadership potential program. That process is also completed. So it is not our intention not to follow the regulations or the competition process to any one of those. But we do have, at the executive level, the flexibility to work identifying potential candidates to make sure we do have continuity.

CHAIRMAN DIAZ: In other words, planning, yes. A preselection, no. I believe that I have the responsibility to manage the staff on behalf of the Commission. One of the things that we did from the very beginning was prepare the agency for the new times. We actually have worked hard at making sure that opportunities are there for everyone that deserves the opportunity.

Some of the things you have seen in the past two years are realities that we are valuing individuals for what they do, and not only for how much time they have spent in here. Seniority is valuable. It is considered, but it is not the only criteria. And I think the staff is doing a terrific job in preparing the agency for what's coming ahead. All right?

Thank you.

Next?

PARTICIPANT: This question is from the regions. One objection heard from licensees to upgrading their security features is the amount of money they have to spend. They seem to be considering a kind of unfunded mandate. Is it possible for utilities to receive grants from Department of Homeland Security in order to counter this objection?

CHAIRMAN DIAZ: I don't think we can receive grants from the Department of Homeland Security. I think that the agency has the obligation to face whatever we need to do, and I think we have been doing that.

Now, the unfunded mandate -- it's a fact that the nation has changed, if you want to call it an unfunded mandate. It is that the nation is now facing, for now and for the past three years, and for the future, to actually be prepared to maintain our democratic

value system, while at the same time be prepared to respond to the security issues that we are facing.

I believe that the regions have done a significant amount of work and have been given a significant amount of money to respond. I think that licensees have had to face up to significant demands. I think that the local and state people do qualify to get actually funds from the Department of Homeland Security. And I think that process, as you probably read in the press, as we have, has not really been as smooth, as comprehensive, as it probably should have been, but that's because of the speed that the process has to really be developed and implemented.

I think that we all are getting better at what we do. I think that the peaks and valleys are going to be softened out, and I think we should be able to respond to these issues. Any Commissioners want to add anything to that?

COMMISSIONER McGAFFIGAN: Well, if I could just say I don't regard what we've done in security since 9/11 as any more of an unfunded mandate. We're a regulator. What we do in GSI-191 or Hemyc testing or other Generic Safety Issues, 189, whatever, that's our job. And if at the end of that job we decide we have to do something, we impose that on our licensees.

So it's not -- the unfunded mandate is the wrong term. DHS, as the Chairman said, can fund funds within its authority for various things, but they would not fund a licensee fulfilling an NRC requirement.

COMMISSIONER MERRIFIELD: Yes. I mean, I think the only thing I would add to that is that I wouldn't want the person that asked the question to come to the understanding that we're not mindful of cost. Virtually everything we do around here we at least ask the question, "What kind of burden is this indeed going to impose?" And part of that burden relates to implementation, and part of it relates to cost.

And I think the Commission has asked those questions. We've gone ahead because we felt it was important, but we've gone ahead I think eyes wide open in terms of the kind of costs that this would impose on our licensees.

CHAIRMAN DIAZ: All right. Next question, please.

PARTICIPANT: Good morning, Mr. Chairman. This came from the headquarters. Where do you see the agency going with new reactors, and what does it mean in terms of agency growth?

CHAIRMAN DIAZ: Well, I think I tried to address that in my remarks. It does appear that there is now really some traction on this issue. I think we've been looking at what it could be for years, and I believe there is a new maturity in the energy field that it's not only in this country, that nuclear power has a role to play.

I think the role of the agency is to be prepared for whatever the country demands, and that's where our efforts are. We want to make sure that we have on the shelves the design certifications, and we have the capability to deal with the demands.

I do believe that, from my experience, and I'm speaking personally and from what I see out there, there is a definite sounder and more firm desire and projections to begin the process of getting new nuclear power plants into this country. And I think we are trying to get ready to address those issues.

COMMISSIONER MERRIFIELD: Yes, I agree with the Chairman. I mean, my personal view is it is not a matter of if we will get new reactor orders, it's merely a matter of when and how many.

COMMISSIONER JACZKO: One comment I would make -- and I think this is an important issue -- is as we do think about new reactors is that we do remember and not lose focus on really one of the strengths of this agency, which is the focus on operational safety.

