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U.S. NUCLEAR REGULATORY COMMISSION

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COMMISSION MEETING

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ALL EMPLOYEES MEETING

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WEDNESDAY,

MAY 24, 2006

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The above-entitled matter convened at 1:30 p.m. in  
Salons D-H of the Marriott Bethesda North Hotel, 5701 Marinelli Road,  
Rockville, Maryland.

COMMISSIONERS PRESENT:

NILS J. DIAZ, Chairman

EDWARD McGAFFIGAN, JR., Commissioner

JEFFREY S. MERRIFIELD, Commissioner

GREGORY B. JACZKO, Commissioner

PETER B. LYONS, Commissioner

ALSO PRESENT:

LUIS REYES, EDO

MARTY VIRGILIO, Deputy EDO

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

(1:31:28)

1  
2  
3 MR. REYES: If you would please take your seats. I  
4 know everybody is excited, great weather, unique opportunity. Just a  
5 plug for the *NRC Reporter*. Tonight's article will have a long history of  
6 how we started the All Employees Meeting, who started it, how it  
7 began, the different variations to the theme, culminating with today's  
8 meeting, which we have the capacity to have all employees in our  
9 Headquarters Office located in one location, and we'll be able to have  
10 one meeting for all employees, the Regions and the technical center,  
11 Chattanooga Training Center, are on video, so they'll be able to also  
12 see us, so this is kind of unique opportunity, first time ever that we can  
13 have all employees both here and in the Regions join us for one  
14 session with the Commission.

15 We have plenty of seats here in the middle for those  
16 just coming in. You don't have to sit in the back. We're going to  
17 charge money to the people sitting in the back, so please get up. And  
18 let me not delay any more. Chairman Diaz.

19 CHAIRMAN DIAZ: Thank you, Luis, and good  
20 afternoon everyone, and welcome to the NRC's annual All Employees  
21 Meeting. My Commission colleagues and I are very pleased to join  
22 you to answer questions and concerns that you may have to the best  
23 of our ability.

24 I will provide some "brief" remarks, and then I will ask  
25 my fellow Commissioner for "brief" remarks, and then I'll turn to you.  
26 This is your meeting, and we hope you feel it is your meeting, and we  
27 hope you make it so.

1                   Let me just take a moment to welcome to our All  
2 Employees Meeting those members of our staff who are located in our  
3 Regional offices and the Technical Training Center in Chattanooga,  
4 and in other sites around the country. The Commission values your  
5 active participation in our All Employees Meeting, even long distance.

6                   We have abandoned the tent on the green this year,  
7 but we have gained a particularly important advantage of being all  
8 together in one session. Togetherness is good, and air conditioning is  
9 even better. As always, we strongly encourage you to use this time to  
10 communicate with us.

11                  In my remarks this afternoon, I want to share with you  
12 a broad and sometimes personal reflection of and expectations for the  
13 NRC. I will be using three images, the way we were, the way we are,  
14 and the way we will be. Notice I said will be, because eventually it will  
15 be a positive, even optimistic view, the kind that shakes my colleague,  
16 Commissioner McGaffigan, into labeling me an optimist. He is right, of  
17 course, I am an unabashed optimistic, but I am also a realist. And my  
18 remarks this afternoon are founded on those two aspects of the way I  
19 am.

20                  The way we were only a short 10 years ago was an  
21 agency very good at doing the necessary, at accommodating  
22 incremental changes, and at jumping with gusto at any event. NRC  
23 had not fully recovered from the TMI Lessons Learned. We did not  
24 trust industry, and they did not trust us. Progress was still made,  
25 however. Often, we felt the benefit of good communications, even  
26 when the common objective was safety, progress was made with hard  
27 work and persistence.

1 In the 10 years I have been with the Commission,  
2 there have been many positive changes, on both sides of the aisle.  
3 Those major changes form the basis for the way we are, and we are a  
4 heck of a lot better than what we were.

5 We have focused attention on maintaining and  
6 improving the regulatory framework and contributed to significantly  
7 enhanced industry performance. We ensure and make safety first.  
8 We then added accountability and communications as priorities in the  
9 way we do our work. Specifically, we have changed our regulatory  
10 philosophy from one of safety versus compliance, to one of safety with  
11 capital S, and compliance.

12 We made the minimal meaningful in 50.59. We made  
13 small and very small pay-off big in Reg Guide 1.174. We moved  
14 prescriptive regulation to more risk-informed and performance-based,  
15 and we openly, openly established the ROP, and then continued to  
16 improve it to provide enhanced oversight that is fair and rigorous.

17 We have issued 42 license renewals, and 108 power  
18 uprates. We have integrated safety, security, and emergency  
19 preparedness. We have worked hard at requiring improved security  
20 whenever needed. Moreover, we use analysis and communications  
21 all the time to increase the assurance that the nuclear power plants  
22 have the defensive capabilities and mitigation strategies needed to  
23 protect the sites and the American people, and they do.

24 We also forged ahead in the materials arena and with  
25 the preparations for Yucca Mountain. We will be prepared to perform  
26 the necessary reviews when the time comes.

27 Major facility licensing became and continues to

1 require significant resources in NMSS, as is the conversion to ISA for  
2 the fuel cycle facilities. We addressed contamination and  
3 decommissioning effectively. We work closer and better with the  
4 Agreement States in addressing radioactive materials issues. We  
5 secured the more significant radioactive sources using a risk-informed  
6 approach. We are putting the closure clips on tracking, transporting,  
7 and securing, as appropriate, the radioactive materials of this nation.  
8 We have sharpened our research efforts, tied them to specific needs  
9 during this period with our new reactor licensing, and have addressed  
10 and resolved many key reactor safety and security issues. In addition,  
11 we implemented a more coherent and consistent planning and  
12 budgeting process.

13 As an optimist, I see this period as a time when we  
14 register substantial success in enhancing public confidence, improving  
15 industry safety performance, and delivering on the promise to protect  
16 public health and safety. The realistic in me would add that there  
17 were many, many, many challenges along the way, and that we can  
18 do better.

19 In many ways, we came out of the shadows into the  
20 public limelight, and we did not shrink from that responsibility. In fact,  
21 we bask in the sunlight, and use it well to enhance the credibility and  
22 the prestige of this agency with the Congress, Federal and State  
23 agencies, and the public.

24 One measure of the respect we have earned can be  
25 found in our budget. The total budget authority in fiscal year `06 was  
26 \$796 million, \$92 million more than in fiscal year `05, and last week  
27 the House Appropriations reported with an increase of \$40 million to

1 the already supportive budget submitted by the President. No longer  
2 burdened with budget cuts, we should be able to firmly plan ahead  
3 with a fiscally conservative, and yet realistic approach.

4 Now we face an entirely new, indeed, a very tough  
5 situation. The Energy Policy Act of 2005 and industry announcements  
6 of their plans to file COL applications, and their intention to construct  
7 new plants have made it very clear that we are going to have to  
8 address a cascade of new requests and the associated required  
9 actions, unlike anything we have addressed in the past. And, and the  
10 "and" is very important, and we cannot, and will not miss a step on  
11 operational safety and security oversight.

12 The way we are is not going to be good enough to  
13 meet this workload in the manner the nation demands, and we all  
14 expect. We have to transform ourselves again into another better  
15 NRC, and become what I have called the way we will be. And what is  
16 the way we will be?

17 It is first and foremost an agency that gets ahead of  
18 the curve and stays ahead of the curve. We cannot afford to repeat  
19 the past like being in a reactive mode when the bow wave of new  
20 activity actually begins. Schedules will mean schedules. They don't  
21 mean something that is just in a computer, and we're going to have to  
22 live by those schedules.

23 The NRC is an agency that has the expertise and  
24 experience to carry out its responsibility, and recognizes that it will be  
25 held accountable for its actions. You need to be better, and at the  
26 same time we have to turn every new hire into efficient regulators in  
27 record time. It means that when the time comes, we are ready, able,

1 willing, and have the knowledge base to review applications efficiently  
2 and well. As an optimist, I am confident because I know you. I know  
3 the NRC, and I know we can do it. As a realistic, I know that there are  
4 serious challenges. We need to be fully mobilized in a war-time  
5 manner to accomplish the tasks that lie ahead, and we need to be on  
6 that origin footing now.

7 Let me summarize. You and I, the NRC, we are in  
8 our own private war. The ways and means of peacetime are not good  
9 enough. Many are saying we cannot do it. I heard that behind closed  
10 doors and open doors they say the NRC cannot do it. I want you to  
11 prove them wrong. I want you to prove them wrong, because you can  
12 do it. I know we can do it, and I know we can do it because we can.  
13 And if you believe we can, like I do, we will be able to do it.

14 The future of the agency depends on our effective  
15 response to the challenge that we already know is coming. We have  
16 time to plan, and we are going to carry it out. The future begins now.

17 As for me, I have had the adventure of a lifetime.  
18 When I left Cuba, I left many yesterdays behind, and I sought my  
19 present and my future in a new land, a land of milk and honey, and  
20 what a land it was. I have adjusted and re-invented myself many  
21 times, and have always known that in this country I will have the  
22 opportunity to be myself, and to prove myself worthy. I have, and I am  
23 free. I have been, and I am free.

24 I have spent 10 years of my adventurous life with you  
25 here at the NRC. It has been an honor for me to serve as your  
26 Chairman, to serve with you as a Commissioner, to have this chance  
27 to work with my Commission colleagues, and to work with you in the

1 great enterprise of protecting the public health and safety, the  
2 environment, and the common defense and security.

3 I want to thank you for your support, for the great  
4 work that you do, and for being the kind of people and organization  
5 with whom anyone would be proud to serve. I know I have been. I  
6 would not change the last 10 years for anything, a nuke's dream come  
7 true. I have loved doing my job, and I know I'm better for it.

8 When I am in Florida at the beach making the tough  
9 decisions in my boat, trying to decide early in the morning whether it  
10 will be Mimosa or Pina Colada, I will be looking forward to hearing  
11 about how you have won the war, and relish that I was one of you.  
12 Thank you.

13 Now I will ask my fellow Commissioners for brief  
14 remarks.

15 COMMISSIONER McGAFFIGAN: Mr. Chairman, I'm  
16 just going to spend a moment praising you, and I think the applause  
17 you just got was entirely appropriate and as sincere as your remarks  
18 were. It's been an honor serving with you for the past 10 years. I  
19 think I missed 103 days last year, and you missed about 90 days back  
20 in the early part of this decade. We haven't always agreed on  
21 everything, although we've agreed on far more than we've disagreed  
22 on. And, of course, you were wrong in all those cases.

23 CHAIRMAN DIAZ: History will absolve me.

24 COMMISSIONER McGAFFIGAN: You served the  
25 nation well. You have served this institution well. You could have  
26 stayed in Florida, as I said Reg Info Conference, and made far more  
27 money, might have even prevented the mutual mistake of Steve



1 Spurrier and the Washington Redskins, kept Florida football on a  
2 winning track. But that all said, this is a much better place for your  
3 presence than it was when we arrived. There were a lot of issues to  
4 fix. There's a lot of issues ahead of us still to be fixed, and we'll talk  
5 about those in the context, in the course of this meeting, but it's been  
6 an honor serving with you, and I wish you and your family all the best  
7 in retirement.

8 CHAIRMAN DIAZ: Thank you, sir.

9 COMMISSIONER MERRIFIELD: It would be easy,  
10 and perhaps desirous by the audience if I just said ditto. And for the  
11 most part I would say yes, but I want to add, I completely agree with  
12 Commissioner McGaffigan's sentiments. And I would just like to add a  
13 little bit to that.

