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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

PUBLIC MEETING-INFORMATION WORKSHOP ON
ISSUES ASSOCIATED WITH NRC'S LICENSING
PROCESS FOR A POSSIBLE HIGH-LEVEL WASTE
REPOSITORY AT YUCCA MOUNTAIN, NEVADA

Clark County Government Center
Gold Room, 4th Floor
500 South Grand Central Parkway
Las Vegas, NV

Thursday, May 4, 2000

The above-entitled meeting commenced, pursuant to
notice, at 8:11 a.m.

PARTICIPANTS:

1 CHIP CAMERON

2 WILLIAM REAMER

3 PARTICIPANTS: [CONTINUED]

4 SANDRA WASTLER

5 DAN GRASER

6 BLAIR SPITZBERG

7 BUDHI SAGAR

8 GORDON WITTMAYER

9 MIKE SMITH

10 JUDY TREICHEL

11 JANET KOTAR

12 MAL MURPHY

13 STEVE FRISHMAN

14 DR. JACOB BOSS

15 ABBY JOHNSON

16 ROB LEWIS

17 DENNIS BECHTEL

18 AMY SHOLLENBERGER

19 JUDY SHANKLE

20 DR.ROBERT MICHEL

21 KEVIN KAMPS

22 JOHN HADDER

23 KALYNDA TILGES

1 BOB LATTA
2 MARTA ADAMS
3 ANDREW REMUS
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P R O C E E D I N G S

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[8:11 a.m.]

MR. CAMERON: Good morning everybody. My name's Chip Cameron. I'm the special counsel for public liaison at the Nuclear Regulatory Commission, and I'd like to welcome all of you to the NRC's public meeting on the NRC licensing process for the repository. And it's my pleasure to serve as your facilitator for this morning's meeting.

At the outset, let me thank Clark County for the use of -- of this facility and particular -- particularly Kevin Smedley of the Clark County Planning Center for helping us with the arrangements.

In that regard, we originally had a smaller room that would have promoted a little bit more informality for the meeting, which certainly is something that we wanted to try to achieve. But we were worried that we wouldn't have room for everybody, so we're in this certainly beautiful room. And I'm going to circulate with this microphone to all of you during the discussion periods, and that may promote somewhat of a table, but I can see I'm going to have a challenge with everybody being spread out. But that's we'll -- that's what we'll try to do.

I just wanted to go over three items briefly with

1 you before we get started, and the first is the objectives
2 for the meeting this morning. The second is to talk a
3 little bit about format and ground rules. And the last item
4 is just to give you an agenda overview.

5 In terms of objectives, today's meeting is the
6 latest in a series of meetings that the NRC wants to have in
7 Nevada to inform the citizens of Nevada on the NRC
8 responsibilities in regard to the repository and to listen
9 to public concerns and comments on the repository process.

10 Now this particular meeting is focused on
11 providing information to all of you on the overall licensing
12 process, beginning at the pre-license application station
13 where we are now, through the DOE submittal of a license
14 application, if indeed a license application is submitted
15 for this site, and onto our inspection responsibilities if
16 there was a grant of a license for constructing the
17 repository.

18 We don't have any specific proposals on the table
19 as we sometimes do for all of you to comment on today, but
20 of course, we're always ready to listen to any comments that
21 you might have as well as answer your questions on the
22 topics that we're going to be going over.

23 In terms of format and ground rules, we have a

1 number of people in the audience today who represent the
2 broad spectrum of interests that might be affected by a
3 repository and may include the citizen and environmental
4 groups, not only from Nevada but also from other parts of
5 the country -- Washington D.C. area. We have state and
6 local government representatives. We have representatives
7 from the potential license applicant -- the Department of
8 Energy. Union and labor interests are here and nuclear
9 industry representatives and citizens as large.

10 And what we're going to do is we're going to have
11 a series -- we have a series of topics to cover -- and
12 there's going to be NRC presentations on these topics, and I
13 promise you that they will be -- they will be brief. After
14 each of those presentations, we're going to go on to all of
15 you for discussion, questions and comments. And I would
16 note that that isn't specified on the agenda, and I just
17 want to make that clear that you're not going to get 14 NRC
18 presentations that you have to sit through before you get a
19 chance to talk about the information that was presented.

20 We are having a transcript taken today so that we
21 not only have a record of comments from the meeting, but
22 because we're presenting some information on various topics,
23 the transcript for those who aren't here might serve as a

1 useful documents in terms of learning about these particular
2 topics. But on that score, in order to have a clear
3 transcript, I would ask that only one person at a time talk.
4 And the most important part of that is so that we can give
5 our full attention to whoever has the floor at the time.

6 So when we do go to you for discussion just, you
7 know, give me the 'hi' sign and I'll bring this up to you,
8 and if you could just state your name and your affiliation,
9 if appropriate for the transcript. And I would just ask you
10 to be concise. We have a lot of topics to cover that we
11 want to get through, and I want to make sure that anybody
12 who wants to have an opportunity to talk gets an opportunity
13 to talk.

14 In terms of agenda, you'll see that we're going to
15 lead off with Bill Reamer, who's the Chief of the High-Level
16 Waste and Performance Assessment Branch at the Nuclear
17 Regulatory Commission -- and this is in our office of
18 Nuclear Material Safety and Safeguards -- and he's going to
19 go over the entire licensing process. We're calling it a
20 birds-eye view. It sort of will give you an overall
21 perspective for some of the individual topics that will
22 follow.

23 The next topic -- and we'll have discussion after

1 Bill's presentation -- the next topic is going to look at
2 what NRC does, what its responsibilities are when the
3 Department of Energy submits a license application. And
4 Sandy Wastler, who is Chief of Performance Assessment and
5 Integration Section -- in Bill's branch -- from the NRC is
6 going to talk to us on that. We'll take a break -- give you
7 a chance to get some coffee. And when we come back we're
8 going to look at the NRC system and indeed the system
9 generally for making information about the repository
10 available to all of you for use in evaluating the repository
11 process. And we have Dan Graser who is the Licensing
12 Support Network Administrator from the NRC, and Dan is in
13 the Office of the Atomic Safety and Licensing Board Panel,
14 and he works for the Chief Judge of that panel.