And we will still have over 100 operating reactors that we must continue to focus on their safety as well. So it's one of the reasons why I think that presents a lot of new challenges is there will be new roles and functions that the agency will have if we do get into new reactor licensing. But one of the things that I think is important is that we not lose that focus.

CHAIRMAN DIAZ: I believe that's true. If I may add something that the reality is that this period of time in which really there have been no significant activities in the new reactor arena, has really not been lost to this agency. We have prepared

technically to be able to address the issues of today.

We have learned a lot about many of the phenomena that sometimes we use to treat with some fear. I think we are a much better prepared agency to deal with new reactors now than we have ever been for sure, and, of course, we should be. But we have not stopped.

We continue our growth in the technical areas. We continue to investigate the phenomena that was appropriate. We know much better about the thermal hydraulics and the reactor physics and the materials and the responses and the PRAs and how to look at the systems.

So I think we are ready as a technical agency to make the decisions that need to be made.

COMMISSIONER LYONS: I'd just like to add that I feel very, very strongly that our nation needs new sources of electricity generation, and that those sources need to be clean, reliable, and low cost. Nuclear is certainly I think very well positioned to compete for an expanded role in our nation's energy portfolio.

But as Commissioner Jaczko and the Chairman also just emphasized, we need to focus on job one, which is safety and security. It's only if the public continues to see that safe, secure operations that I think nuclear power will have a chance for expansion. And there's, of course, other uncertainties that will have to be addressed, that the utilities will have to accept and address as they potentially move ahead with new plants. But above all, we have to assure the safe, secure operations.

CHAIRMAN DIAZ: Thank you. Next question, please.

PARTICIPANT: Good morning, Mr. Chairman. This question is from headquarters. What has the NRC done concerning the hearing facility needed to address the adjudicatory hearing for the Yucca Mountain high-level waste repository?

CHAIRMAN DIAZ: Well, the facilities there is ready. I understand that it is wanting tenants.

(Laughter.)

The staff is further considering whatever other needs there are. But it's there,

it's done, and I think we are considering what are we going to do if there is further delays with the Yucca Mountain potential application.

But it is an issue that we have under continuous I would say observation, but continuous consideration. It's there, and we're ready.

COMMISSIONER McGAFFIGAN: And, Mr. Chairman, I might just add this is a microcosm of our preparation for a potential Yucca Mountain proceeding. We have done everything that's appropriate, trying to expend the taxpayers' money judiciously. We're going to end this year with a fairly substantial carryover in that area, because obviously things are not going to occur as rapidly as was predicted.

But we take seriously the statutory guidance to try to get that hearing done, if it comes, within three or four years, three years and the fourth year if we need -- and so we've just done this extraordinary stuff. LSN is the Licensing Support Network for the -- it is going to have 40 or 50 million pages of documents in it at some point. Preparing that led to one of the latest problems for DOE, but we have been trying to anticipate, we have been giving adequate resources, and we have tried mightily not to give too many resources.

But if we hadn't built the facility in Las Vegas, and the application had come in on time, we would be in big trouble. So those are the sort of choices we face.

COMMISSIONER MERRIFIELD: Yes. Mr. Chairman, one of the frequent things I've asked Paul Bollwerk, as well as the Admin staff, is how things are going with that particular facility. And I've seen a variety of the pictures, and I would credit our Administration staff and Paul Bollwerk and his staff.

It is actually a very nice facility that we have had GSA create for us out in Las Vegas. And, in fact, I was joking with some of the senior staff recently. If time keeps going on, maybe we can sublease it as a profit center to the Base Closure Commission and the Postal Rate Appeals Board, or some other thing. It's unfortunate. It's a state-of-the-art facility, intended for a Yucca Mountain proceeding, and unfortunately because of circumstances outside of the control of this Commission it is lying fallow right now.

CHAIRMAN DIAZ: All right. Thank you.

COMMISSIONER McGAFFIGAN: Ah, come on. All these staff, you've got

to have questions. Do you want us to start debating on some issue?

(Laughter.)

CHAIRMAN DIAZ: Oh, we can't do that.

(Laughter.)

Yes?