14 One of the things that I think we, as Commissioners,  
15 don't forget, sometimes our staff forgets it, and certainly a lot of folks  
16 out in the regulating community and our stakeholders forget it, but  
17 when you join the Commission as the Chairman did 10 years ago, you  
18 join as a Commissioner. The White House has indicated that it has a  
19 new Chairman in mind, Dale Klein, who will join the Commission as a  
20 Commissioner, and he will be designated as Chairman. But in the  
21 end, you are always a Commissioner. And there's a tendency, I think,  
22 to focus on the accomplishments of what the Chairman has done.  
23 And I think in the time that you have been our Chairman, we have  
24 accomplished a great deal, but I think it's also worthy to remember the  
25 work you accomplished, and all Commissioners accomplish in their  
26 role as Commissioners. And in those first seven years before you  
27 became Chairman, you did a large number of things that help set this

1 agency on the course it's become today, far before the time you  
2 became a Commissioner, and I think that's something else we should  
3 always remember.

4 A lot of the activities that we have taken in recent  
5 years, the framework for that, and the foundation for that was  
6 established by ideas and thoughts that you either had or championed,  
7 and I think we should remember that, as well.

8 One of the things that the Chairman has mentioned,  
9 and I think we all are in agreement, that this is an important institution  
10 beyond any individual member, or any individual Chairman, and that's  
11 the value of the Commission structure. It creates the stability, and I  
12 think we are all celebrators of stability, and in the stewardship that the  
13 Chairman has had over the time he has been here, my hope is that we  
14 can continue that progress that we have established, and have  
15 continued to establish over the years. So the record of the Chairman  
16 and the record of the Commission as a whole is a word he likes to  
17 use, and that is the word "sustainability". And, hopefully, as we all bid  
18 him goodbye over the course of the next month, we can continue with  
19 that one word in mind; and that is, we've had accomplishment, but we  
20 must have sustainability in meeting our mission as a public health and  
21 safety regulator.

22 So, again, I join Commissioner McGaffigan in wishing  
23 you all the best, and we will have other occasions to say it again, but  
24 it's always a pleasure to do so, and thank you for your service.

25 CHAIRMAN DIAZ: Thank you, sir.

26 COMMISSIONER JACZKO: I had originally prepared  
27 about 10 pages of notes to talk about the Chairman, but in the interest

1 of brevity, I'll shorten that a little bit. Certainly, on a personal note, I  
2 just want to say that I appreciate the Chairman for the work that he's  
3 done to really show me the importance and to give me an appreciation  
4 for this office, and how, as Commissioner Merrifield said, although he  
5 is now the Chairman, he is always a Commissioner, and has showed  
6 me the way to act as a Commissioner. And while I've strived to live up  
7 to his model, I think I still have work, and I appreciate his help and  
8 guidance in helping me to appreciate this job.

9 I just want to say a little bit about, I think, the work and  
10 the dedication that he's put in over the last 10 years. I've been a  
11 Commissioner a little over a year now, and certainly in that year and a  
12 half I've seen the rigors of this job and the work that it requires, and  
13 certainly, the job of the Chairman requires even more. And I think his  
14 dedication and his level of energy has always amazed me.

15 I do have to say on a personal note, I finally learned  
16 the source of some of his energy. Apparently, it's a shot of Espresso  
17 in the morning. But, again, I just want to say, certainly to echo the  
18 comments of my fellow Commissioners that it has been a pleasure for  
19 me to work with you, and I certainly see in the short time that I've been  
20 here the contributions you've made to this agency and to this country.

21 CHAIRMAN DIAZ: Thank you.

22 COMMISSIONER LYONS: I, too, can say ditto, but  
23 let me proceed with just a few very brief remarks in addition to saying  
24 ditto. Like last year, I still speak to you as the most junior of the  
25 Commissioners, but thanks to a lot of education from the  
26 Commissioners and our great staff, at least I'm not quite the novice  
27 that I was then. I'm very proud of the way that the Commissioners

1 have worked together, even while sometimes agreeing to disagree on  
2 some of our votes, and the counsel of the senior Commissioners has  
3 certainly helped me throughout this last year, and I think  
4 Commissioner Jaczko and I have continued to learn together  
5 throughout this year.

6 I've particularly appreciated the time that our  
7 Chairman has devoted to helping me understand the challenges that  
8 go with this job in assuring that the NRC continues to set the global  
9 standard for nuclear regulation. The NRC, as has already been well  
10 stated, is a far better place through the dedicated work of our  
11 Chairman. It's been a real privilege and an honor to serve with him.  
12 The nation is far better positioned in both nuclear safety, and in  
13 opportunities for new plants with his 10 years on the Commission.  
14 Security of our plants has certainly improved beyond the strong base  
15 that already existed on 9/11. Our country, this agency, and the  
16 industry are stronger today because of his leadership.

17 As Nils has spoken of his retirement plans, he's  
18 mentioned relaxing on his Florida porch with his wife watching the  
19 sunsets and sipping Pina Coladas, or we heard today Mimosas.  
20 While I'm sure those are going to be part of his plan, I'm willing to bet  
21 they're not going to consume all of his energies. And I'm looking  
22 forward to his contributions to nuclear safety and nuclear power far  
23 into the future. I believe the agency is well-positioned, thanks to his  
24 leadership, for the challenges that we're going to face in the next few  
25 years. And, again, Nils, I thank you.

26 CHAIRMAN DIAZ: Thank you. Now we turn back the  
27 meeting to you. There's been a love feast in here. They usually are

1 not that nice to me. I'm going to pass notes on this issue.

2 COMMISSIONER McGAFFIGAN: We'll try not to be  
3 the rest of the meeting.

4 CHAIRMAN DIAZ: All right. Turning the meeting to  
5 you, we're ready for first questions.

6 PARTICIPANT: Chairman Diaz, this is from  
7 Headquarters. Have there been any discussions with the recently  
8 nominated Chairman, Dr. Klein, on some of the issues the agency  
9 faces?

10 CHAIRMAN DIAZ: I'm sorry. I couldn't understand  
11 the question well. Would you say it again? There's an echo behind  
12 me.

13 PARTICIPANT: Have there been any discussions  
14 with the recently nominated Chairman, Dr. Klein, on some of the  
15 issues the agency faces?

16 CHAIRMAN DIAZ: The staff has briefed Dr. Klein. I  
17 believe that because of the necessary separation that needs to be  
18 with a candidate that has not been confirmed by the Senate, there is  
19 some limitations on those discussions, but the staff has briefed him on  
20 the issues, and prepared Dr. Klein for what was a successful hearing,  
21 so I think he is burning the books right now. We have given him the  
22 information, and we will continue to work with him as time goes on,  
23 and waiting for the decision of the Senate.

24 COMMISSIONER McGAFFIGAN: Which we hope  
25 could be as early as today or tomorrow. The trifecta, as I call it, of Mr.  
26 Klein, Mr. Jaczko, and Mr. Lyons, possibly will get through the Senate  
27 promptly.

1 CHAIRMAN DIAZ: I never presume what the Senate  
2 is going to do.

3 COMMISSIONER McGAFFIGAN: Nor do I as a  
4 former Senate staffer, but just to amplify the Chairman, it's very  
5 important the nominee not presume positive action by the Senate, and  
6 so Mr. Klein, future Chairman Klein, has been very cautious, and  
7 appropriately so, in not conveying any presumption of Senate action.  
8 If the Senate does confirm him, then there can be more open  
9 dialogue, and he'll probably show himself here during that period  
10 before he takes office on July 1<sup>st</sup>.

11 COMMISSIONER LYONS: If I might just add, from  
12 my perspective at Los Alamos, probably 20 years ago, I began  
13 working with Dale Klein on a number of issues. I've known him for  
14 many years. I think he will serve very well at the NRC, and I'm very  
15 much hopeful that the Senate will concur. But as a long-time  
16 colleague, he will make an excellent addition to the NRC.

17 CHAIRMAN DIAZ: Next question, please.

18 PARTICIPANT: This is a question from  
19 Headquarters. Where do you see the nuclear industry in 10 years,  
20 and do you think we will have addressed the President's goal of  
21 reducing dependency on foreign oil?

22 CHAIRMAN DIAZ: As an independent regulator, I'm  
23 not sure I can answer that. I do see the nuclear industry in the United  
24 States considering very seriously every single aspect of additional  
25 nuclear deployment, including the very serious aspect of the fact that  
26 they are a regulated industry, and that the NRC will conduct a very  
27 rigorous evaluation of the applications, and will continue to exercise

1 oversight.

2                   Having said that, I've seen a change in the - let me  
3 just say almost the commitment to go forward - and that is shaped by  
4 things that are often not under our control; the need for additional  
5 base-load capacity, the definitely substantial rise in the price of oil and  
6 gas, the fact that all of these gas generating units are not able to work  
7 at the capacity, the importance of the mixture, the importance of the  
8 portfolio, the importance of anchoring the grid, so all of those factors  
9 are coming together in what I have called a couple of times a  
10 convergence of positive factors, so I think the industry is analyzing all  
11 of those issues, economical, social, political issues which I believe  
12 have turned a corner. I am seeing the seriousness in which they are  
13 taken, the potential deployment of nuclear power, and our job is to be  
14 ready, like I said. Our job is to consider that it's going to happen, and  
15 that's what we're telling the Congress, and what we're telling  
16 everybody. We have to be ready, and I think we will be.

17                   COMMISSIONER McGAFFIGAN: Mr. Chairman, I  
18 might add; I think that you will see nuclear power plants coming on-  
19 line 10 years from now. I think you will see a very large wave of  
20 additional plants coming on line in addition to the initial plants in the  
21 years thereafter, if our licensing process goes well, and if the initial  
22 construction efforts go well. And those are two big ifs.

23                   I would only say with regard to dependency on foreign  
24 oil, if we're successful, if the industry is successful in building, and  
25 we're successful in licensing new plants, it doesn't affect oil  
26 consumption. We don't use oil to generate power in this country. It  
27 might help displace some natural gas use in this electricity production.

1 I think as a recent report by one of the House committees, Tom Davis  
2 is the chair of it, said, "We will rue the day that we generated 20  
3 percent of our electricity through natural gas as the source."

4 I think I'm an environmentalist in some sense of the  
5 word. I grew up thinking I was one. I'm not sure I'd be voted the  
6 member of the year at any of the usual groups, but it is a crying  
7 shame that the focus has been on natural gas for the last 20 years,  
8 because we only have so much of it, and so the best that will happen  
9 as a result of activities in the nuclear sector is hopefully natural gas  
10 will be displaced and used where it is much more valuable in our  
11 economy. And I hope that does happen.

12 That doesn't mean I'm not going to be a tough  
13 regulator looking at the licensing of these plants, but as the Chairman  
14 said, there's a bunch of factors coming together, converging. Instead  
15 of building 104 different flavors of reactors in the next generation,  
16 we're going to build three or four flavors of reactors in the next  
17 generation, and that will make the construction of them, the oversight  
18 of them, the licensing of them much more effective than it was for this  
19 generation of plants.

20 COMMISSIONER MERRIFIELD: Mr. Chairman, I  
21 think that I agree with you and Commissioner McGaffigan. I think the  
22 factors have aligned themselves to the point where we are going to  
23 see a significant number of orders with new reactors potentially  
24 opening in a decade. But I'm reminded - this kind of question reminds  
25 me of a book that my six-year old daughter reads, and it's called *The*  
26 *Important Book*. *The Important Book* has a line in it that says, "The  
27 sky is blue, there are clouds in the sky, the moon rises and sets in the



1 sky, airplanes fly in the sky, as do birds, but the important thing is the  
2 sky is blue."