15 Final presentation is something that we haven't
16 spent a lot of time on out here in Nevada or in general, is
17 the NRC inspection process and how that might apply to a
18 repository. And we have Dr. Blair Spitzberg with us from
19 the NRC's Regional Office in Arlington, Texas -- and that's
20 NRC region 4. And we'll have Blair tell us about that and
21 have a discussion on that.

22 I would just say as a final note, I mentioned that
23 Dan Graser is with the Atomic Safety and Licensing Board

1 Panel, and that is the NRC's focal point for the hearing
2 process on the Department of Energy -- or on any license
3 application that's submitted to the commission. And that
4 would be the focus for looking at the DOE license
5 application, if indeed there is one.

6 Originally, we were going to put the adjudicatory
7 process -- the hearing process -- on the agenda today along
8 with the rest of these topics. But as most of you know, the
9 commission is right in the middle of debating whether the
10 rules for the hearing processes, in general at the NRC,
11 should be revised, including whether the rules for the
12 high-level waste licensing hearing should be revised. And
13 it's unclear what changes the commission is going to make as
14 a result of their deliberations, and these rules that come
15 out of this will be proposed for public comment. They may
16 or may not include any changes to the repository licensing
17 process. And the commission felt that we didn't want to
18 unnecessarily create a lot of controversy at this point in
19 time if their deliberations did not result in any changes.
20 And I could say a couple more things about this.

21 One is if there are questions about the current
22 hearing process that come up in the context of the
23 presentations today, we will answer those questions for you.

1 Secondly, we will be back out to Nevada to specifically talk
2 about any revisions to the hearing process that come about
3 as part of the commission deliberations.

4 There may not be any changes. And if that's true,
5 we're going to come out and do a session on the current
6 hearing process. But we will be out to talk to you about
7 that. There was a workshop in Washington D.C. on October
8 25th and 26th of citizen groups, governments, utility
9 representatives, on these changes to the NRC hearing
10 process. And that was provided to the commission and to the
11 office of general counsel who drafted the proposed changes
12 to the hearing process.

13 That transcript from that meeting is on the NRC
14 web site, for your information, if you want to see what
15 topics were discussed, including the topic of intervenor
16 funding. And Mal Murphy was at that particular workshop,
17 and Mal, if there's any point along the way today that you
18 want to offer something from that, please -- please do so.

19 Okay. Bill, are you ready to start us off? Bill
20 Reamer for the first presentation.

21 MR. REAMER: Okay, thank you, Chip. Can you hear
22 me okay?

23 MR. CAMERON: I guess this one isn't tied in

1 either?

2 COURT RECORDER: No, that was the only one that's
3 tied in. That one's not on.

4 MR. CAMERON: Okay.

5 COURT RECORDER: That's the only that's tied in.

6 MR. CAMERON: Do you want to use this, or do you
7 want to see if people can hear you?

8 MR. REAMER: Why don't I talk louder, and let's
9 try that, because it's going to be confusing to pass the mic
10 back and forth. If this doesn't work -- if it's not working
11 -- just let me know and we'll try another approach.

12 Anyway, I'm Bill Reamer. I'm Chief of the
13 High-Level Waste Branch for the Nuclear Regulatory
14 Commission. Appreciate all of you coming today. When we
15 start out, what are our goals today in our meeting?
16 Basically, you know, I'm going to start by saying what are
17 our goals for you? And then I'll talk about what are our
18 goals for us. We hope you'll leave the meeting today with a
19 better understanding of NRC's licensing role and
20 responsibilities for this project. We hope you will leave
21 the meeting with a better understanding of how to access the
22 information that's available on this project. Information
23 in power, but if you can't get to it, obviously it's not

1 power for you, so we want to spend time discussing how
2 information can get into your hands.

3 We also want you to leave the meeting with a
4 better understanding of what the staff's role is in this
5 project -- specifically its licensing role. And we also
6 want you to have an understanding of the process we use when
7 we regulate facilities to make sure that they are in
8 compliance with our rules.

9 Now what are the goals for us? The goals for us
10 are to hear -- to listen and to hear what you have to say.
11 If you have comments or questions, please feel free to raise
12 them. We want to have them, want to leave this room with as
13 much understanding as we can of what's on your mind, and we
14 want to respond to the questions that you ask today to the
15 best we can. And if we can't respond, then we'll get a
16 response for you as soon as we can.

17 Now there's a questionnaire that you may have seen
18 when you came in. Hopefully, each of you will get a copy of
19 that. If you have time, I'd greatly appreciate if you'd
20 look at the questions. If you have anything you'd like to
21 say on that form, please do so.

22 Okay, so who is the NRC? Many of you I recognize
23 from our prior meetings. You've heard this before. You --

1 but when I deal with people, they can introduce themselves
2 to me, and I think I understand who they are, but then I
3 realize I don't. So I'm going to say these points again,
4 and probably I'll continue to say them, because I think
5 they're very important to who we are.

6 We are not a part of the Department of Energy. We
7 are an independent agency. We don't get our money from the
8 Department of Energy. We don't work for the Department of
9 Energy. Our job as a regulatory agency is to protect public
10 health and safety. That's what we do. That's what we're to
11 be held accountable for.

12 Also, we have -- this is -- this is not the only
13 project that we would regulate. We do have experience in
14 regulating other nuclear projects, specifically nuclear
15 power plants, the manufacturer of nuclear of fuel. We have
16 experience outside the commercial nuclear industry in
17 performing a regulatory role, and our responsibility -- our
18 role -- is also a regulatory role.

19 This project is somewhat unusual. Typically, the
20 Department of Energy is self regulated. But not on this
21 project. On this project, they will be regulated by the
22 Nuclear Regulatory Commission, and we will bring to bear in
23 exercising our role our independence, our mission to protect

1 public health and safety, and we'll do this the way we've
2 done it and do it elsewhere. We'll bring the experience
3 that we have to this project if there is a -- if there is a
4 project that moves forward.

5 Specifically, what is our role with respect to the
6 repository? First is to set the requirements that the
7 Department of Energy must meet. We had a number of meetings
8 last year on our proposed regulations. We received in
9 excess of 900 comments on those proposed regulations. We
10 assigned a team that basically pretty much worked
11 exclusively in preparing -- in reviewing those comments --
12 and in preparing responses to the comments. We've given the
13 commission, basically, our recommendation on the proposed
14 regulations on how to move forward.

15 We owe the people in this room a response to their
16 comments. We understand that. Hopefully, we can provide
17 that to you as soon as possible. My fingers are crossed
18 that this summer we will have something that we can come
19 back and meet with you on as to how we have treated your
20 comments on our proposed regulations.