PARTICIPANT: This is a question from headquarters. The 2006 budget is pending Congressional review. Given the new work and projected new reactor licensee submittals, what is the Commission's strategy for obtaining additional resources?

CHAIRMAN DIAZ: The Commission's strategy is already open. We were prepared for the hearing that happened I guess three weeks ago now with the Senate Energy Committee. And fundamentally, the staff took a serious look at what is it that we needed to do, and we came back with the fact that we're going to need about \$20 million to prepare the infrastructure that will be needed to address all of these new design certifications and potential COLs and maybe another early site permit.

So we are not sure where it's going to go, but we have significant support in the Senate side to try to get that into the budget. And we believe that will set us up to be able to do the kind of preparation that we need to do, hire the people, get the space, do all of those things, the same thing that we did, like Commissioner McGaffigan was saying, with regard to the Yucca Mountain issue. We need to have the infrastructure in-house because it doesn't happen overnight.

PARTICIPANT: This question is from headquarters. What is the Commission's view of allowing states to regulate reactors, including decommissioning activities?

CHAIRMAN DIAZ: Ah-ha. I'm going to turn to Commissioner Merrifield for that.

(Laughter.)

COMMISSIONER MERRIFIELD: You're going to pass that one to me? Well, I think it's -- I'd have to have OGC correct me, but I think it's in our statutory authority that we are the sole regulator of reactor sites.

That being the case, I think Congress got it right. I mean, I think we need to have a national standard for the regulation of reactors. The states are not in a position to have the capabilities that we have. I think we've got a program that works well.

I was very pleased with Luis Reyes to go to Vienna on behalf of the Commission at the Convention on Nuclear Safety and talk about the things that we're doing as a regulator in ensuring the safety of the reactors that we oversee.

We have made extraordinary strides in a lot of the work that we're doing here in that regard. We've got terrific staff. I think we've proven, albeit we made some mistakes, I think we've proven we can rebound and we can do an effective job ensuring the safety of the reactors that we oversee.

And I think the notion of mucking around with that merely for the purpose of devolving more authority to the states in my personal view would not serve the American people in the main.

CHAIRMAN DIAZ: Yes. The reality is it's essentially not possible. The complexity and the statutory authority is tied in in a manner that to be able to resolve both the licensee and the issues that come with every one of their reactors, it has to remain here. I don't see another possibility.

COMMISSIONER MERRIFIELD: Yes. In fact, Mr. Chairman, at the Convention on Nuclear Safety there is one regulatory authority out there in Germany where they have exactly that circumstance, where it is at the state level where the regulation takes place.

And there is some degree of variation among those states, and there is a very intense political debate right now in Germany as to whether to change that to follow a more international-style model. But I haven't heard anyone among our international counterparts who would think that going in the other direction makes a whole lot of sense.

COMMISSIONER McGAFFIGAN: I was going to mention the German case. It's not a successful case in many respects, but we also don't kid ourselves that we are -- we are the sole regulator of power reactor safety under the Atomic Energy Act. And I don't see Congress changing that soon.

However, really, but we ended up working with the states. Many states fund folks to be their reactor safety coordinator. We have a constructive relationship with those folks, and they're an absolutely critical stakeholder for us.

Furthermore, obviously, the various processes required for a new power plant to be sited involve issues other than nuclear safety. And states regulate, whether water supplies are going to be overheated and whether you need cooling towers, whether you need this, whether you need that, and I don't recall seeing an EIS on anything around here that's mildly controversial that doesn't involve three or four other federal agencies.

Fish and Wildlife Service, to make sure we're not endangering fish or -- there's just a lot of other folks who have a say, and we are the ultimate say -- EPA, FEMA. There's a lot of that stuff that gets worked out.

For a new facility we take it for granted for the most part for the existing facilities, but we worked I think very constructively with the states on power reactors and on other facilities -- fuel cycle facilities, etcetera, that we're the regulator of under the Atomic Energy Act.

CHAIRMAN DIAZ: All right. Next, please.

PARTICIPANT: Mr. Chairman, this question is from the region. Would the Commission support and fund in-house training for employees at the PDC or otherwise held at headquarters and/or the regions in conversational Spanish, given the increase in Spanish-speaking staff, Hispanic stakeholders, and the need for many of us to be able to communicate effectively with our licensees in Puerto Rico?