3 Well, as a regulatory agency, we think about the  
4 safety of the existing fleet, we think about license renewals, power  
5 uprates, we think about maintenance of the fuel, all the material issues  
6 that we focus on, the security issues, and new reactor orders, new  
7 reactor designs we have to review, but the most important thing is  
8 maintaining the safety of the current fleet. That is a defining factor for  
9 us as a regulator, and for our licensees in the possibility of building the  
10 units.

11 CHAIRMAN DIAZ: Thank you. Commissioner  
12 Jaczko, do you have anything?

13 COMMISSIONER JACZKO: The only thing, I certainly  
14 would echo, I think, the point that Commissioner Merrifield made I  
15 think in many ways. What happens in 10 years will really be a  
16 reflection of what happens today, when dealing with the existing fleet  
17 of operating reactors. And the Commission, I think, has done a good  
18 job of enforcing the importance of that. And one of the things that I  
19 think will be really important in the next couple of years is how we  
20 actually go about implementing that, and making sure that we are  
21 taking steps to ensure the safety of the existing fleet, and that we  
22 ensure that we're not losing focus on those reactors because of the  
23 new work that may come from new reactors. So I think it's an  
24 important issue, and I think it's one that will really test this Commission  
25 in the next several years.

26 CHAIRMAN DIAZ: Thank you. Commissioner Lyons.

27 COMMISSIONER LYONS: Let me just a crack at the

1 part of the question about reducing oil dependence. And I certainly  
2 agree with the comments that perhaps it won't be a direct effect, but I  
3 think one can look into the future, perhaps at some new challenges  
4 that are going to face the agency, where nuclear power could  
5 potentially address the concerns with oil. For example, if the use of  
6 so-called plug hybrids for cars, it does become common place and  
7 expand substantially, that will place significant new demands on the  
8 grid, and that will, in turn, feed back to, perhaps, requirements for new  
9 nuclear plants.

10 In addition, there's been a lot of speculation, a lot of  
11 research done on the use of process heat from nuclear plants for  
12 different applications. There's work going on around the world in  
13 desalination. There's work going on in hydrogen production, and that  
14 hydrogen is at least thought of as a potential fuel for transportation.  
15 This is much further in the future than 10 years, but I think one can  
16 look towards future challenges for the agency where instead of looking  
17 only at the licensing of a plant from the perspective of electricity  
18 generation, we may be asked to license a plant while we also need to  
19 take into account whatever safety issues come about from the use of  
20 that process heat, whether it's for desalination, or hydrogen  
21 production, or maybe something else, so that's at least another facet  
22 to that question.

23 CHAIRMAN DIAZ: Thank you. Next question,  
24 please.

25 PARTICIPANT: Good afternoon. This is from the  
26 Region. Part 50, Appendix E, Section 6 requires an electric data link  
27 between licensee's on-site computer systems and the NRC

1 Operations Center. Many technological advances have occurred  
2 since this rule was issued in 1991. With respect to the expected new  
3 license applications, are the requirements in Section 6 pertinent to  
4 new plant designs and capabilities, and if Section 6 requirements are  
5 modified with respect to new capabilities, will licensees in process  
6 currently be exempt under back-fitting rules?

7 CHAIRMAN DIAZ: I have no idea.

8 COMMISSIONER MERRIFIELD: Ditto.

9 CHAIRMAN DIAZ: Let's just see who –

10 COMMISSIONER McGAFFIGAN: Mr. Holahan, come  
11 forth.

12 CHAIRMAN DIAZ: Holahan has no idea.

13 COMMISSIONER McGAFFIGAN: Okay.

14 CHAIRMAN DIAZ: Good question. Excellent. We'll  
15 get back to you.

16 COMMISSIONER JACZKO: If I could just say  
17 something to that effect, I had a chance to visit Comanche Peak on  
18 Monday, and one of the questions I asked, although not perhaps quite  
19 to the same level of technical detail, really was about the ERDS  
20 system, and how the ERDS system works, and how the ERDS system  
21 communicates with headquarters. And I think having been here a  
22 year and a half, I think that was what the thrust of that question was.  
23 And to some extent, I do think we should be looking at better ways,  
24 taking advantage of all the modern forms of telecommunications that  
25 we have to really make our communications with licensees much  
26 more robust, and particularly systems we'd rely on in an accident  
27 scenario, or a security-type scenario. So I think there certainly are

1 things that it's worth looking into from that communication protocol.

2 CHAIRMAN DIAZ: We will reply to you, and I think  
3 that Commissioner Jaczko just volunteered to give you the answer.

4 COMMISSIONER JACZKO: I think I've been here  
5 long, but not quite long enough, to really –

6 CHAIRMAN DIAZ: All right. Next question.

7 PARTICIPANT: This question is from Headquarters.  
8 Recently, the Commission reaffirmed their decision to approve all  
9 procurements exceeding \$1 million. For many years, this limit was \$3  
10 million. The reality is that getting Commission approval is resource  
11 intensive, takes months, and often causes delays, or forces existing  
12 procurements to be extended. This can be especially frustrating,  
13 given our current workload. Can you explain the Commission's view  
14 on the need for this approval, even for routine agency support  
15 services?

16 COMMISSIONER MERRIFIELD: So, Luis, who do  
17 you put up to ask the question?

18 MR. REYES: Not my question, but I like the question.

19 COMMISSIONER MERRIFIELD: Did you write it?  
20 And the answer is five-nothing the other way, too.

21 COMMISSIONER McGAFFIGAN: If the EDO can  
22 streamline the process, it doesn't need to take months. That is the  
23 staff - inflicting pain on the staff for no good reason. We just want to  
24 know what's going on. There were years where we didn't know what  
25 was going on. We particularly didn't know what was going on with the  
26 DOE laboratories because that wasn't a contract. We fixed it. We  
27 want more experience with the system as it has been implemented,

1 and the fact that the staff shoots itself in the foot daily taking forever to  
2 produce simple memos is your problem, not our's.

3 CHAIRMAN DIAZ: I wouldn't put it in that manner.

4 COMMISSIONER MERRIFIELD: I wouldn't put it that  
5 way either.

6 CHAIRMAN DIAZ: But I would say that really, too  
7 much is being put into a process that should be simpler. And the last  
8 time we wrote on the issue, we actually tried to clarify that the staff  
9 needs to keep the Chairman and the Commission informed. I believe  
10 it is a good process. We have found little glitches and gaps, and I  
11 think it forces the staff to come forward with a good product. The staff  
12 sometimes overdoes what we're doing, and I think that we need to,  
13 again, get to a better process where we keep the information flowing.  
14 I believe the Office of the Chairman is trying very, very hard to review  
15 these contracts. I think that we all can do a little better, but I see it as  
16 a very good process. I think it keeps the Commission informed, and I  
17 don't see it going away.

18 COMMISSIONER MERRIFIELD: Mr. Chairman,  
19 having authored that idea, I want to comment on that one, too. We  
20 have, as a Commission, we have a fiduciary obligation to the  
21 taxpayers, to the United States Congress, and the President to  
22 oversee the way in which money is being spent at this agency. Now,  
23 fortunately, and I think this is borne out by various reviews, I think our  
24 staff and our senior managers do a very good job of spending that  
25 money, but they are not perfect. And I think it was the agreement of  
26 the Commission as a whole unanimously, that allowing an opportunity  
27 for the Commission to have a greater sense of review of those dollars

1 was wise.

2 The total cost in terms of FTE and dollars should be  
3 and is modest. Now I don't know if Pat Norry is coming back from  
4 retirement to insert that kind of a question, because I know Pat never  
5 liked the fact we were going down this road. But the fact of the matter  
6 is, it is our obligation to do the right things to make sure that we're  
7 spending this money in the right way, because ultimately the  
8 Commission, not the staff, but the Commission is accountable to  
9 Congress for what we spend. And so if we have to be held  
10 accountable for that, I want to be able to say in testifying before the  
11 United States Senate and the United States House that we have done  
12 a thorough review of how we spend money.

13 CHAIRMAN DIAZ: All right.

14 COMMISSIONER LYONS: Nils, I need to make a  
15 slight correction, though. It was not unanimous. Sorry, Jeff.

16 COMMISSIONER MERRIFIELD: I thought it was. I'm  
17 sorry, I take that back. First time around it was.

18 COMMISSIONER LYONS: I also wanted to say that I  
19 didn't plant that question either. But I was comfortable with the \$3  
20 million limit.

21 CHAIRMAN DIAZ: All right. There you go.

22 COMMISSIONER MERRIFIELD: You could answer  
23 to Congress next time around.

24 COMMISSIONER JACZKO: Well, I was in the four,  
25 so I think –

26 COMMISSIONER McGAFFIGAN: Mr. Chairman, I  
27 might just take this as a point of departure for a point that you made

1 earlier about success going forward. I do think that, and I've said this  
2 at these gatherings in prior years, we - not we, you, saddle yourselves  
3 with ponderous processes at times, which I don't think necessarily  
4 serve you well; the infamous concurrence process, and various efforts  
5 to streamline it. If we don't fix those processes so that they're less  
6 ponderous, your optimism maybe won't be realized. I want it to be  
7 realized, but I think the way you fix it is to get your processes faster.

8 Most of us served in Congressional offices – I've been  
9 in government for 30 years. I've been in flat organizations for all of  
10 those years because the Commission is pretty flat, but in a Senator's  
11 office, you cannot take the time that we take to deliberate on  
12 everything, and get the product perfect. Perfection cannot be the  
13 standard, and oftentimes the perfection hurts you. It hurts you in this  
14 instance, the one we're talking about, it hurts us in missing press  
15 cycles, it hurts us in missing other deadlines, so I think the challenge,  
16 and it's a challenge that the staff has to face, is how to fix its  
17 ponderous processes. We fixed them in some cases, we flattened the  
18 organization in some cases when things are important, we bypass  
19 layers of management and get right to the people who are working on  
20 the issue. We do that on an ad hoc basis if it's truly important, the  
21 security area or others, but the institution has to figure out how to  
22 flatten itself if it's going to be successful going forward.

23 COMMISSIONER MERRIFIELD: Mr. Chairman, that  
24 having been said, in all fairness, and I'm sure virtually everyone on the  
25 other side of the table is thinking we can help make things a little  
26 faster, too. We're not completely of clean hands, and I think we all  
27 collectively as an agency need to think about how to do things more

1 strategically and efficiently.

2 CHAIRMAN DIAZ: Well, this is becoming a good  
3 interchange on an issue that we are worried about. The reality is that  
4 there are some products in this agency that take too long, and we are  
5 not sure why they take that long. I think sometimes it's just people  
6 think they have to take that long. I think one of the things that I was  
7 talking about in my introductory remarks, was the fact that sometimes  
8 we need to take a step back and look at it, and say is this really the  
9 way I should finish this product?

10 Everybody knows how to start a product. It's finishing  
11 the product, and that's the same thing that is going to happen with  
12 these two things that we're going on about here. We will know how to  
13 start it. We will have a way to get it started and docketed. It's a way  
14 to finish it. The same thing happens with many other products of this  
15 agency. We've been doing them. We have a process, but I think we  
16 need to step back and say how can I have the same quality, maybe  
17 even better, or maybe just a little less, but in less period of time. I  
18 think that is a fundamental issue. I think you all grapple with it all the  
19 time, and we eventually - the Commission - like Commissioner  
20 Merrifield says - we need to learn when a product comes to actually  
21 give it back to you as soon as we can.