21 We also have the responsibility to comment on the
22 Department of Energy's Environmental Impact Statement, and
23 many of you may be aware -- we have done that. Our

1 responsibilities include commenting on the site
2 recommendation, and that's basically down the road in the
3 next year. We will be working on our comments. I'll have a
4 little more to say on that.

5 If the site does go forward, the Department of
6 Energy will need our approval all along the way, our
7 approval to construct a facility, our approval to begin any
8 operation at the facility, and our approval to complete
9 operations if the project moves to that level.

10 In addition, if we license the Department of
11 Energy -- if we get a license application, and we issue an
12 approval for construction, our responsibility also is to
13 make sure that our rules are complied with. And we have a
14 mechanism, a process, that we are to carry out. That's an
15 inspection and an enforcement process, which we'll have more
16 to say on this morning.

17 How do we carry out our role? We fairly and
18 objectively review all the information. Now I know at times
19 that is frustrating, because there are always new scientific
20 data, and frequently I get asked -- or a member of my staff
21 get asked -- you know, what about this? What about that?
22 And oftentimes, my answer is, "The Department of Energy's
23 responsibility is to evaluate this data and to get to the

1 bottom of it. I also want to hear what the other
2 participants have to say about it."

3 I recognize that can be a frustrating response,
4 because it doesn't seem to go to the bottom line, which many
5 of you are concerned about. But I believe, if I'm to
6 perform my role as a regulator, I need to maintain an open
7 mind and review all of the information. The decisions that
8 the NRC makes, they make in an open setting, and they're
9 based on the facts. They're based on the evidence.

10 Thirdly, the process we'll use here -- and it's a
11 little complicated -- is -- I call it a stepwise process.
12 There are various gates that the Department of Energy will
13 need to go through -- NRC gates -- that the Department of
14 Energy will need to pass through if this project goes
15 forward.

16 The first gate is to obtain our permission for
17 construction, and there will be a license application and
18 data -- an analysis that supports that. And then down the
19 road, perhaps five, ten years after that, the project is
20 constructed. Once it's substantially complete, then the
21 Department has to come back to us and ask for a license to
22 emplace waste. And at that point, the basis will be all of
23 the data that existed at the time of construction, plus any

1 new data that's been developed over those intervening ten
2 years. They have to analyze that new data and show how it
3 supports safe operation of a repository.

4 If the repository then does operate, receive and
5 emplace waste, at some point, operations will cease, and at
6 that point, whatever the time frame may be -- 100 years, 300
7 years, I don't know what it will be. It's up to the
8 Department of Energy to come forward with a proposal -- they
9 will need our permission to close the repository. And the
10 data that existed at the time of construction, plus the data
11 that consisted -- that existed at the time they began to
12 emplace, plus all the data that has been collected in the
13 intervening 100 or however many years of operation will have
14 to be considered, and a decision will be made only on the
15 basis of all the data that exists at that time.

16 And finally, throughout the process, we will -- we
17 want to and we will involve you.

18 Now, I mentioned the site recommendation. I don't
19 really have a whole lot to say on that today. It is the
20 focus right now of the Department of Energy's project to get
21 to assemble the technical basis for making a site
22 recommendation. Our role in the site recommendation is not
23 to approve or disapprove the site recommendation. Rather,

1 our role is to provide comments in the way of expert advice
2 to the president, expert advice to the congress if there is
3 a recommendation that moves to that level on the extent to
4 which the data that DOE has assembled appears to be
5 sufficient for a license application, if that site
6 recommendation is ultimately approved by the president and
7 the congress.

8 Another point I'd like to talk about briefly is
9 what's the regulatory philosophy that we bring to bear to
10 this project as we do with all our project. And that is
11 that it's the Department of Energy that bears the primary
12 responsibility to protect you, to get to the bottom of the
13 scientific inquiry, to assemble the data that supports a
14 showing of safety.

15 It's my responsibility to review that and to
16 assure that the data that are relied on are quality data,
17 that the analysis supports the conclusions that are offered
18 in the Department of Energy's application.

19 Okay, so, how does the licensing process begin?
20 It begins, of course, if there is a site recommendation that
21 is allowed to go into effect by the congress -- that's a big
22 if -- it would then begin with a submittal by the Department
23 of Energy to us of a license application.

1 That license application has to include an
2 evaluation of the safety of the repository. It also needs
3 to include the plans and the procedures that the Department
4 will use to assure safety during the repository operations.
5 And it also needs to address how they intend to continue to
6 oversee to make sure safety is assured.

7 With respect to that evaluation that the license
8 application has to have on safety, DOE must evaluate all the
9 ways in which someone may be subject to radio -- to a
10 radiological -- potential radiological release from the
11 repository.

12 They also need to perform assessments -- safety
13 assessments. These are assessments of the "what if"
14 question. What if this occurred? Then what would the
15 consequence be?

16 Perhaps some of you have heard the so-called risk
17 triplet. This is kind of a scientific technical vernacular,
18 but the reality is actually very -- I think we can all
19 understand this.

20 The first question that the DOE must ask is, "What
21 could go wrong at the repository?" The second question is,
22 "How likely is it that it could occur?" And the third
23 question is, "If it happens, what are the consequences to

1 the public?"

2 Also, the Department has a positive obligation to
3 update their license application they -- based on new
4 information. They can't just bring us a document on a
5 certain date and then say, "That's it." New data is always
6 being developed. They have a positive obligation, if that
7 new data could significantly effect the conclusions, to tell
8 us about that data.

9 And, in addition, they need to come forward with
10 plans about how they intend to monitor groundwater in the
11 license application, which is, of course, the key exposure
12 pathway here.

13 I also said that their application needs to
14 include plans and procedures, and by that I mean what are
15 they going to do to assure that the personnel who operate
16 the repository are well trained to do their job. What do
17 they have -- what plans do they have to respond to
18 emergencies, which true, probably may be low, but they need
19 to be prepared for these. What are their specific plans to
20 respond to emergencies? And also, how do they -- how --
21 what are their plans. They need to demonstrate that it's
22 feasible to retrieve waste, if the circumstance arises that
23 waste must be retrieved after emplacement.