COMMISSIONER MERRIFIELD: Wow. I'm going to let you answer that one.

(Laughter.)

CHAIRMAN DIAZ: Yes.

(Laughter.)

COMMISSIONER JACZKO: Can you do that in Spanish?

(Laughter.)

CHAIRMAN DIAZ: I was going to do that. I was going to answer this in Spanish. Would that be okay?

(Laughter.)

Can you imagine what will happen if I answer this in Spanish? That's probably your answer. I do believe that, we welcome, including the Chairman, the capability to -- and the EDO -- to speak Spanish and to have a culture and to even communicate at times in private setting.

But I do believe the agency needs to have broad access to the communications that are generated by the staff. And so I don't think it is a good idea at all to start partitioning the way the agency communicates into two languages. I think we communicate in the English language, and we can use the Spanish in a private manner like any citizen is allowed to and which I personally enjoy.

I do believe there is a real benefit to go to Mexico, which we have done, or go to Spain. In fact, we have somebody going to Spain right now that speaks Spanish, and are going to Puerto Rico or to Argentina, and I think it adds to the value of our interactions.

But I think the agency communications, so that they can be used by everyone, needs to be and remain in English. That's my own personal opinion.

COMMISSIONER McGAFFIGAN: I agree.

PARTICIPANT: This question is from headquarters to the Commissioners. Many people we meet within the public are confused by the NRC process of compartmentalization of regulatory programs, including new reactors, early site permits, license renewal, and spent fuel and waste disposal. What changes does the agency need to make to discuss integrated NRC issues with the public which cover the entire fuel cycle for more transparency?

CHAIRMAN DIAZ: I was planning to go the other way, looking to further compartmentalize, so we can actually explain how one goes into the other. I do not see that the compartmentalization -- well, I can say that in Spanish, compartmentalacion --

(Laughter.)

That's why I stumble. It's really an issue of communication. I think the issue of communication is, what is the worth and what have been the decisions, and what are the findings on each one of those issues, and try to keep them as distinct issues, and then put

them in the context -- if you want to put them in the context of the fuel cycle, that's fine.

I haven't seen anybody in my years that actually cannot separate one from the other that is actually involved in the issue. And I think for the public it is important that we can really take each one of these issues for what they're worth.

For example, transportation is a distinct issue. You know, you can say, well, transportation is attached to spent fuel pools. Well, it is, because you take the spent fuel out of the spent fuel pools. But, really, they are distinct and separate issues, and I think we need to deal with them in a manner that clearly separates them, and at the same time we need to deal with them with the entire risk.

COMMISSIONER MERRIFIELD: Mr. Chairman, I agree with you. I think it's a communications issue. I think it raises an interesting point, and the point is that there is the possibility -- and sometimes the tendency -- of folks within the agency -- and this is different for Commissioners, because we sort of float at 40,000 feet, and we have to deal with everything here.

But there is a possibility for folks on the staff to focus on, what are the issues that I have to worry about? You know, I'm a high-level waste person, so I'm going to focus on high-level waste issues. Or I'm a security person; I'm going to focus on the security issues.

And I'm not picking on anyone. But there's a tendency of folks to focus on the issues of which they have to deal with on a day-to-day basis. And I think for all of the members of our staff, whether it's Commissioners, senior managers, or folks who are new to our agency, I think there's a utility in all of us on our own, not being mandated, not being forced, but to sort of know what the heck is going on outside of our stovepipe.

And I think part of this is the concern that when we have staff who go out and have a public meeting on transportation, Yucca Mountain, or whatever, that sometimes there are individual members of the staff who have an excellent idea of what's going on in their sphere of influence, but perhaps don't have a very clear picture of what's going on in the main.

And I think everyone in this agency ought to step back once in a while and

reflect on what are we doing as a whole, and what are all of the issues that we have out there as an agency that we might get asked about by a member of the public.

Now, obviously, our communications staff -- and Bill Outlaw is here, and Eliot Brenner, and others -- and they can be helpful, and we have internal -- new internal communications tools, the inside -- what is it called? NRC Reporter. You know, things like that where we can try to help educate folks on the staff.