22 COMMISSIONER JACZKO: If I could add something  
23 on this, too. I think perhaps sometimes there's a misconception, too,  
24 among the staff about what the Commission wants and doesn't want.  
25 And certainly speaking as one Commissioner, I don't expect the staff  
26 to be perfect, and I don't expect the staff always to have all the  
27 answers. But what I usually expect from the staff is to have thought



1 about things. And oftentimes, I find I'll want briefings on issues, and  
2 there's sometimes I think a reluctance in some staff to want to come  
3 and brief me or maybe other Commissioners because they haven't  
4 come to the conclusion, they don't have the answer, they have some  
5 disagreement within offices. And I fully welcome that kind of  
6 exchange, I welcome that in briefings, and I welcome papers that  
7 come up with matters unresolved. That's, I think, a perfectly  
8 acceptable thing to do. That's why they let us sit up here at the adult  
9 table, is sometimes to make those tough decisions and work out  
10 problems that sometimes can't be resolved in the staff. But I think it's  
11 important to remember that that's an okay solution, sometimes. And it  
12 doesn't always have to come up fully resolved, and fully answered.

13 COMMISSIONER McGAFFIGAN: Mr. Chairman, I  
14 might just add - I have a conversation with a very senior staffer  
15 recently, and remarked about how I had never seen in my 10 years  
16 here a paper that I routinely saw during my years at the State  
17 Department; which is, here are four options, NRR and Research  
18 believe option one, Region 1, Region 2, and Region 3 believe option  
19 two, Region 3 and NMSS believe option 3. And the staffer said to me,  
20 that would be regarded as a failure by the system.

21 I remember when the IRAP was created, wherever  
22 Bill Borchardt is, the Integrated Review of the Assessment Process,  
23 and apparently, there were roaring debates in the staff about various  
24 aspects of this beginning of the Reactor Oversight Process. And this  
25 would have been back, '98 or so. And Joe Callan was the EDO, and  
26 we got a single point solution, which is what the staff produces, having  
27 rounded the edges of all those debates. And then we proceeded to

1 have a roaring debate up in the Commission recreating the debate  
2 that the staff had had, and everybody in the staff was accusing each  
3 other, according to Joe Callan, of whispering in our ears. And we're  
4 capable of doing the same stuff you have, but we'd sort of like to be  
5 treated like adults, too, and be privy to the debates that you have,  
6 rather than get single point solutions. But at State, where I spent the  
7 first even years of my career in government, it's routine to have  
8 papers saying PM, the Political Military Bureau and the European  
9 Affairs Bureau believe X, and T, the Under-Secretary for Security and  
10 Science and Technology believes Y, and P believes something else,  
11 and the Secretary is asked to make a decision. The President gets  
12 papers like that in the national security, and I'm sure other areas.  
13 DOD and CIA believe blank, and State and somebody else believes  
14 something else. We don't get those.

15 I mean, it is absolutely impossible in this culture,  
16 apparently, to give us that sort of paper, and I, like Commissioner  
17 Jaczko, would love to see one, one of these days.

18 CHAIRMAN DIAZ: No? Okay. Next question.

19 PARTICIPANT: Mr. Chairman, this question is from  
20 Headquarters. Some of you spoke of the importance of knowledge  
21 transfer at the March 2006 RIC Conference. This concern was an  
22 important finding from the IG survey, each office showing significant  
23 disagreement with the statement that NRC has done an effective job  
24 of capturing knowledge of retiring employees. Several EDO updates  
25 have mentioned planned actions, but I have not been able to find out  
26 much about actual office efforts. What priority do you believe is  
27 appropriate for knowledge transfer; and if high, what efforts can you

1 make to get any office plans results better communicated to the staff?

2 CHAIRMAN DIAZ: I believe I'm going to let – you  
3 want to answer?

4 COMMISSIONER LYONS: I'll start.

5 CHAIRMAN DIAZ: Yes, go ahead.

6 COMMISSIONER LYONS: Certainly, in my mind, the  
7 knowledge management, knowledge transfer is very, very important.  
8 At the same time, I think we should recognize that there could be  
9 many different approaches, and at the same time, many beneficiaries,  
10 if you will, to knowledge transfer. And whatever we do as an agency  
11 is going to have to evolve. We're going to have to find the best fit for  
12 the agency, and it may even be a different fit among different offices.

13 For some of you who may have visited in my office in  
14 the last few months, you may have noticed a copy of the book *Lost*  
15 *Knowledge* sitting on my table. I believe that was read by a large  
16 number of the managers at the agency, trying to come to grips with  
17 the issue that many other companies, many other agencies are facing  
18 in terms of lost knowledge and knowledge transfer.

19 At least in my mind, knowledge transfer has, at least,  
20 two different major facets; one would be that the staff has got to be  
21 trained and skilled in cataloguing their knowledge, making sure that  
22 that knowledge is available for future generations. At the same time,  
23 the staff has to be trained and knowledgeable on how to access the  
24 information that's been stored for their benefit by others, or by  
25 previous colleagues.

26 I think the whole process is evolving within the  
27 agency. I know there's just recently been some moves to assign

1 people within offices to start to move out more vigorously on  
2 knowledge management, and it was noted in the IG survey as being  
3 an area that wasn't well understood throughout the agency. It's a long  
4 answer. Anyway, very important. I believe we're moving ahead, and I  
5 strongly support it.

6 CHAIRMAN DIAZ: I was going to ask Luis or Jim if  
7 you want to – Marty, give some –

8 COMMISSIONER McGAFFIGAN: While he's coming.  
9 Again, I think we all think it's terribly important, because we have this  
10 tsunami of new people we're going to have to absorb, and that the last  
11 time we had Luis address this publicly, he told us as a result of  
12 everybody reading that book and discussing it at senior management  
13 meetings, you were trying to get people into, I think, it was - the quote  
14 was something like "the same chapter", the same page was not  
15 necessarily a goal, but trying to get them on the same chapter, but  
16 Marty will now update us.

17 MR. VIRGILIO: I'm not sure which way to face in  
18 addressing this question.

19 COMMISSIONER McGAFFIGAN: That way, that  
20 way.

21 MR. VIRGILIO: Fine. They've asked me twice, where  
22 are we? For those of you who don't know me, I'm Marty Virgilio, and  
23 I've been designated by the EDO to be our knowledge management  
24 champion. What we owe the Commission and what we owe you is  
25 some answers to those questions. First, on priority, the Commission  
26 has clearly made this one of their top priorities for us. They've just  
27 recently sent us direction with regard to developing our budget for

1 2007 and 2008, and they've identified this as one of their top priorities.

2 The second question with regard to communications, I  
3 think Commissioner Lyons touched on it. We have identified an  
4 individual in each office who is responsible for communicating both to  
5 you about what knowledge management means from our perspective,  
6 and also to hear from you and communicate back up to us what you  
7 believe we need in terms of a knowledge management program.

8 We have a paper that we're going to be presenting to  
9 the Commission within the next couple of weeks, and once that is  
10 done, we'll be delivering the message to you, and seeking your input,  
11 and that's most important, seeking your input on areas where you  
12 believe we need to advance the program.

13 As the Commission has mentioned, we have a large  
14 number of people, an unprecedented number of new people who have  
15 joined the agency, and in order to make sure that we maintain our  
16 organizational capacity, our effectiveness, our ability to innovate, we  
17 need to transfer an awful lot of knowledge in a short period of time.

18 Thank you.

19 CHAIRMAN DIAZ: Thank you, Marty.

20 COMMISSIONER JACZKO: If I could just add  
21 something, one of the adage in politics that all politics is local - I think  
22 when it comes to knowledge management, if anything, all knowledge  
23 management is prioritization. And I think the question really talked  
24 about prioritization. And a lot of the things that we're doing right now  
25 for knowledge management, a lot of it is capturing knowledge in  
26 written form. And the best example probably in the new reactor side,  
27 or the reactor side is Standard Review Plans, updating Standard

1 Review Plans, updating Reg Guides. And a lot of that work really  
2 comes down to prioritization. Prior to this year, the last couple of  
3 years, if you had a bunch of things to do during the day, the last thing  
4 you were going to do was update a Standard Review Plan with a new  
5 process or new procedure that you just implemented in some  
6 particular licensing process. So a lot of it is really, to some extent, just  
7 focusing on, certainly from the Commission through the EDO, and  
8 through all the senior managers, that this truly is important, and it is  
9 acceptable to say look, I need to get this Standard Review Plan  
10 worked on as an equal priority to, perhaps, finishing a license  
11 amendment work. So that's the kind of emphasis I think we really  
12 need to see in order to get a lot of these things accomplished in the  
13 next few years.

14 COMMISSIONER McGAFFIGAN: The book that Pete  
15 Lyons referred to has some horror stories in it that Person X leaves,  
16 and has been making something work for a long period of time way  
17 outside of procedure. And the documented procedure is there, and  
18 the new person comes in and tries to make it work based on the  
19 documented procedure, and lo and behold, they eventually, after  
20 expending horrendous amounts of money, call Person X back and say  
21 why isn't this working? He says oh, gosh, you really need seven times  
22 as much of this, and half as much of that. And then, lo and behold, it  
23 works, but it wasn't ever documented, so getting that documentation  
24 up-to-date before people leave, and getting the knowledge in their  
25 head properly documented before they leave is vital.

26 CHAIRMAN DIAZ: I believe there was someone very  
27 smart that once said that knowledge transfer really is transferring of

1 know-how-to-do. There is a difference between knowledge transfer  
2 and know-how-to-do-it. And I think we have many, many good  
3 training programs in the agency, and I believe we're going to get  
4 better. However, that know-how-to becomes very important, and that  
5 is in the key face of knowledge transfer, we need to have people  
6 knowing how to do it.

7 COMMISSIONER MERRIFIELD: For the sake of  
8 brevity, and for us to get to other questions, I will just say I agree with  
9 the need that this is critically important, and we've got to do it right.

10 CHAIRMAN DIAZ: All right. Next question, please.

11 PARTICIPANT: This question is from Headquarters.  
12 What organization will move into the new building on Executive  
13 Boulevard?

14 COMMISSIONER McGAFFIGAN: The Commission.

15 PARTICIPANT: And if no decision has been made  
16 yet –

17 COMMISSIONER MERRIFIELD: You're going to get  
18 yourself in trouble, Luis, because we could move you over there.

19 COMMISSIONER JACZKO: As long as the elevators  
20 work, I'm willing to do it.

21 CHAIRMAN DIAZ: The fact if the elevator work, you  
22 –

23 PARTICIPANT: If no decision has been made yet,  
24 when will the decision be made, and what factors will be taken into  
25 account in making this decision?

26 CHAIRMAN DIAZ: The decision has not been made.  
27 The Commission is deliberating in not only this issue but in a series of

1 issues. My personal expectation is that we will make that decision  
2 shortly, because we need to be able to move. Once we do that and  
3 take the decision, it will be factored in with all the other things that we  
4 believe need to be taken into account, including the potential high  
5 number of new hires. I understand from Jim that we are now at 363  
6 new hires. We're losing people, but that's over 200 net. We expect to  
7 repeat that next year. We need to be looking at the entire  
8 organization to be able to really provide a synergistic environment  
9 people that can work together and not repeat what some of us so  
10 many years ago, in what was in nine different offices. So the  
11 Commission is concerned of providing the right environment. We  
12 want to move as quickly as possible to make sure that those offices  
13 have not only the right equipment, the right environment, but also the  
14 right organizational plug-in to the rest of the agency.

15 COMMISSIONER MERRIFIELD: Mr. Chairman, if I  
16 may just add a couple of things. I think the Commission recognizes  
17 the importance of the quality of our work environment in helping to  
18 make this agency the place that people want to work. I mean, it's one  
19 of the reasons why we did as well as we did in the government, in  
20 coming in third in terms of best overall satisfaction in the workforce  
21 last year. And so, as we work with EDO and Tim Hagan and folks in  
22 the Office of Administration, we obviously want to identify work spaces  
23 where people will have the kind of quality that we've become  
24 accustomed to at the agency. I think we're also very mindful of the  
25 impacts that that's having on the staff as a whole right now, because  
26 of the overcrowding we clearly have in our White Flint complex.