1 I mentioned also that they need to include in
2 their license application their plans for providing
3 continuing oversight of a repository. That would include
4 their plans to mark and control the site and to maintain all
5 the records that relate to what's in the repository, and
6 most importantly, how they intend to monitor the repository
7 performance.

8 Also they're required to come forward with
9 additional requirements that they think need to be imposed
10 on them that seems a little unusual, and also the staff will
11 be looking as well as to what additional requirements may
12 need to be imposed as part of any permission to go forward.

13 So the license application is submitted. The
14 staff's responsibility is to review that license
15 application. I have approximately 40 technical people who
16 work for me. In addition, the NRC staff is supported by a
17 federally funded scientific technical center in San Antonio.
18 It's called the Center for Nuclear Waste Regulatory
19 Analysis.

20 I'd like to take a minute. There are three people
21 who are here from the center. I'd like to introduce them to
22 you, and I'd ask them to stand, please. Budhi Sagar, who is
23 the Technical Director of the center, Gordon Wittmeyer and

1 Mike Smith.

2 The center has, I think roughly, 40 or 50
3 technical staff as well. They work just for me. They don't
4 work for the Department of Energy. They don't work for
5 anyone else who's doing work on high-level waste in this
6 country. They work for the NRC.

7 When we get the license application, the
8 collective staff and the center will tear that license
9 application apart. What are the conclusions that are
10 reached? What are the assumptions that are made that
11 allegedly support that conclusion? What are the data that
12 are used to support that conclusion? We will trace back how
13 the data -- and are those data qualified? Were they
14 collected under a -- an approach to collecting test data
15 that assures that the data are reliable?

16 We can also if we need to request additional
17 information from the Department of Energy, and they
18 basically are required to provide it or give us a reason why
19 it's not needed. We can independently conduct our own
20 confirmatory analysis. We're not just limited to reading
21 the DOE document and deciding whether we agree. We can do
22 our own independent confirmatory technical work to assure
23 ourselves that the conclusions that the Department of Energy

1 has reached, we agree with. And we document the results of
2 our review in a Safety Evaluation Report, which is a public
3 document.

4 There are three kind of general outcomes from a
5 licensing proceeding. One approach is that the license is
6 granted -- that the permission is granted. Another approach
7 is that the permission is granted but subject to certain
8 conditions. For example, DOE you need to do additional work
9 in this area, or DOE you're confined with respect to
10 proposed operations by these following requirements that you
11 have to meet. And of course, the third outcome is denial of
12 a license application.

13 How do you participate? As I said a year ago when
14 we started our meetings on the Part 63 -- proposed Part 63
15 -- what we want to try to create is a dialogue between the
16 NRC and the effected citizens on this project. And today
17 that's surely one of my goals to continue that dialogue.

18 Also, we -- in a more formal kind of way -- seek
19 your comments at -- when we have proposals that we are
20 taking forward. Last year and continuing as I've mentioned,
21 this year we have our proposed regulations that many of you
22 have reviewed and provided a lot of comments to us on. We
23 also are working on other guidance documents, which we will

1 offer to you for comment when they're ripe, most likely some
2 time this summer toward the end of the summer and continuing
3 on.

4 And the third way you can participate is, if there
5 is a license application and a licensing process, it will be
6 a public process and you will have the opportunity to
7 participate in that both informally -- because we will
8 continue these meetings as the project goes forward -- and a
9 more formal way as well.

10 So, I guess maybe if there are any questions at
11 this point, I'd be happy to take them.

12 MR. CAMERON: Okay, and I would -- Bill covered a
13 lot of ground and so that means that we may have some -- a
14 lot of questions on far-reaching subjects here. Some of the
15 questions may be more appropriately addresses if they're on
16 one of these specific topics when we get to that topic. And
17 I guess, Bill, I'm going to let you serve as my guide on
18 whether something should be answered later on.

19 MR. REAMER: Okay, and if I do suggest that a
20 question be deferred, and if it doesn't get answered, then
21 there will be a time at the end where it will get answered.

22 MR. CAMERON: Yeah, and that's in -- in that
23 regard, if you have questions that are really outside of

1 this already broad range of topics or comments, we -- I may
2 ask you to save those until the wrap-up session, but we will
3 hear them. And I saw Judy, did you have a --

4 MS. TREICHEL: Yes.

5 MR. CAMERON: You had a comment, and then we'll go
6 to this gentleman here. We'll go -- and if you could just
7 introduce yourself and your affiliation, if appropriate.

8 MS. TREICHEL: Judy Treichel -- Nuclear Waste Task
9 Force. On your graph 9, it seems to me this is a classic
10 example of just what a spectator sport this all is. When
11 you talk about how the public participates, this is truly a
12 spectator sport, because I was there, you were there, and a
13 lot of people were there when you came out and asked for
14 public comment on Part 63. You've got it written here just
15 as if it's finalized.

16 As far as I know, unless there's something that
17 you missed and didn't tell us that it went final, that is
18 not finalized. There are no rules for Yucca Mountain,
19 because the commission has said 60's gone. But as far as I
20 know, 63 isn't there. And we've watched it over the last
21 weeks during technical exchanges when the Department of
22 Energy says, "We're in full compliance with proposed 63.
23 We're in full compliance with proposed 960." And you've got

1 tremendous numbers of negative public comment on both of
2 those proposals, and we never see what happened with that.
3 We just see that now it's right there.

4 And in the next graph that you show, you talk
5 about DOE evaluating the safety. Well, for some of us who
6 -- you know -- we spend a whole lot of time being part of
7 this spectator sport. I was at a meeting just like week in
8 which someone from the NRC -- I think it was Tim McCartin
9 (phonetic) -- said "DOE, what you do is you look for things
10 that are good about the site. NRC's job is looking for
11 things that are bad."

12 This is the exact reverse of what you've got on
13 here. And I realize this is what you would like to see
14 happen, but it's not happening. And the public who look at
15 this and who see what's going on and who don't have a way of
16 doing anything about it, it's very frustrating, and it's
17 leading to a collision I think.

18 MR. CAMERON: Okay, thank you, Judy. Bill? Do
19 you want to respond to Judy on this once, please?

20 MR. REAMER: This is not the first time I've heard
21 this, and I agree with it. We cannot make Part 63 final
22 until all the comments are responded to. And I try to
23 basically say that at the outset. We have an IOU. We have

1 an obligation to respond to those comments. The number of
2 comments that we received on the regulation was so
3 extensive, that it has taken longer than I wish it would
4 have taken for me and my staff to complete the review.