But some of it comes individual. I can't tell you what to read. That's something you ought to do on your own. But each member of the staff ought to try to think about, am I really sort of keeping up generally with what's going on with the agency?

CHAIRMAN DIAZ: I totally agree with Commissioner Merrifield except in one point. The Commission doesn't float at 40,000 feet. It control flies at about 50 feet.

(Laughter.)

COMMISSIONER McGAFFIGAN: We're F-111s.

COMMISSIONER MERRIFIELD: Mr. Chairman, I have a little --

COMMISSIONER McGAFFIGAN: Metaphors are not good.

(Laughter.)

Mr. Chairman, I agree. I worry that the question has a different aspect to it that we may not be addressing. And by the way, I avoid seven-syllable English words every bit as much as you do, so as an alleged native speaker.

And that's the issue of -- we have adjudicatory processes, and we have to define -- there is now 30 years of definition as to, in our rules and in previous decisions by our boards, by our commissions, and by appeals courts, and sometimes even the Supreme Court, that you don't open up everything when you do something.

You have -- in license renewal, which was one of the examples cited, we -- Commissions before us, even -- even Diaz and I were not here when they did the license renewal rules, but they focused it on management of aging -- what is it, active systems, aging -- but it wasn't an opportunity to adjudicate the entire licensing basis for the facility, which it was assumed that our reactor oversight process and its predecessors and its successors, that that's where the day-to-day activity is for most of these plants.

If they're operating safely today, they're going to be operating safely at 40 years plus one for most of these things, but we have to have a particular focus in deciding whether to give an extra 20 years on these things. And that was arrived through an Administrative Procedure Act rulemaking process, 1995 and '96 is my recollection, and so the Chairman should have been here.

But you can't run an agency -- any agency of government -- where everything is on the table simultaneously. So to the extent that the questions about compartmentalization that derives from the adjudicatory process and prior Commission and appellate court decisions, then that's just the way we do business. That doesn't mean we're compartmentalized. We are certainly not, and we don't encourage you to be.

COMMISSIONER JACZKO: Just thinking about this question a little bit, too. I think one of the things that, as an agency, we often recognize that the subject matter we deal with is technically complex, and I think there's a strong recognition that -- among the staff that when you talk about these issues to the general public who may not be technically educated that it's important to speak in a way that they can understand.

But there's another complexity to what we do, and that is the regulatory complexity. And in many ways our processes and decision-making processes and our regulatory processes can be just as complicated, because they are based on a variety of precedents, on, you know, aspects of our regulations.

So I think it's important to keep in mind that the complexities in what we do are not just always in the technical area but in that regulatory aspect as well, and that sometimes that needs to be communicated clearly in a way that -- so that the general public can participate in the appropriate ways that we've determined.

COMMISSIONER LYONS: I realize the question dealt with communication and compartmentalization. But I'd also like to comment that in the few short months I've been here I've been very impressed with the way that many of the staff in the NRC cross compartments.

And as I've talked with individuals and discovered that they have participated during their careers in a number of different area, I think that's very, very healthy. I think

the transfer of staff, the transfer of managers, between or among, if you will, different compartments is very healthy for the agency and very healthy for the staff.

And speaking personally, I know that every time I've taken on a new responsibility or a new challenge it's been an exciting new learning opportunity. And I perceive that the staff also views it that way, and I think that's very healthy.

CHAIRMAN DIAZ: Thank you. Next question?

PARTICIPANT: This question is from headquarters.

CHAIRMAN DIAZ: Hold on. Sorry.

PARTICIPANT: Although the agency supports telecommuting, the impression is that some offices openly discourage this practice. What is the agency's official policy, and how does it intend to make telecommuting a viable option for employees?

PARTICIPANT: Paul? I'm good at delegating.

MR. BIRD: We have -- as most of you know, we have recently expanded the policy for telecommuting. We certainly encourage that where it works. We have over 1,000 jobs that are identified for telecommuting. People are asked repetitively if they are interested in working in a telecommuting sense.

And quite interesting to me, we haven't had a great number of people who have come forward and applied to participate in that program. We have work at home that's done on a project basis, and that seems to be a more popular method of getting that accomplished.

Certainly, from a policy standpoint, I think the Commission has come a long way in that regard. We're open to that. And where jobs are appropriate, we encourage it.