27 As we go forward, I think there are going to be some



1 temporary steps we're having to take to move and to do some  
2 shuffling. The overall desired hope, and we're working with the folks  
3 in the General Services Administration, as well as directly - I know the  
4 Chairman has had discussions with folks in Congress - we want to try  
5 to maintain our White Flint complex together as much as we possibly  
6 can, and there'll be longer range issues of trying to get some space so  
7 folks can stay nearby, and we can be together as one NRC family.

8 CHAIRMAN DIAZ: All right. Next question, please.

9 PARTICIPANT: This is a question from  
10 Headquarters. There are two parts to the question. A licensee can  
11 break a formal commitment with the NRC at-will, but not be subject to  
12 enforcement. Why is this allowed to continue? And the next –

13 COMMISSIONER MERRIFIELD: I'm sorry. Can you  
14 repeat that question? The acoustics up here are terrible.

15 CHAIRMAN DIAZ: The acoustics are bad.

16 PARTICIPANT: Okay. A licensee can break a formal  
17 commitment with the NRC at-will, but not be subject to enforcement.  
18 Why is this allowed to continue? The next part of the question --

19 COMMISSIONER McGAFFIGAN: We don't know  
20 what licensee the person is talking about. The question – a licensee  
21 is breaking commitments. Is that the question?

22 PARTICIPANT: Yes. It says a licensee can break a  
23 formal commitment with the NRC at-will.

24 COMMISSIONER McGAFFIGAN: Okay. So why is  
25 that allowed to continue. Okay. Now we understand the question.  
26 Give us the second part.

27 PARTICIPANT: Equipment installed under

1 commitment, for example, radiation monitoring under TMI  
2 commitments, is found many years later to be installed, but not  
3 functional. Why is this allowed to continue?

4 CHAIRMAN DIAZ: All right. Let me try to answer  
5 probably in the same manner. A licensee commitment, it's not in  
6 regulatory space. It is not in their design basis. However, it is  
7 considered in their good practices, it is considered something that the  
8 licensee cannot remove from their normal operating procedures  
9 without informing the NRC if that has become a commitment.  
10 However, it is not in, what we call, enforcement space, so a licensee  
11 could actually say I'm going to change this commitment. I'm going to  
12 do it this way. They need to inform us, and that's where the  
13 commitment is.

14 I think the same thing happens when you have a  
15 radiation monitor, it maybe has been put in there in a performance-  
16 base, saying that we're going to monitor this area. It might not be  
17 required for any part or any of the components that are in the design-  
18 basis; and, therefore, it is not enforceable. That doesn't mean that we  
19 do not maintain awareness of it, or that the licensee doesn't have the  
20 obligation to inform us if this has been a commitment, that it's been  
21 changed.

22 COMMISSIONER JACZKO: I would just say that – I  
23 mean, I certainly think it's important that when we do make decisions  
24 about commitments that the NRC looks carefully at whether  
25 commitments should be, in certainly this kind of commitment space, or  
26 whether they should be in regulatory space, because clearly, there is  
27 a fundamental difference, and that is really the enforceability issue.

1 And the Commission right now is faced with some issues where the  
2 industry is interested in doing things using more of a commitment  
3 basis, and not putting something into their licensing basis, so that's a  
4 question and issue that I think the Commission does deal with quite a  
5 bit. And it's not always clear, and there's many issues that could go  
6 either way. And, certainly, I think that there's healthy discussion  
7 among Commissioners about what is the right, or where the right  
8 location is to draw the line in those situations.

9 COMMISSIONER McGAFFIGAN: Mr. Chairman, we  
10 do, as Commissioner Jaczko mentions, bear this in mind when we  
11 make decisions. But the reason something is in commitment space  
12 rather than regulatory space often goes to the Backfit Rule, and  
13 whether we can demonstrate that there's a substantial increase in  
14 public health and safety, and that benefits exceed costs. And if we  
15 can bluff, I suppose, at times about the fact we might put something  
16 into regulatory space without those criteria having been met, but  
17 industry, at times, calls our bluff, and so things remain in commitment  
18 space, and it's a lot looser.

19 CHAIRMAN DIAZ: The reality is that this is a  
20 democratic country, and the way we regulate is different from other  
21 countries. We actually have a regulatory system that has many  
22 checks and balances into it. And like the way I said in the first time I  
23 talked at the Regulatory Information Conference, those of you who  
24 don't remember might go back to it, there is a play that is naturally  
25 good in democratic countries into what is regulated and what is not,  
26 what becomes a part of regulatory space under enforcement, and  
27 what is not. And the reality is that they're both good, and it is

1 important to know the difference, and it is important to actually use  
2 both of these components to get the best of what you can.

3 The NRC does quite well in using both regulatory  
4 requirements, commitments, and even non-commitments to come with  
5 a more complete and comprehensive performance that actually serves  
6 the public health and safety mandate that we have. And I think those  
7 mesh and come in and out, and I don't think it's always that clear, but I  
8 believe it's the right thing to do.

9 COMMISSIONER MERRIFIELD: Mr. Chairman, I  
10 think most of this has been captured by my other fellow members of  
11 the Commission. I would only say as a general matter, and I'd  
12 certainly want to talk to Luis about this, I don't think we ignore  
13 commitments. If a licensee makes a commitment to us that they're  
14 going to do something, I think we have an expectation that they're  
15 going to do it. And I think a licensee to ignore an agency commitment  
16 is at its peril. I mean, obviously, we, as an agency, are informed by  
17 that. There's a healthy tension between ourselves and our licensees,  
18 and although it may not have the formality of some of our other  
19 regulatory requirements, it certainly informs our inspectors, it informs  
20 our senior managers and the Commission about the degree to which  
21 we can trust the word of an individual licensee. And I think that  
22 certainly is part of the overall framework, as well.

23 CHAIRMAN DIAZ: All right. Next question, please.

24 PARTICIPANT: This question is from Headquarters.  
25 Commissioner Lyons, you have frequently spoken of ensuring that our  
26 computational codes have adequate validation, particularly as they  
27 become more complex. Do you have any specific concerns that any

1 existing codes may not be adequately validated, and do you include  
2 PRA models within your scope of concern?

3 COMMISSIONER LYONS: I have spoken frequently  
4 about the importance of code validation. My experience at Los  
5 Alamos led me on a number of occasions to become concerned  
6 whether codes were being used outside their range of validation, and  
7 perhaps used in ways that perhaps were not well understood, so I  
8 have asked those questions.

9 Do I have specific concerns? I'd say I'm still learning.  
10 I'm trying to ask questions as I become exposed to different codes  
11 here. I think I can at least point to areas where we don't have  
12 complete understanding in validation or codes. Things like stress  
13 corrosion cracking, I think is very much still an ongoing area of  
14 research, and one that I would certainly encourage. As we look  
15 towards some of the challenges that the agency is going to be facing  
16 with advanced reactors, higher burn-up fuels, those are all going to  
17 further strain the validation-basis that we have for existing codes, and  
18 I hope that as an agency we will continue to seek opportunities to  
19 validate our codes, validate codes through whatever range of  
20 parameters we are using those codes.

21 You asked about the use of codes in PRA. Again,  
22 PRA is certainly an area where I have an immense amount to learn,  
23 but I tend to look at PRA as having certainly, if you will, a deterministic  
24 part in that it does involve code predictions of particular phenomena,  
25 and it also has a probabilistic part where individuals, staff, are making  
26 their best guesses, best informed guesses I should say, of probability  
27 distribution functions for some particular types of events.

1 I would think that improved experiments can, perhaps,  
2 inform the way we construct a probability distribution function in a PRA  
3 analysis, and for the deterministic part that goes into those PRA  
4 codes, then very definitely validation plays an important role. I don't  
5 know if others want to comment on code validation or not.

6 COMMISSIONER JACZKO: Well, I would just say  
7 one particular area where I think it's very important right now is in the  
8 fire protection arena, where we have a lot of licensees, far more than  
9 originally anticipated, that are interested in moving to the new risk-  
10 informed performance-based fire regulations. And I had an  
11 opportunity last Friday it was to go up to the facility at NIST where  
12 they actually do a lot of the validation of the fire modeling. And it's  
13 certainly an area - one of the interesting things I think came out of the  
14 briefing was the fire models are in pretty good shape when it comes to  
15 verification and validation. But incorporating those models into the  
16 PRA and that interface is an area where there's still a lot of need for  
17 work. The most specific example there had to do with, we have a  
18 good understanding if you take a room in a reactor, how temperature  
19 and energy will flow throughout the room, but we don't necessarily  
20 have a good understanding of how that will affect cabling, for instance,  
21 and what temperatures, or if there is a particular temperature energy  
22 correlation we can find that will tell us when cable failure will occur.

23 Of course, from a PRA standpoint, it's that cable  
24 failure that's really a crucial aspect of the fire PRA, and of the  
25 modeling, so that's an area where there's still some need for further  
26 experimental work, to try and either develop models, or validate some  
27 models that we have.

1                   CHAIRMAN DIAZ: Yes. I think most of us have been  
2 beaten one time or another by computer validation, and the reality is  
3 that there is an ongoing fight in here between those that make  
4 computer simulations and those that are experimentalists. Some of us  
5 that have found many times that the best computer simulation doesn't  
6 really have that factor that was going to be a very important factor like  
7 to have some validation of the models in the computer. That is  
8 becoming more and more a very, very difficult task, because you have  
9 to select, because of the cost of experiments, like Commissioner  
10 Lyons said, those parameters that are actually going to support your  
11 model, and not necessarily all parameters.

12                   On the other hand, the agency sometimes has the  
13 obligation to do some experiments and some validation that maybe  
14 science is saying you don't need it. The cask, spent fuel cask, full-  
15 size validation, I think 99 percent of the scientists say you do not need  
16 to do a full-size because quarter-size is perfectly good, and we want to  
17 do it. However, we were drilled on a Senate floor, and we all look at  
18 each other and we say look, we might as well go ahead and do it.  
19 And I think we will eventually do a full-size cask set of experiments,  
20 maybe narrower, maybe focusing on validating a series of parameters,  
21 but that value is still there. It hasn't disappeared.

22                   COMMISSIONER LYONS: If I could just add one  
23 point, which ties in with something the Chairman just said. Another  
24 comment I've made in a number of remarks around the agency is to  
25 question whether we, as an agency, are gaining as much as possible  
26 from international experience. The very few occasions I've had to  
27 participate now in international meetings, I am very impressed with

1 what is being done in other countries, and in many cases, those other  
2 countries have experimental facilities that we don't have, either don't  
3 have, or they may have had experiences, like the PAKS plant in  
4 Hungary. They've had experiences that we don't have, and we don't  
5 want to have, but still, it's an opportunity to validate codes. And I hope  
6 that we look, as an agency, at international, as well as domestic  
7 experience.

8 CHAIRMAN DIAZ: All right. Next question, please.

9 PARTICIPANT: Okay. This question is from  
10 Headquarters, and it's a two-part question. In anticipation of new  
11 reactors, NRC is staffing up now. Do you have any contingency plan  
12 if new reactor COLs do not happen? What happens to additional  
13 staffs that we have? And are you ready for the second part of the  
14 question?

15 CHAIRMAN DIAZ: The second part?

16 PARTICIPANT: It is a two-part question.

17 CHAIRMAN DIAZ: Oh, that is a two-part question.

18 PARTICIPANT: That was the first part.

19 CHAIRMAN DIAZ: Oh, okay. All right. Well, we are  
20 staffing, and we believe we have no choice. Fundamentally, this  
21 agency is chartered to license and regulate. We are being told, we  
22 haven't got an application in-hand, that it's going to happen. I  
23 understood Monday, and I'm not sure of the number, that the industry  
24 has already spent between \$1 billion to \$1.2 billion getting ready for  
25 the applications, so it is not like we're just doing this, to get into the  
26 newspapers. I think it's a lot more serious than that, the fact that I just  
27 said that, to me, it's no longer a flash in the pan.