5 MS. TREICHEL: Well, then you have a decision to
6 continue? You don't have a rule. You really can't go on.

7 MR. REAMER: Yeah, and -- well, you know, I
8 understand that. This meeting today -- I don't know that
9 you're necessarily including that -- is a meeting we thought
10 about. Should we have this meeting or not? We had been
11 asked to come and talk about the licensing process a number
12 of times, and I guess our view was it made sense to take
13 this issue up now -- that we should respond to the requests
14 that we had heard from the local citizens now. And so
15 that's basically why we're here doing this.

16 But I agree with the point, which is that we have
17 an IOU. We have many comments. We need to respond to those
18 comments in the regulation. We need to justify the
19 decisions that we're making.

20 MR. CAMERON: Do you want to add anything to
21 Bill's --

22 MS. KOTAR: I'm Janet Kotar. I'm one of the
23 authors of the proposed Part 63. Perhaps there's a

1 misunderstanding in that I think what Bill is saying is that
2 once rules are in place, this is how the process will
3 operate to help people understand how it would proceed.
4 We're clearly not going to proceed without those rules in
5 place. The commission has them under consideration. The
6 staff has responded to the comments in a draft form. The
7 commissioners have to decide whether they want to go forward
8 with a final rule or not. And we have completed, at this
9 point, our staff analysis and recommendations before the
10 commission.

11 We are presenting today how the process will
12 operate, assuming that there will be rules in place. And
13 until those rules are final, you're correct, there are no
14 final rules in place.

15 MR. CAMERON: Maybe the best thing to say is that
16 regardless of whether we continue operating under Part 60 if
17 the commission doesn't approve these rules -- or Part 63 --
18 the Department of Energy has to meet our rules, whether
19 they're Part 60 or Part 63.

20 MS. TREICHEL: 60's gone, and you are continuing
21 day to day, but I don't want to argue --

22 MR. CAMERON: Okay, let me -- let me handle this
23 now, and then we'll go to Steve, and then we'll go to this

1 gentleman right here, okay?

2 MR. MURPHY: Thanks, Chip. From my perspective, I
3 think both Judy and Bill are correct. Judy is absolutely
4 correct in sort of mildly chastising the NRC not to get
5 ahead of itself and assume -- substantively at least --
6 assume rules that are not yet adopted and that have yet --
7 and the comments about which haven't yet fully been analyzed
8 and disclosed.

9 On the other hand, I think Bill is correct that
10 there will be a Part 63 which indicates Part 60 is
11 essentially gone. There will be a Part 63. There will be
12 some new NRC regulations which govern the licensing process,
13 and I think all of us can assume -- at least those of us who
14 are more familiar than others with how the NRC conducts --
15 has conducted its business since 1954 -- that the skeletal
16 substantive outline in the licensing process will be -- will
17 be essentially what Bill has put up on the screen here
18 today.

19 But I think Judy is absolutely correct. We can't
20 -- we shouldn't get ahead of ourselves and assume what the
21 substantive requirements of Part 63 might be until that
22 process is completed.

23 MR. CAMERON: Okay, thanks, Mal. Bill Reamer is

1 indicating that he totally agrees with that. We're going to
2 go to Steve, and then we'll go to you, sir.

3 MR. FRISHMAN: Steve Frishman, State of Nevada.
4 Bill, I've got three questions. The first one is an area
5 where we've just been, and that's, has the commission taken
6 any formal action to indicate that Part 60 does not apply at
7 Yucca Mountain?

8 MR. REAMER: The --

9 MR. FRISHMAN: They've not rescinded Part 60 --

10 MR. REAMER: Wait, the point --

11 MR. FRISHMAN: -- in any ruling action saying that
12 it does not apply?

13 MR. REAMER: The proposed Part 63 proposes that
14 that regulation be the regulation that applies.

15 MR. FRISHMAN: So as it stands right now, Part 60
16 is still in effect?

17 MR. REAMER: Well, there's also an IOU, I guess,
18 that -- there's the Energy Policy Act and the process that
19 that has set up which --

20 MR. FRISHMAN: But there's no EPA rule so --

21 MR. REAMER: There will be an EPA rule at some
22 point.

23 MR. FRISHMAN: -- action on the part of the

1 commission is not --

2 MR. CAMERON: And just so that our transcriber can
3 get this, just let one person finish before the other person
4 talks.

5 MR. REAMER: Sorry, okay, yeah.

6 MR. FRISHMAN: Well, the reason -- part of the
7 reason I'm asking is because of the current discussion. The
8 other is that as of today my understanding is that the
9 Department of Energy's proposed recommendation guidelines --
10 Part 963 -- are going to be given to the commission for its
11 statutorily required concurrence. Absent Part 63, will that
12 concurrence be based on Part 60? That's one question --

13 MR. CAMERON: I'll bring it back.

14 MR. FRISHMAN: Okay.

15 MR. CAMERON: Bill, can you specifically go to
16 that one? I think it was pretty clear.

17 MR. REAMER: I think so, yeah, and the concurrence
18 will be based on what the commission says when it gets the
19 concurrence package it wants to use. We are expecting that
20 the Department of Energy will give us the citing guidelines
21 for concurrence. The commission has not, at this point,
22 indicated what kind of process it's going to use for that
23 concurrence process. I know you and I talked about that

1 last week. You have a particular interest in that process.
2 Also, it's not indicated me what it's going to use with
3 respect to the --

4 MR FRISHMAN: Well, let's -- the last time we went
5 through this in the mid-'80s, it was determined that the
6 only basis for concurrence was the rule, because otherwise
7 there is no other basis, and Part 60 is the current rule.

8 MR. CAMERON: Could you hold the microphone a
9 little closer?

10 MR. FRISHMAN: On your slide number 6, you refer
11 to a step-wise licensing process. Well, Part 60 and again
12 in Part 63 refers to a construction authorization and then
13 amendments for receive and possession and for closure and
14 termination. Now if you speak step-wise here, let me go
15 back to something that I've been asking about for a long
16 time, and that's when is the disposal decision made? Under
17 Part 60, I think it's very clear, and I think it's clear in
18 63 -- Part 63 -- that the real license decision is the
19 construction authorization. And then there are a series --
20 or there is a series of amendments following that. When you
21 speak step-wise here, it makes it appear that it is a
22 continuing license process and the disposal decision is at
23 termination rather than at outset. What is your

1 interpretation, if you would?