CHAIRMAN DIAZ: All right.

PARTICIPANT: Since that's about the second or third question that ventures into the collective bargaining agreement, I'd like to make a comment on that. My name is Dale Yeilding representing the union, and I'd like to identify that we have just revised the collective bargaining agreement and expanded the number of days to actually work at home.

So there is different provisions for office directors and even HR to approve

even up to five days a week for the people that are working at home to work at home. And the project basis for work at home is available to all employees, not just the 1,000 positions, so that presents that opportunity for any employee to work at home.

When we say on a "project basis," that means for a couple of days to finish one particular assignment, and actually can repeat that several times.

Thank you.

CHAIRMAN DIAZ: All right. Thank you. Please.

PARTICIPANT: This question is from headquarters. How does the Commission intend to balance the need for protecting security-related information with the Commission's stated goal of openness?

CHAIRMAN DIAZ: We're going to intend to do it very well.

(Laughter.)

That is an issue that, of course, you know we have been struggling with for some time. And there is no easy answer and there is no clear dividing line, not do I think there's going to be in any short period of time.

I do believe the country is going to do a re-analysis of how much do we need to maintain the openness of information, not only in the NRC but in every part of our society. And how much do we need to preserve in a certain manner, so it cannot be used against our society.

I think the Commission is looking at many, many of these issues. I believe the staff has asked Commission direction, and then we actually have come back and done something else. I think this is an evolution that will take place.

At the end, we need to maintain the openness of our processes in all issues that really concern, you know, safety of the public, and we need to also be able to look and say nobody should be able to use this to harm our society. It is that balance that the staff and the Commission will continue to strive to achieve.

I don't think we're there. We might not be there next year. We might never be there. What I want to emphasize is that we are aware -- we are conscious of our responsibilities, and we are going to try to keep doing the right things.

COMMISSIONER McGAFFIGAN: Mr. Chairman, I agree with everything you said. This is an ongoing process. But within the constraints of security, we try to be open. When we did the DBT, my recollection is Dick Meserve or someone sent out letters to all state homeland security advisors, to all Federal agencies and got their comments.

And then we considered those comments in our final decision. We did the same on training, making sure that the training of security forces was something that we had the best expertise of security experts around the government.

We have done the same on almost every security -- Force on Force exercises, the state is present. Local law enforcement is present. We discuss the results, particularly if they're not perfect, with the state. And I think that that process -- it isn't that we're closed, it isn't that these five folks up here are trying to hide the ball any more than, you know -- we just changed on September 11th.

Condoleezza Rice does not announce publicly what her negotiating strategy is vis-a-vis Iran. There's a lot of discussion in the public. We're happy to discuss security issues. We had a meeting a couple months ago with NSIR, and we discussed it in detail at the Reg Info Conference. But we know where the bounds are.

Secretary Rumsfeld does not discuss many of his programs in public, because there's a need for protection of the information. We're trying to draw the balance right. We're trying to be respectful of other agencies' approach, which have also evolved, as the Chairman said, since 9/11.

But, and I think we could do -- and I think Commissioner Jaczko getting ready -- I think we could do a better job of communicating that we've done something. I mean, that's the one place where we maybe haven't done as good a job is communicating -- we say it's closed, and then -- but we can say an awful lot publicly, and we do every year at the Reg Info Conference, about why we chose things.

Without getting into the DBT, without getting into safeguards or national security information, we can say a lot. And if we have a failure, it's that we haven't said enough, and we haven't struggled, even at this level, with how to communicate all that we've done.

I'm so proud of what we've done in security. And it is a great frustration to have reports written about us that are just factually wrong. And I don't know how to fix that, except we have to engage more.

COMMISSIONER JACZKO: I just want to offer a little bit of my perspective on this issue. One thing that I think is almost sometimes an unfortunate way to talk about this is a balance -- a balance between openness and between safety and security.

And when I look at these issues, the thing that I like to keep in mind is, what is our responsibilities as an agency? And we have a responsibility to protect public health and safety, ensure the common defense and security.

We have always been open as an agency, because that's one of the best ways for us to do that. If our information is available and accessible to as many people as possible, it makes it more likely that we're going to be doing the right thing when it comes to protecting public health and safety.