1 Contingencies - we have contingencies, upon  
2 contingencies, but right now the main contingency is if they come, we  
3 have to be ready. I have personally told members of Congress and  
4 OMB that we need to make this budget strong. We need to make  
5 sure that we have the resources, so whether there are six, twelve,  
6 fifteen, sixteen, that we're still going to be able to go forward and do  
7 our job. If they don't come through, we will have to then put into effect  
8 all of the mechanisms that we have to make sure that our employees  
9 are protected. We need to look for how we're going to do it, but I think  
10 the overriding responsibility is we have to hire, we have to have  
11 people in place, we have to have the procedure, we have to have the  
12 SRPs, we have to have the draft guidance, we have to have people  
13 trained, we have to have the structure, we have to have the inspectors  
14 in the right places, so this whole set of structures, including everything  
15 that supports it, needs to be there. We just cannot afford not to do it.

16 COMMISSIONER McGAFFIGAN: And, Mr.  
17 Chairman, I agree with you entirely that the chance of having to  
18 implement a contingency is very small, epsilon small, but in point of  
19 fact, if you look at Mr. McDermott's famous tsunami curve, our largest  
20 age cohort is between 55 and 60 years of age, and I think our next  
21 largest is between 50 and 55 years of age, and so all we would have  
22 gotten is a year or two ahead in dealing with the tsunami. We,  
23 presumably, would slow down the hiring, let the 200 to 230 people a  
24 year we lose be lost, and we'd be back to where we were. And I'm  
25 sure some of the people who came to work for us because there was  
26 enthusiasm about the possibility of a nuclear renaissance might be  
27 among those who leave, so our attrition rate might be even higher.

1 But if the concern is would there be a riff at that point, I think the  
2 possibility of that is point zero, zero one, I'm not sure I have the  
3 percent, it's a very small percentage.

4 CHAIRMAN DIAZ: All right.

5 PARTICIPANT: Okay. The second part is, to  
6 maintain objectivity, would the Commission consider rotating SES  
7 managers, directors, division directors between offices. Three to five  
8 years is a good assignment for an SES manager in a division/office.

9 CHAIRMAN DIAZ: The rotation of SES managers we  
10 normally leave to the EDO. That's his responsibility. The  
11 Commission, of course, is always looking at how to best utilize the  
12 talent that we have. The Chairman works with the EDO, the  
13 Commission reviews what are the issues and what we can do better,  
14 the Commission just essentially actually intervenes and say we need  
15 to have more SESers. We need to be aware of the fact that we're  
16 going to need them more. I don't think that there is a specific plan that  
17 says this manager is going to be there, but a rotation is taking place,  
18 movement in the agency, the dynamic growth is there, and so  
19 opportunities are going to be there. Luis, I don't know if you want to  
20 add something to that.

21 MR. REYES: I just want to add that we do have a  
22 succession plan, and when opportunities come up, in addition to the  
23 interested parties, we look at the succession plan. We have a list of  
24 every executive and how long they've been at their job, and if they've  
25 been at their job more than five years, they get included in the  
26 discussion of whether this is the right time, and this is the right  
27 experience for the individual and the organization. So we do have a

1 plan that we're executing, and we do consider individuals that have  
2 been at their particular job for long periods of time to enhance the  
3 individual's skills, and enhance the capacity of the agency executive  
4 core.

5 COMMISSIONER McGAFFIGAN: And I think a data  
6 point, and Luis can tell me whether this is right or not, but something  
7 on the order of 75 percent of the existing SES is retirement eligible by  
8 2011. Seventy-two percent, sorry. I was off by 3 percent.

9 COMMISSIONER LYONS: If I could just add as a  
10 relative newcomer here to the Commission, I've been very, very  
11 impressed to see the extent to which senior managers are moving  
12 around the agency. I think that kind of cross-training, broadening of  
13 experience, is very, very important, certainly for the satisfaction of the  
14 individual and their own advancement, but I think it's also very  
15 important for the agency to have people who truly do understand  
16 multiple offices within the agency.

17 CHAIRMAN DIAZ: All right. Next question, please.

18 PARTICIPANT: Mr. Chairman, this is a question from  
19 Headquarters, and it's a two-part question. Given the dichotomy  
20 between adequate safety review and timely decision-making for the  
21 future, number one, how does senior management assure mid-level  
22 career employees that imminent deadlines do not preclude pursuing  
23 safety questions to conclusion? And number two, how does a senior  
24 manager have sufficient assurance that he or she has all the  
25 information necessary to make a sound and wise decision?

26 COMMISSIONER MERRIFIELD: I think I could hear  
27 the question. I mean, I think the heart of the question is, do we have

1 sufficient time and information to make the decisions we need to do as  
2 a regulatory agency. And I think to the extent that the Commission  
3 has made it clear it wants us to be a timely agency, and an efficient  
4 agency, we also said that we want to be an effective agency. And an  
5 effective agency asks hard questions, and wants to make sure, and  
6 the Commission wants to make sure that the recommendation it gets  
7 from its staff are as the result of a thorough review, and the best  
8 information possible, so there's a balance. There's a balance in terms  
9 of making sure that we're asking the right questions, we're asking  
10 them in a timely way, getting the information we need from our  
11 licensees to evaluate and make the best decisions, and not be dilatory  
12 about it, not be inefficient in asking those questions.

13 Senior managers, obviously, have to expect the same  
14 out of their mid-level management, as the Commission has to expect it  
15 out of the management chain as a whole, so I think it's a balance. If  
16 there were circumstances where a manager within this agency,  
17 wherever they were in the management chain, they felt that in order to  
18 meet the safety requirements, that they needed to have some extra  
19 time to get the right answer, I don't know of any manager in this  
20 agency who would not say okay, let's make sure we've got the right  
21 time to make the right decision. In the end, we've got to make the  
22 right safety decision, so I think there's somewhat of – the way that  
23 question is postulated, I think, makes it seem as if we are inflexible in  
24 that regard, and I don't think the Commission, despite wanting to be  
25 timely, has ever told our senior managers that we want things without  
26 any consideration of what the impacts are.

27 COMMISSIONER McGAFFIGAN: There's a well-

1 used process, I forget what the proper title of it is, but the EDO  
2 routinely extends deadlines and informs the Commission that he has  
3 extended the deadlines on a wide range of topics. Sometimes there's  
4 grinding of teeth when some of us see some of the items that have  
5 been extended, but if the EDO believes, or any other senior manager  
6 believes that there's extra time needed, there's a process for getting  
7 the extra time, and there's a way to justify it.

8           When the Chairman and I first came to this agency,  
9 we confronted a situation where we would have Joe Colvin, then the  
10 head of NEI, routinely abrading us about multiple, not just two, but  
11 three or four rounds of requests for additional information on routine  
12 licensing actions that were taking forever, in his view, and there was a  
13 lot of truth to that view. And I think Sam Collins came in as Director of  
14 NRR, and provided a lot of discipline to that process. And I think it  
15 wasn't just in NRR, Bill Brock in NMSS, and the SFPO office, which  
16 was getting similar complaints, we did more thinking up front. What is  
17 it that I need to do to write this SER, that I have to write at the end,  
18 what information do I need? And by thinking up front, we got the  
19 rounds of RAIs down to one, with the rare exception where you would  
20 go to two, so there's ways to fix problems, and be both efficient and  
21 effective, as Commissioner Merrifield says, and make quality  
22 decisions. And that's what our hope is, is you'll continue to adjust your  
23 processes so you can meet both goals, but if you have to get time,  
24 you'll get time.

25           COMMISSIONER MERRIFIELD: I think  
26 Commissioner McGaffigan makes a good point, I want to fill in a little  
27 bit more. I think the Commission, when we find out from our staff that

1 we need to have more time because we're not getting the information  
2 from the licensee, or we need more information from research or other  
3 sources to make the right decisions, if presented in that way, I think  
4 the Commission logically weighs that, and is generally deferential to  
5 the need for more time.

6           Where the Commission finds that for whatever reason  
7 that it's been sitting on somebody's desk for five months, and they've  
8 finally gotten around to asking the questions, and I think that's where  
9 our patience level goes way down. We expect – I think we can support  
10 you on the time, if there's a demonstration that you've used your time  
11 wisely. Ultimately, at the end, if we've got to get the right answer,  
12 we're going to give you more time either way, but I think our patience  
13 for it is more if you can demonstrate that you've really worked  
14 efficiently in terms of trying to make it happen.

15           Now in terms of requests for additional information,  
16 sometimes it's our fault. Sometimes we do not formulate the  
17 questions appropriately, and it requires multiple times to get the  
18 answer right. That's our fault, collectively our fault. There are times  
19 where we ask the right questions, and the licensee isn't very good at  
20 giving us answers. I recollect a recent example, and I won't name the  
21 licensee, but a licensee wanted a licensing action which was relatively  
22 important for them, and it was taking time, and a multiple of rounds of  
23 questions from our staff to get the answers. And the CNO for the  
24 company said to me gee, you know, NRC staff are dragging their  
25 heels. They're being overly-conservative on this stuff. What's the  
26 story? And I said well, listen, I'm happy to look into this, but if I'm  
27 going to look into it with our senior managers, you need to really ask

1 the hard questions of your staff whether they have formulated the  
2 questions properly, and whether they put together a licensing action  
3 that can meet our standards.

4 Well, two months go by and I ask questions, and lo  
5 and behold, our staff is asking the right questions. And just last week  
6 the licensee came up to me and said oh, by the way, I wanted to – on  
7 that issue, we're going to be withdrawing our licensing request  
8 because we got it wrong. So I think there's always this misconception  
9 that somehow the Commission, when confronted with facts, always  
10 goes against the staff. Quite the contrary. I think what the  
11 Commission wants to do is find out what the real story is. And some  
12 part of the time, we're not getting it right, and some part of the time the  
13 licensees aren't getting it right, and we just have to get to the bottom  
14 line. We've got to make sure our licensees submit quality  
15 applications. We've got to make sure that we have quality questions  
16 in answer to that, and that we use a timely, effective, and efficient  
17 process to make the right safety decision. And if we can keep doing  
18 that, then we're doing the right thing, as a safety agency.

19 CHAIRMAN DIAZ: I think out of the discussion that  
20 one bottom line that is there, and we have been emphasizing, is that  
21 the request for additional information process, our's and the licensee,  
22 needs to be more disciplined. We need to make sure that you're not  
23 only asking the right question, whether it's at the right time, and then  
24 we need to eventually make sure that the licensees are giving it the  
25 importance and responding at the right time. So discipline in this area,  
26 it's going to become more and more important. And I think that it  
27 comes, again, with some of the things we said, if you know what the

1 heck you're doing, you can do it a lot better. Next.

2 COMMISSIONER JACZKO: If I can just add. One of  
3 the ways that I look at this, I mean, the responsibilities that you all  
4 have as staff is ultimately to safety. That's your responsibility, that's  
5 what you need to do as staff. Timeliness is a goal, it's something that  
6 the Commission has set some ideas for how we'd like to complete, the  
7 times that we'd like to take to complete certain actions. But  
8 fundamentally, safety is the most important thing, and if there's ever  
9 situations out there, that the agency has mechanisms in place for  
10 people who have objections through the Differing Professional Opinion  
11 program, or the Non-Concurrence Process, to raise those views and  
12 those differing views. And I think it's certainly important, I think, for  
13 staff to take advantage of those, and I don't think, certainly from my  
14 perspective, I would want you to leave with the impression that the  
15 Commission places timeliness over safety, and that's certainly not the  
16 impression that I have from many of my fellow Commissioners, that I  
17 know they've stated that very clearly. But that is fundamentally what  
18 we need to do, and what we need to be focused on primarily.