2 MR. REAMER: My intention was to emphasize the
3 fact that it had to be -- that these various decisions
4 needed to be based on the information that was available at
5 that time. I don't disagree that at the time of
6 construction, the regulation that you mentioned -- Part 60
7 -- and the regulation that was proposed -- Part 63 --
8 requires a commission finding with respect to safety.

9 MR. FRISHMAN: Right, the safety case must be made
10 for a construction authorization.

11 MR. REAMER: Yeah, I agree with that.

12 MR. FRISHMAN: And it's not a rolling license.
13 That construction authorization is the license, and then
14 they have to prove they live up to it after that with maybe
15 additional information.

16 MR. REAMER: I agree basically with what you're
17 saying. At the time of construction, there needs to be a
18 safety case that supports safety.

19 MR. CAMERON: And I think that that's a very
20 extremely important point for people to understand too, so,
21 if it turns out that people aren't clear on this soliloquy,
22 please ask so that we can emphasize that, because it's an
23 extremely important point. Now, Steve do you have a third

1 question?

2 MS. KOTAR: Can I just respond to that last point?

3 MR. CAMERON: All right, Janet.

4 MS. KOTAR: Janet Kotar again. I just want to not
5 leave the impression, however, that it's all over with
6 construction authorization. It is quite possible that a
7 construction authorization can be granted, and the amendment
8 to allow receipt, possession and disposal is not granted, at
9 which point that process is now over. That has happened,
10 and it could happen here. That is -- these are discrete
11 decisions that must be taken and before the Department can
12 proceed to receive emplaced waste. And likewise was closure
13 and with license termination.

14 MR. CAMERON: Very good clarification. Thank you,
15 Janet. Steve, you have one more?

16 MR. FRISHMAN: Yes.

17 MR. CAMERON: Okay, and then we'll go to this
18 gentleman right here.

19 MR. FRISHMAN: My next one goes to, I guess a
20 follow up on what Janet said, although I had planned it
21 earlier. On your slide 14, you say that there are possible
22 outcomes from the licensing process. Let me ask, in the
23 NRC's history and in the agency's history, has there ever

1 been a denial of a license for major facility such as a
2 reactor or independent spent fuel storage?

3 MR. REAMER: There have been major facilities.
4 There was a proposed enrichment facility that, at least the
5 initial decision, was not to grant the license. There have
6 been reactor facilities that had been abandoned. You may --
7 you may view this as non responsive, but I would disagree
8 with you. There's a facility in Ohio -- a reactor facility
9 that was abandoned 95 -- 97% complete, abandoned because of
10 questions -- quality questions the commission raised. True
11 there was no denial of the license, but there's also no
12 nuclear facility.

13 There was a facility that was abandoned in
14 Michigan -- a reactor that was more than 50% complete --
15 that was abandoned again because of questions the technical
16 staff raised about the analysis that supported the footings
17 for the reactor. That project is not operating because of
18 the technical staff questions and the decision of the
19 project proponent not to pursue it.

20 MR. FRISHMAN: Well, this -- I don't think maybe
21 you see that this relates to my question about when the
22 disposal decision is made. As a -- you have construction
23 authorization, and for Yucca Mountain, that's about as far

1 as I can see --

2 MR. REAMER: Okay, well that --

3 MR. FRISHMAN: The real question goes to that
4 initial safety because in the others these are factors where
5 if they were willing to spend the money, they could have
6 fixed it. Yucca Mountain, once you start you can't fix, and
7 that's why -- that's why I raise this series of questions.
8 And the real question is whether -- whether we can have any
9 confidence that, in fact, it's even possible that a Yucca
10 Mountain license application will be denied.

11 MR. REAMER: Well, throughout pre-licensing,
12 you'll see the questions that we ask. You'll see the
13 responses that are made. I hope you'll keep asking the
14 question about where is this project going. If NRC
15 expresses that it's satisfied with some particular technical
16 aspect of the process, you'll ask, "Why is that? We need to
17 know why the NRC is signing off on this portion of the
18 project." So it's a fair question.

19 MR. CAMERON: Okay, one more follow up.

20 MR. FRISHMAN: I just want to follow it up with
21 one thing, and that's, is a quality assurance breakdown
22 sufficient for denial of license?

23 MR. REAMER: Well, I just -- as I said, there are

1 nuclear projects that have not been completed -- a great
2 amount of money has been spent on them, they've been nearly
3 done -- and they were not completed because of quality
4 assurance breakdown issues. I think the answer is yes.

5 MR. CAMERON: Okay, thanks, Bill. Let's go to
6 this gentleman here. If you could just give us your name,
7 sir.

8 DR. BOSS: Dr. Jacob Boss Consultants.

9 MR. CAMERON: Would you repeat your name, sir.

10 DR. BOSS: My name is Dr. Jacob Boss Consultants.
11 Let me just give you some brief information. What I feel
12 uncomfortable is there are two things -- several in the
13 breakdown. Number one, we have risk assessment in another
14 site. We have risk assessment both Yucca Mountain project.
15 One is not integrate to the other. You can't work in this
16 way. We don't know what one effect with the other.

17 Second question is, if I may, is a comment close
18 to the public hearing -- the EPA. At Yucca Mountain, we're
19 going to have a very serious issue which has not been
20 addressed properly, the issue of compressed mixtures. I'm
21 not going to go to heavy metals, but in the beginning, going
22 to have corrosion of the canisters, which release heavy
23 metals. And then you'll have a proposed -- which might

1 accelerate the rate of corrosion because of the property --
2 chemical properties. When we start later on is the
3 question, "What would the effect on human health, risk
4 assessments, of the radio nucleides which are going to be
5 released through corrosion. The view of the literature --
6 those issues has not been addressed at all. And it's a very
7 serious issue. We don't know what would be the effect of
8 rate of cancer -- decrease or increase. The only
9 information which I have found in the literature, which I --
10 exposure of -- and the -- effect.

11 Second, there is only one in the literature --
12 paper which I found with the -- which is a part of the
13 canisters. Any radiation would find generally -- so this
14 has raised some very serious questions about if you're going
15 to raise -- milligrams, that standards -- what is the safety
16 measure here? We don't know.

17 My last question is, does NRC can direct the Yucca
18 Mountain project or -- to conduct research of those issues
19 because those -- the issue which remains are very serious
20 issues. Thank you.