So after September 11th, we had to take a look at how that openness affected our mission of public health and safety and ensuring the common defense and security. So I think when I look at these issues, I don't necessarily look at it as a balance between openness and security. I look at are we doing the best we can to fulfill our mission, which is to protect public health and safety and ensure the common defense and security and the environment.

And in cases where we need to provide information, to do that effectively, then we should. And in cases where we need to restrict information in order to do that, then we should. And so I think that that's a little bit how I look at the issue.

The second point that I want to make on this is I think -- and Commissioner McGaffigan alluded to it -- is that I think if we are in a situation now where we can't provide as much information as we used to, it's extremely important that we do make sure that our processes and decision-making is extremely open, or what I like to term in that sense transparent, because it's important that people recognize that even though we're not necessarily talking about the details or providing information, we are looking at issues, we are taking action, and we are concerned about these things.

But we can't always discuss the details, but nonetheless it's important to continue to make the public aware of the things that we are doing and that we are taking action, particularly in security areas.

CHAIRMAN DIAZ: All right. Thank you. Next?

PARTICIPANT: Mr. Chairman, is there any truth to the rumor that the agency intends to downgrade GG-15 technical positions as incumbents leave the agency and fill these positions at a lower grade?

CHAIRMAN DIAZ: That is a little bit above my bounds, but let Luis Reyes --

MR. REYES: Thank you for the question.

(Laughter.)

Because it is a very important issue, and an issue that I'm personally following very closely. If you look at our history, we basically didn't recruit for about one generation. If you do a great profile of this agency, you'll find out that you come up with what I call the inverted pyramid.

Twenty-five percent of the employees are the GG-15 level. What that does is that when we get to the mid-year process like we just did in the budget, there is so much money expended on salaries and benefits that there's not too much money left. In fact, our budget is 60 percent salaries and benefits.

If we get to a position where our budget is around 80 percent salaries and benefits, let me tell you, we just fail as an organization. And that has happened in the government. I am not going to let that happen.

So the question is: how do we go back to a more normal alignment where you indeed have a progression from the lower grades to the higher grades, where you have a normal distribution, which I will call a normal pyramid, large base, goes up to a point.

Now, we are a very employee-oriented organization, and we are not thinking of any Draconian measures to get back in line. But earlier in the discussion we talk about all the retirements that are occurring, and those are opportunities for us to reflect of whether the positions that are available through that process really deserve for us to pay those salaries.

In other words, do we really need to pay that kind of money for those skills and knowledge, when, in fact, in the market we could get those skills and knowledge from a different cost?

And we talked extensively about this in the senior managers' meeting that we just held last week. We are going to put together staffing plans for each office, starting from fiscal year '06, that will give us a road map to try to bring this issue to a more controlled issue. But let me tell you, do not underestimate the problem. This is a significant problem when you have more than 60 percent of our budget just for salaries and benefits.

If you're not careful, you'll get to the point -- and I won't mention the government agencies, but there are some like that -- where the people -- where they have inspector types that sit in their desk and they can't go anywhere. There's no money to travel. There's no money to do anything.

I cannot allow this agency to get into that situation, so --

CHAIRMAN DIAZ: Luis, I think that's very good. Let's just stop it right there, because we are approaching 12:00, and it's --

MR. REYES: Yes. I just want to say my emotion comes across. It is because it's there. It is a significant problem, and I'll be glad to talk to anybody about it.

CHAIRMAN DIAZ: I was going to say that this is only one of the issues that we're facing in the agency, and there are many, many issues, and we're going to deal with each one of them in a very deliberate manner.

We know that the real wealth of the agencies are employees. We're going to make every effort possible to try to do the right things, and there is a whole hierarchy of issues that will be coming slowly into the play. We're going to analyze, and we're going to keep you informed.

COMMISSIONER McGAFFIGAN: I just want to associate myself with Luis' comments as a matter of good government. I'm speaking also from some experience, you know, in that when I was in the Foreign Service, except for my first job in government, all of my remaining jobs were well above my pay grade. I would be I would be replacing the

equivalent of a GS-13 or 14, while still being an 11 or 12. And that's just the way life is.