19 COMMISSIONER McGAFFIGAN: We might just take  
20 the most important - I mean, license renewal is the most important  
21 licensing actions we've done. We've been timely on most of them, but  
22 when we had to turn back Beaver Valley's, when we had to stop Nine  
23 Mile's, we did it, and that was because the quality of the applications  
24 wasn't up to snuff, and the quality of the responses wasn't up to snuff.  
25 ESPs is important, but we had to redo the environmental impact  
26 statement for North Anna, so if circumstances arise, time is not the  
27 most important thing, timeliness. But if we can make our decisions in



1 a timely way with full information, we do it.

2 CHAIRMAN DIAZ: I think the challenge is out there. I  
3 mean, beginning when I went to INPO and then totally supported by  
4 the Commission, the issue of giving us a high quality application, and  
5 that we said it has to be acceptable for docketing. I just upped the  
6 ante last week, and I just went to the Senate Monday and essentially  
7 told them what is really the bottom line for the industry. It's not only an  
8 application that can be accepted, and is docketed, it's an application  
9 that can have a timely review completed within the schedule given.  
10 And that puts dual responsibility on them to look at the application, not  
11 only when it gets there, but how is this going to be reviewed, and for  
12 us to make sure that we have the discipline to review it in that period  
13 of time. It's a very, very good point. I think we need to hammer at it.  
14 It's not how you begin, but it's how you end that becomes important.

15 COMMISSIONER LYONS: Nils, could I add one  
16 thing?

17 CHAIRMAN DIAZ: Sure.

18 COMMISSIONER LYONS: Commissioner  
19 McGaffigan listed several examples where the Commission has been  
20 very supportive of - you mentioned license renewal process, for  
21 example - I think another one that could be mentioned is the Vermont  
22 Yankee Uprate, where I think the staff should be commended for the  
23 very, very thorough job, admittedly lengthy, but at least to my  
24 knowledge, there was no one on the Commission telling you to hurry  
25 up. The time you spent on Vermont Yankee Uprate, I think shows in  
26 the quality of the product, the careful ascension in power. In my book,  
27 that was all done correctly, and it was all done safely.

1 CHAIRMAN DIAZ: Thank you. Next question,  
2 please.

3 PARTICIPANT: This question is from Headquarters.  
4 Will there be any reduction in the high level waste staff due to delays  
5 in the Yucca Mountain license application?

6 CHAIRMAN DIAZ: Would you say it again, please?

7 PARTICIPANT: Will there be any reduction in the  
8 high level waste staff due to delays in the Yucca Mountain license  
9 application?

10 CHAIRMAN DIAZ: We don't expect to have any  
11 reductions in the staff. However, we're not expecting to have any  
12 increases in the staff, either. This issue is really in a point of what I  
13 believe that should be called a decision-making point for the Nation.  
14 There are many factors in there. They're being weighed in the  
15 Congress of the United States. I think that resolution is not going to  
16 be around the corner, probably not this year, but the eventual  
17 resolution of the issue will allow us to make the proper judgment in  
18 how we're going to proceed with that program. But just like with the  
19 reactors, we need to maintain the capability to review a license  
20 application if it comes, so we have to have that capability established.

21 We also might be asked to work in other issues; for  
22 example, the House Appropriation just reported out an extra \$10  
23 million for the NRC to work in the Hanford tanks. The WIR work, the  
24 Waste Incidental to Reprocessing is now continuing, so we have  
25 serious efforts that are coming in those areas, which in many ways is  
26 the same type of work we intend to be using, the talent that we have,  
27 the resources, and be ready. We have the licensing network

1 essentially set and hungry. We are looking at how we use it, so we're  
2 trying to use the resources, but we don't believe we're going to grow in  
3 that area in the immediate future. It will have to wait until we actually  
4 get better definition of where the entire spent fuel program is going.

5 Yes, sir.

6 COMMISSIONER LYONS: I think another key input  
7 to this question, and to Nils' answer, is the debate going on sparked  
8 by the DOE with their proposal for GNEP, the Global Nuclear Energy  
9 Partnership, a large part of which would suggest that the country  
10 should be looking in alternative directions on high level waste  
11 management. But it still requires a repository, and in my mind, there  
12 may well be additional challenges for the folks who have been  
13 following the Yucca Mountain program, as not only Yucca Mountain or  
14 whatever future license application is turned in, however that evolves,  
15 as well as how the GNEP program evolves, because there may be  
16 some very important new challenges for the agency to face, if the  
17 country does, in fact, move more towards the reprocessing and  
18 transmutation ideas that are suggested in GNEP. But even with all  
19 the reprocessing and all the transmutation, you still end up with high  
20 level waste that is going to require some form of a repository, may  
21 have different characteristics of the waste, but I think the challenges in  
22 this area, to put it mildly, are far from over.

23 CHAIRMAN DIAZ: Next question, please.

24 PARTICIPANT: This is a Headquarters question.  
25 Have you seen any change in the NRC's relationship with DOE? Do  
26 you think the relationship has improved?

27 CHAIRMAN DIAZ: Yes.

1                   CHAIRMAN DIAZ: Yes. Yes, we actually have made  
2 sustained effort, and so has DOE, in communicating better at both the  
3 high levels and the mid-levels. We still believe that we have a  
4 significant challenge if the GNEP program and the next generation  
5 nuclear power plants move forward. Those are areas in which we  
6 want to be prepared early enough, just in case the agency gets called  
7 to have a substantial role in the issue. And one way or another, we  
8 eventually will have a role to play, whether it's first consultation on  
9 eventually licensing these facilities if they get to be commercial, so in  
10 many, many, many aspects yes, the answer is we are communicating  
11 better, both with the DOE and NNSA. And I think there is a healthy  
12 interchange, and a realization that these two agencies need to work in  
13 many areas together, although, in areas like Yucca Mountain, we  
14 maintain a distinct separation.

15                   COMMISSIONER MERRIFIELD: Yes, Mr. Chairman,  
16 I agree with all you said there. I think there has been real progress  
17 made in the last year in terms of our communicating with DOE,  
18 particularly with NNSA.

19                   I think part of it is, like a lot of other things in life, is  
20 really a function of simply getting the two sides sitting down and  
21 talking through some issues. And I think in the past, we had some  
22 miss-communication about where each of us were coming from, and I  
23 think we've been able to work our way through that over the course of  
24 the last year, and come to some mutual agreement on some areas  
25 that, in the past, we had not been able to be as unified on.

26                   I think there's a lesson in this for the staff, and for our  
27 senior managers. I think there's a tendency sometimes to try to

1 resolve some of these issues, either agency-wide or otherwise, at a  
2 staff level, and try not to bother the Commission with these issues. I  
3 think there are times where, in fact, maybe to the surprise of some in  
4 the audience, but certainly not to the surprise of folks here, the  
5 Commission can actually help at our level in dealing with some of  
6 these issues. And I think the challenges we had in our inter-  
7 relationship with DOE and NNSA is a classic example of that. There  
8 had been issues which had been difficult to resolve at a staff level. It  
9 came through the senior managers, and ultimately the Commission,  
10 the Chairman and other members of the Commission, including  
11 myself, were able to resolve that with our counterparts at NNSA to  
12 help move those issues forward. So I think a lesson from that for us  
13 to learn is, if you see these issues festering at a lower level, don't hide  
14 them from the Commission. In fact, keep us fully and currently  
15 informed so we can, in fact, be part of the solution.

16 CHAIRMAN DIAZ: All right. Next question, please.

17 PARTICIPANT: This question is from Headquarters.  
18 We are taking great strides to accommodate the projected flood of  
19 new plant applications. What if this flood doesn't happen? The public  
20 is not aware of the flood. How will we respond to significant public  
21 intervention?

22 CHAIRMAN DIAZ: Well, I think we kind of answered  
23 that question. I believe that we're going to have some kind of a flood,  
24 it might be a mini flood or a large flood, but it is going to take place. I  
25 think all indications are there. I believe that the agency has looked at  
26 how to handle the large number of applications. I believe the staff has  
27 been moving forward in all of the critical areas that needs to be

1 addressed.

2 If the flood doesn't happen exactly at the right time,  
3 it's still going to happen. I mean, this country in many ways needs to  
4 have a secure base of electricity, and I think what we are seeing is  
5 that we will have to play a role in making sure that it's done safely, that  
6 nuclear power, if it becomes an increasing part of the portfolio, has the  
7 safety base. We just need to be there. We cannot do it any other  
8 way.

9 One time somebody asked me how dare you license  
10 PFS. I mean, how could you do that? How can you actually license a  
11 private fuel storage facility in Utah? And I said we licensed it because  
12 somebody applied, provided the right information. We went through it,  
13 we reviewed it, it went through our fair processes, it went through  
14 adjudication. We answered the question, got the legal challenges,  
15 and then the Commission found out that they complied with the  
16 protection of Public Health and Safety standards, and we say it is  
17 licensable.

18 Well, I think that we need to be able to be ready to  
19 license. It's not only oversight, and that requires taking some risk.  
20 And I think the agency is taking the appropriate risk in both staffing,  
21 preparing, and getting everything that we need to do to be able to  
22 exercise that responsibility, which is a critical responsibility.

23 COMMISSIONER MERRIFIELD: Mr. Chairman, I  
24 would add on to that. I think part of the question went to the issue of  
25 intervention. And I would say in line with that, I think the Commission  
26 has made a number of changes since the last time we went through a  
27 round of reactor license applications to make a more effective

1 process, that is fair to all parties involved. We made major changes to  
2 Part 2 of our regulations which deals with how the Atomic Safety and  
3 Licensing Board adjudicates the contentions raised by intervenors.

4 The Commission has taken a lot of attention in the  
5 context of the last five years in making sure that those judges who  
6 retire from ASLBP are replaced with high quality, well-trained judges  
7 who will fairly adjudicate issues raised before the Commission.

8 I think one of the things that we need to maintain  
9 discipline on is making sure that we treat all the parties fair to the  
10 process. We have a potential licensee who wants to apply, we have  
11 intervenors who have concerns and we need to treat them all fairly in  
12 a timely way through our process. And I think what the Commission  
13 has attempted to do over the time the Chairman has been here and  
14 the time I've been here, is enhance that adjudicatory process so that  
15 if, indeed, we do see this coming wave of new reactor applications, we  
16 can review those applications, we can review interventions, we can  
17 review contentions related to those applications, and work through  
18 those, and resolve those in a timely way that is fair to the licensee,  
19 and is fair to the parties involved.

20 CHAIRMAN DIAZ: And, by the way, Commissioner  
21 McGaffigan and I have referred to this wave in different manner. He  
22 calls it the tidal wave, I call it the bow wave, something that is nice,  
23 and generated by human beings and is not destructive.

24 COMMISSIONER MERRIFIELD: And I call it the  
25 second band wagon.

26 COMMISSIONER JACZKO: If I could just add  
27 something to that question.

1 CHAIRMAN DIAZ: Sure.

2 COMMISSIONER JACZKO: I think how we handle  
3 intervenors, I think, is really important for the ultimate outcome of this  
4 process. Ensuring that we continue to maintain enhanced public  
5 confidence is a really crucial aspect of what we do. The public has a  
6 tremendous avenue to our regulatory and our licensing process, really  
7 through our hearing requirements. The Atomic Energy Act really gives  
8 people tremendous authority and responsibility to be involved in  
9 licensing decisions, making sure that we give people the opportunity  
10 to have their issues fairly and adequately addressed in that hearing  
11 process is really a crucial aspect of making sure that whatever  
12 licensing decisions the agency reaches are accepted and viewed as  
13 credible by all parties that are out there. So that hearing process is  
14 really probably one of the most fundamental parts of the licensing  
15 process, and it's also one of the areas of the licensing process that, as  
16 an agency, we have the least control over, really. It's an area we don't  
17 necessarily dictate who will intervene, we don't dictate on what issues  
18 they will intervene, so we could do everything we can to be prepared  
19 to deal with these applications from the technical review side, but a lot  
20 of the uncertainty in how this process will play out really involves how  
21 those intervenors will participate. And certainly, I think the more that  
22 we provide a good and open forum for them to do that, the better the  
23 result will be in the end.