21 MR. CAMERON: Hey Bill, I think you have three
22 questions. One I think was sort of a general question about
23 how risk assessment is integrated. And then there was a

1 second question specifically about release of radio
2 nucleides with corrosion, and then I think a follow up, very
3 important question that you alluded to is that, what can NRC
4 do in -- where there are questions? What can NRC require
5 the Department of Energy to do?

6 DR. BOSS: Particularly what is the concern about
7 the risk assessment on the complex mixture effect on human
8 health. That is a very key issue.

9 MR. CAMERON: Okay, thank you, sir. Bill?

10 MR. REAMER: Yeah. We did -- let me just put on
11 the record. We talked before the meeting. You raised these
12 same questions to me at that time. They are basically
13 technical questions that I would need to take back with me.
14 You gave me your paper. I also gave you my email address.
15 You told me that you would communicate the questions to me
16 directly, and I told you I would respond to you. So I think
17 that I'd prefer to leave it that way.

18 MR. CAMERON: And about the issue of DOE doing
19 further study -- that general issue?

20 MR. REAMER: Well, the DOE -- if indeed what you
21 say is correct, the issue is neglected -- then DOE will need
22 to identify and have a plan to develop the issue to get the
23 information and to integrate it into its safety case. And,

1 you know, that's a very general answer. We -- no issue can
2 be ignored that has the potential to significantly effect
3 the performance of the repository. When I laid out the --
4 what the Department of Energy's license application -- like
5 any license application of any applicant must include -- it
6 has to include what could go wrong, how likely is it, and
7 what are the consequences if it happens.

8 MR. CAMERON: Okay, thanks, Bill. We're going to
9 go to Abby Johnson. Then we'll come back down to Dennis
10 Bectel.

11 MS. JOHNSON: My name is Abby Johnson, and I
12 represent Eureka County, Nevada. I have three questions.
13 Bill, you mentioned in slide 5 that the NRC has been
14 reviewing the Department of Energy's Environmental Impact
15 Statement. Is NRC planning to review the final? My
16 understanding is they offered to research a 30-day period
17 where additional comments can be made. Is NRC planning to
18 take advantage of that as well, or not?

19 MR. REAMER: I would say, yes, but I had not --
20 actually that's new information. I had not heard that there
21 would be a 30-day additional period to comment.

22 MS. JOHNSON: They don't have to respond back, but
23 it's one more chance to -- my understanding is one could

1 look at it from a legal sufficiency point of view and also
2 to say, "Well, this is what we said, and this is how you
3 responded, and we agree with that or we disagree with that."

4 MR. REAMER: Okay. I'd like to take that back as
5 a question. I wasn't aware there was going to be that
6 period.

7 MS. JOHNSON: My next question here is does the
8 license application address any transportation issues? What
9 is the extent to which transportation is addressed in the
10 license application?

11 MR. REAMER: The Environmental Impact Statement is
12 the place where transportation is addressed. The license
13 application is to demonstrate that waste can be safely
14 disposed of in a repository.

15 MS. JOHNSON: So, the Environmental Impact
16 Statement, which we have now seen includes stuff on
17 transportation, but the NRC will not be reviewing that?

18 MR. REAMER: There's a different process that
19 congress has established for the Environmental Impact
20 Statement. The Environmental Impact Statement, if it's
21 finalized, must be part of -- or accompany -- the Department
22 of Energy's license application to the NRC if there is a
23 license application.

1 However, the process that congress has created for
2 the Environmental Impact Statement when it gets to us is
3 different. The question that congress has put before is
4 basically adopt the Environmental Impact Statement if it's
5 practical to do so. So we will -- the staff will do a
6 review of the Environmental Impact Statement to determine
7 whether it's practical to adopt that as the Environmental
8 Impact Statement to support licensing.

9 MS. JOHNSON: The license -- but the information
10 other than the Environmental Impact Statement -- the
11 information in the license application from the Department
12 of Energy does not address transportation?

13 MR. REAMER: That's correct.

14 MS. JOHNSON: And the decision that the NRC would
15 be making other than the Environmental Impact Statement as
16 an informational attachment does not address transportation?

17 MR. REAMER: That's correct. Although the
18 Environmental Impact Statement is not just an informational
19 attachment. There is a process.

20 MS. JOHNSON: But it is for transportation?

21 MR. REAMER: No, even on transportation, it will
22 be given to the commission and the commission must make a
23 decision about whether it's practical to adopt it.

1 MR. CAMERON: We're going to go to -- for one
2 clarification here, but just let me point out that it is
3 unclear -- it's unsettled yet -- whether a transportation
4 issue could not be raised as a contention in the licensing
5 area, okay? So if this -- we're in a -- we're in an
6 unsettled area here, I think. Jana?

7 MR. REAMER: So usually, if I could follow up, the
8 way to get that resolved if there is a license application,
9 is that you would -- unless there's a rule that screens it
10 out, the way you get it resolved is you put your contention
11 in on any issue you want to address, and it has to be
12 resolved by the -- by the board -- by the presiding officer
13 -- by the licensing --

14 MS. JOHNSON: So this is the security process
15 stuff that we don't know about yet, but you'll tell us when
16 the time is right -- like the word "contention", what does
17 that mean? How does that work?

18 MR. REAMER: I can tell you what contention means
19 now. Contention is an issue, a concern that you have with
20 respect to the proposal.

21 MS. JOHNSON: And do you have -- can you just be
22 anybody, or do you have to be a party?

23 MR. REAMER: You need to be a participant in the

1 proceeding, which is -- the term we use for that is "party".

2 MR. CAMERON: And there are certain rules that
3 govern whether a person or an organization can be admitted
4 into the hearing process that are based on what type of
5 potential injury you might suffer from the repository being
6 sited. Usually related to proximity.

7 MR. REAMER: The state is already by rule, I
8 believe, a party, and I think the counties -- yeah -- so
9 that's not an issue for you. But we will -- we will go into
10 that in more detail. At least the state is a party.

11 MR. CAMERON: Let me get Janet and -- let me get
12 Janet and Rob Lewis on board on this transportation issue,
13 and then Abby we'll go back to you for your other question.
14 I know Dennis has a question, and I think that Amy probably
15 wants a follow up to what was said right here. So we'll do
16 it in that order -- Janet, Rob, back to Abby for the third
17 question.