But that doesn't mean there aren't -- you've got to bring people into government as 11s and 12s, or sometimes bring people in the agency as 11s and 12s. And the Foreign Service has flexibility to assign me as a junior officer to GG-15 positions without giving me the pay. And that's the way it should be, in my view. But that's personal.

And all these folks who worked on congressional staff know that we were -- congressional staffers are given enormous responsibilities without the same pay levels as are in the bureaucracy.

CHAIRMAN DIAZ: All right. We are -- any more questions? We are approaching noontime, so we've got maybe time for another question.

PARTICIPANT: In regards to the Commission's heightened concerns with the management of contractual arrangements with the DOE laboratories, and implementation of new project review and approval requirements, what are the Commission's expected outcomes?

CHAIRMAN DIAZ: I don't know that the Commission has predetermined what the expected outcomes are. But with the issue of the DOE labs, we continue to look at them essentially on a case-by-case basis. We do realize that we need to use some of the DOE expertise, because we don't have it in the NRC, all because fundamentally it is the right way of going at it.

I do think that OGC and the Commission faces issues of potential conflict of interest. We keep resolving them. We have tried to put some resolution in legislation that would allow us a little bit of flexibility.

I really believe that we will continue the way we are. We will try to avoid conflicts of interest. We will probably continue to use DOE's labs on a case-by-case basis as needed.

COMMISSIONER MERRIFIELD: Mr. Chairman, I think I would, in the spirit of our seeing things somewhat differently, I'd answer that a little differently. I don't think that the Commission, by making those changes, is saying what we expect the outcome of the science to be.

But I think what we're saying is we want our relationship with DOE to be more in line with the relationship that we would have with other parties with whom we contract. We expect DOE to be on budget. We expect them to be on time. We expect them to provide us a high-quality work product. And we expect something that meets our requirements and expectations.

That's the same methodology we would use with any party with whom we contract. And I think that clearly would be an expectation that I had when we went into this process.

CHAIRMAN DIAZ: Well, that's a complimentary --

COMMISSIONER McGAFFIGAN: I'll give a complimentary answer as well, because I think it was at a Commission meeting where I might have been the provocateur, which I sometimes am, that I said that after nine years here we know the Chairman gets all these notices about contracts of more than X value for -- if it's a private sector firm, and yet we know far more is being done with the labs, and it was largely invisible to us.

So it's the visibility to the Commission. I think the Chairman's staff is doing an excellent job of looking over the proposals. And occasionally one of the things they look for is what are the performance -- do we have enough here to judge success? Which is Commissioner Merrifield's point and that sort of thing that we expect with the private sector contract and we weren't sure is happening with the lab contract.

So a lot of it was just visibility, it's better management, why were we doing it only for the private sector and not for the labs. We're now doing it for both, and I think we'll be stronger for it.

But there's no predetermined outcome, except I think there's a recent SRM that says we really do hope at some point that if we do this all right, performance-based contracting with the labs, that we'll be able to better judge where to put our next money in the labs.

The Energy Policy Act of 1974 says we should use the labs in the first instance, but it doesn't mean that we have to use one lab versus another if one lab hasn't been doing as well in meeting the criteria that Commissioner Merrifield talked about. But

it's no big change.

The other thing I will warn -- and I have heard in my wandering of corridors that this was not meant to be a heavily burdened process either, and the allegation -- I looked at the EDO -- is that the concurrence process for these things is becoming onerous. And I know that's not the Chairman's intention either.

CHAIRMAN DIAZ: No, that is not our intention. But fundamentally, it happens that there were several, let's call it, contracts that were caught in this middle ground. Once those get resolved I think we will get to a smoother process.

But both Commissioners Merrifield and McGaffigan are right. I did not know many times when these things were going forward, and I think what the Commission is saying is we want to know, and the staff should be held accountable for holding the labs accountable, and everybody else that we hold contracts with. And that's it. That's the bottom line.

I think we have reached the hour where everybody gets hungry. On behalf of the Commission, I want to thank you for coming, joining us this morning, for your questions. Some of them were very pointed, as usual, and they were all good.

And with that, we are adjourned.

(Applause.)

(Whereupon, at 12:04 p.m., the proceedings in the foregoing matter were concluded.)