24 CHAIRMAN DIAZ: Thank you. Next question.

25 PARTICIPANT: This question is from Headquarters.  
26 Staff is producing many policy papers and rules on expedited  
27 schedules necessitating much overtime. Yet, when the papers get to



1 the Commission, the Commission does not act on them for months.

2 Does the Commission realize how demoralizing this is for staff?

3 CHAIRMAN DIAZ: The Commission realizes that at  
4 times we take a little bit too much time in our deliberations.

5 Sometimes the staff doesn't give us all the information, occasionally.

6 Sometimes the Commission gets very, very committed to getting the  
7 right decision, but the point is well taken. We need to do the best job  
8 that we can to respond as quickly as we can. Sometimes, the  
9 Commission sees a different set of issues than the staff does. In  
10 other words, the staff provides a paper that has toward their viewpoint  
11 is complete, analyzes the issues, and the Commission sees an  
12 additional set of issues that then we have to work with, we need to  
13 deliberate.

14 It's always been my hope that we can do better, and  
15 I've messaged that. I'm hearing that to some of you that is unnerving.  
16 I wouldn't call it demoralizing, but unnerving. We realize that. It has  
17 been the subject of discussion. I think we can do better. I think the  
18 staff can also do better. Sometimes when they present these papers,  
19 they require additional work from the Commission, and I think we're  
20 working to get that problem solved. Better communications between  
21 the staff and the senior managers and the Commission, I think we are  
22 trying to work into that problem.

23 COMMISSIONER McGAFFIGAN: And I agree, we  
24 probably can do better. I'll match my work hours with any person on  
25 the staff's, and so I think that's true for every Commissioner. We don't  
26 make the big bucks. We get paid \$30-45,000 less than many  
27 managers and many staffers, so we work hard. We have a lot of stuff

1 that comes together at us, and there may be some staffer being  
2 demoralized because his rule or her rule is not being voted on  
3 instantaneously, but it may be because we have a few other things to  
4 say grace over.

5 COMMISSIONER MERRIFIELD: Yes, I think we can  
6 always do better in our timeliness, and I think we all work hard at  
7 doing that. I think the one thing - I'm reminded of when I go home  
8 some days, I have two bags that I take home with me. And frequently  
9 in the elevator people say gee, where are you going on travel? And I  
10 say I'm not going on travel, those are my two briefcases. One of them  
11 is a litigation bag. And I think one of the things that the staff  
12 sometimes forgets is that there are 3,400 of you, thereabouts, and  
13 there are five of us. And so the amount of paperwork that is  
14 generated by all the folks in this agency ultimately has to get resolved  
15 by the five of us, and there is some degree of sausage making that  
16 goes on at the Commission level that you could expect. Some of it, it  
17 takes a while for us to deliberate, and work through, and try to come to  
18 consensus on a given issue. Sometimes, as Commissioner  
19 McGaffigan has spoken of, it is the sheer magnitude of the piles of  
20 paper that gets shipped up to our offices each and every week, and  
21 we're going to have to deal with that. There's no crocodile tears that  
22 you need to shed for us, but we have work challenges we have to  
23 grapple with, as well.

24 COMMISSIONER McGAFFIGAN: You can look at  
25 the number of SECY papers and COMSECY papers that are not on  
26 the web page to get a sense of the tip of the iceberg that you see in  
27 papers that are on the web page. Just look at the numbering system,

1 every one of those papers exists and was sent to us. They just  
2 happen to not be widely available to all of you, but just count the  
3 numbers sometime.

4 COMMISSIONER LYONS: But still, even though I  
5 agree with my colleagues, I think the point is well taken. Wherever  
6 possible, we need to be trying to expedite our own processes, move  
7 as fast as we possibly can. And I can only say that I think each of us  
8 is literally doing our best.

9 COMMISSIONER JACZKO: I could just briefly add to  
10 those who are demoralized, I would just perhaps say that the  
11 Commission is taking time, because we do value the work that you do,  
12 we value the input that you give us, and if there are long papers,  
13 sometimes we read those, and we take time to think about the issues,  
14 so sometimes the time we take is really a reflection on the quality and  
15 the breadth of the material that you give the Commission, and the time  
16 that we do take, and the importance we put on really going through  
17 that information in detail, and understanding the decisions that the  
18 staff is recommending to us.

19 CHAIRMAN DIAZ: But having said that, we  
20 appreciate the question or the interest behind the question very much.

21 PARTICIPANT: Thank you.

22 CHAIRMAN DIAZ: Thank you. One more question?

23 PARTICIPANT: We have lots more.

24 CHAIRMAN DIAZ: Oh.

25 COMMISSIONER McGAFFIGAN: Is there any from a  
26 Region because I haven't heard a regional question in about 45  
27 minutes.

1 PARTICIPANT: No, these are all Headquarters.

2 COMMISSIONER McGAFFIGAN: Okay.

3 PARTICIPANT: We see the Commission and senior  
4 management on the cover of *NR&C*, most often related to license  
5 renewals, power uprates, or design certifications. These are important  
6 outcomes of staff work, but could the Commission also more visibly  
7 recognize the regulatory oversight function of the NRC, including  
8 inspection, enforcement, and investigations?

9 CHAIRMAN DIAZ: Well, if we haven't, it's mea culpa.  
10 I think we do all the time. There are some things that are a little more  
11 visible. If you look at my comments of today, I tried to be as inclusive  
12 as possible. There is no doubt that there are two things going on in  
13 here, one is licensing, and the other is oversight, and they're both  
14 critical functions. Oversight sometimes really takes more of our  
15 attention because, like we used to say, was it Joe Callan, where the  
16 rubber meets the road, or was it Sam Collins, or Stu or somebody  
17 used to say that.

18 The reality is that both are critical functions of the  
19 agency, both are well-recognized. We actually value the fact that  
20 decision-making is one the fields that people are having to deal with  
21 licensees, whether they are in hospitals, or nuclear power plants, or  
22 fuel facilities, or decommissioning. All of these activities make this  
23 agency what it is. They're all valuable, they all contribute, some of  
24 them are a little more glamorous than others, because the press  
25 makes them glamorous. We don't. We do appreciate every one of  
26 them every day.

27 COMMISSIONER LYONS: Safety is job one for this

1 agency. I don't think any of us would state it any differently, and that  
2 safety is derived from the careful oversight that the staff provides,  
3 whether we're talking about reactors or materials issues. I know  
4 personally, I've started each RIC speech, all two of them, with  
5 comments about the importance of safety. And as we talk about a  
6 nuclear renaissance or power uprates, or anything else, none of that's  
7 going to happen if we don't have the safe operations. Public  
8 confidence is derived from those safe operations, and without it, there  
9 simply won't be a future for any of the future activities that we talk  
10 about.

11 COMMISSIONER MERRIFIELD: Yes, I mean, if you  
12 subdivided all the time that the Commissioners spend working on the  
13 litany of issues we have in the agency, you would see it falls on any  
14 number of individual areas. And I think *Inside NR&C*, obviously,  
15 reports on things that are going on with our senior managers and with  
16 the Commission. The likelihood that you're going to have a licensee  
17 or a member of our staff there when we're visiting a plant, or when  
18 we're handing over a license renewal document is a lot higher than  
19 when the Commissioners are sitting in their offices reviewing reports  
20 from the Office of Investigation, Enforcement, or other things. And  
21 that doesn't make one more important than the other, it's, perhaps,  
22 just a function of the way things work, sometimes. But I think if  
23 anyone takes what they read in the sort of top of the fold of *Inside*  
24 *NR&C* and reflect on that as being where the Commission spends its  
25 time and believes what is the most important, I think that's not the best  
26 reflection to take, no more than you should necessarily think that what  
27 you read on the top-fold of the newspapers is always the most

1 important stuff that's going on.

2 CHAIRMAN DIAZ: Well, I believe that to be on time  
3 and having emphasized the issue of schedules, we are getting to end  
4 of our session. First, I want to recognize Sue, Sue, and Susan, and  
5 Rhonda and Mauricio for helping with the questions. I believe, as  
6 always, these meetings bring out issues. We appreciate every one of  
7 them, and like all of my fellow Commissioners, you do know that we  
8 hold an open door policy. If you believe you need to talk or talk to any  
9 one of us, and sometimes you use the email, we welcome those  
10 comments, as well. The value of this meeting is the value of the  
11 dynamics of the group, and how group dynamics actually reinforce  
12 itself. Same thing happens in the Commission, and here you see how  
13 the group dynamics gets drawn on by the questions and by the  
14 interactions.

15 I want to thank you for being here. I wonder if my  
16 fellow Commissioners have any final comments.

17 COMMISSIONER MERRIFIELD: Mr. Chairman, I do.  
18 You made a mention of our open door policy, and in all - whatever the  
19 number is - any of these meetings that I have attended, I think we  
20 generally have made a recitation of the fact that the Commissioners  
21 do have an open door policy. I think not only expressing my re-  
22 commitment to that, I would want to take the opportunity publicly to  
23 thank those members of the staff who have taken me up on that open  
24 door invitation. There have been a number of them over the course of  
25 this year and the years preceding. They have provided me invaluable  
26 information. Obviously, I haven't always been able to do precisely  
27 what the staff would like us to do, but I think it has provided an

1 additional conduit to allow people to express their concern, to express  
2 issues that they would like to see addressed, and where appropriate  
3 and applicable, I've been able to intercede in that respect, so I thank  
4 you.

5 COMMISSIONER JACZKO: If I could just make a  
6 brief comment in close, kind of echo some of the thoughts of the  
7 Chairman and Commissioner Merrifield, and this is, for me, a very  
8 valuable opportunity to hear from the staff. As I think Commissioner  
9 McGaffigan mentioned, there's 3,000 or more of you, and so it's very  
10 seldom that we have an opportunity to interact with you on an  
11 individual basis, other than when we're waiting for the elevators, which  
12 is one of the advantages of the elevators. But I would –

13 CHAIRMAN DIAZ: The only advantage.

14 COMMISSIONER JACZKO: I would just certainly  
15 encourage those folks who aren't here today, if you're listening in on  
16 various ways, or the managers that are here, we have a big room  
17 now, and it would be nice to see the room filled, and I think that's  
18 something that we can really shoot for in the future. And we have a  
19 good opportunity now with this nice space, and the air conditioning, so  
20 I hope in the future we'll really see all those rows all the way to the  
21 back filled with people.

22 COMMISSIONER McGAFFIGAN: I passed on my  
23 opportunity, but if there are really a lot of questions out there, then we  
24 can next year schedule a longer period of time, I think, because if  
25 we're having one session, it's been our past history, especially in the  
26 afternoon session, that we almost had a filibuster to fill the time. But  
27 this is an interesting data point, because it's the first time that we've

1 not been able to answer all the questions.

2 CHAIRMAN DIAZ: And, of course, we will. Please  
3 submit the questions, we will answer them in writing. And with that, I  
4 want to thank you again for being here, for being what you are, and for  
5 being what you will be. Thank you.

6 (Whereupon, the proceedings went off the record at  
7 3:33 p.m.)

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