18 MS. KOTAR: I don't want to leave the impression
19 that the EIS is the only place where transportation and the
20 regulation of transportation safety is addressed. We have
21 significant responsibilities as an agency for safe
22 transportation in coordination with Department of
23 Transportation. And I'd like Rob Lewis from our Spent Fuel

1 Projects office to address that. I don't want people who
2 are less familiar with the details of the hearing process to
3 walk away thinking that we either, you know, do thumbs up or
4 thumbs down on the , and that's the end of the
5 transportation question. There are other mechanisms whereby
6 the transportation of spent fuel in this country and the
7 transportation of other radioactive materials area
8 addressed. So, Rob --

9 MR. LEWIS: I was just going to say, Abby, I know
10 you know this but for the --

11 MR. CAMERON: Mr. Lewis, if you could move a
12 little closer to that mic right over there.

13 MR. LEWIS: For everyone else in the room that
14 might not know, I just wanted to say that --

15 MR. CAMERON: This is Rob Lewis, NRC staff.

16 MR. LEWIS: We will be reviewing outside of the
17 licensing process. We will be reviewing other design that's
18 used to transport spent fuel to Yucca Mountain using our
19 regulations that are in part -- part 71, which is our
20 regulation that applies with any transportation that we
21 regulate.

22 MR. CAMERON: Okay, thanks, sir, for bringing that
23 to our attention, Rob. Abby, do you have another -- another

1 question?

2 MS. JOHNSON: Bill, my final question addresses
3 something on your slide 13. You said that if you have some
4 questions that you might then do some confirmatory analysis.
5 And I guess this is a half a comment and half a question.
6 My observation of how things have gone at the DOE side of
7 the house for years is that confirmatory analysis is based
8 on funding and a schedule of priorities. And so I'm
9 wondering does the confirmatory analysis depend on dollars
10 on or me? I don't understand the connection between what
11 this process is and what you're going to be able to afford
12 to do.

13 MR. REAMER: Dollars is always an issue, but the
14 main focus will be whether the areas where the safety case
15 may be -- what do I want to say -- kind of critical parts of
16 the analysis that we feel -- important parts of the anal --
17 of the Department of Energy's analysis where we feel it
18 makes sense to go behind and to confirm -- to do the
19 separate analysis. That's the kind of way I'd like to see
20 the decision be made. We're talking very abstract right
21 now.

22 But actually a lot of, you know, independent
23 analysis is being done by the NRC right now. It's not

1 commonly known, but the group that I talked about earlier --
2 the Center for Nuclear Waste Regulatory Analysis -- the
3 three individuals that I asked to rise -- I would urge you
4 to talk to them, because a great deal of independent work is
5 being done by the NRC right now.

6 MR. CAMERON: Okay, we're going to come back up to
7 Amy. Let's go to Dennis Bectel.

8 MR. BECTEL: I've got a couple of -- I'm Dennis
9 Bectel for -- Nevada -- a couple of questions actually
10 related to what Abby had asked. With regard to the EIS
11 process, NRC made some statements to your comment on the
12 draft document on transportation, you know, but more needs
13 to be done. And what I was wondering -- and I asked this
14 back there -- what happens if DOE doesn't do those things?
15 What was the recommendations by NRC and others do not appear
16 in -- final? Is that an indication that it may not be a --

17 MR. REAMER: Adoptable?

18 MR. BECTEL: Adoptable, right.

19 MR. REAMER: For example. Yeah. Of course the
20 comments that we made were -- you know, many other entities
21 made the same comments. You all are more aware of that
22 probably than I. As I understand it, there's a process that
23 will play out with respect to review of the EIS. Any EIS is

1 subject to -- once it's finalized -- judicial review,
2 meaning the Courts. If someone wants to raise a challenge,
3 they can raise a challenge. The Courts will look at that
4 and reach a conclusion. So that to the extent that comments
5 that have been raised by any participant have not been
6 adequately responded to, and they find their way into the
7 litigation, there is the possibility that the EIS could be
8 set aside by the Courts. Are you with me so far? Okay.

9 If the EIS is set aside, it would be very hard for
10 the commission to say it's adoptable. It's not adoptable,
11 if it's been set aside on a particular issue.

12 MR. BECTEL: My second question is with regard to
13 the confirmatory analysis also and that -- what would
14 actually trigger something, I mean, your voice in that
15 issue. What would trigger NRC's decision to proceed ahead
16 with that?

17 MR. REAMER: I think it's kind of a global view of
18 the analysis from where we want to put our resources to
19 check it. It's -- and of course we're very interested in
20 those portions of the analysis that are most important to
21 safety and repository performance, so that would guide a
22 decision as to where to do independent analyses. But I'd
23 urge you as well to follow up with the folks from the center

1 who are here and ask them, how do you make your decisions
2 right now? How do you make your recommendations to the
3 staff about where you like to put your resources. And I
4 think you'd get some sense of -- some relevant information
5 from that as well.

6 MR. CAMERON: Okay, I'm going to go to Amy and
7 then come back down to Mal. I just would ask you to -- you
8 have to hold this microphone pretty close, I guess. Amy?

9 MS. SHOLLENBERGER: Amy Shollenberger, Public
10 Citizen in Washington D.C. I have two comments and a
11 question. My first comment is just simply that as it stands
12 right now, transportation is not addressed in the
13 Environmental Impact Statement, and I think it's just a lie
14 to say that. You've been talking about how it might be
15 addressed in the final, but I don't have a lot of hope for
16 that.

17 My second comment is, I think it's really not
18 right for you to be referring to rights that exist under the
19 formal hearing process when NRC is working very hard to take
20 the right away from the citizens of Nevada and other people
21 across the country. I know we're not supposed to talk about
22 it today, but I think it's real important that the people in
23 this room I understand that the reason that it's not being

1 talked about is because the NRC is trying to say that only
2 informal hearings will be held on Yucca Mountain. And that
3 means that there will be no right to contend or anything
4 else. It will be just like this session. You'll be able to
5 say what you think, but it will have no legal basis.

6 Public Citizen and about 200 other signatories
7 have formally opposed this. Those signatories include
8 members of congress and others in high public offices that
9 are really saying that it's not right for this to happen.
10 The NRC had promised several years ago in the second paper
11 that it would never consider holding informal hearings on
12 Yucca Mountain, and yet, as we sit here in Nevada, the NRC
13 is sitting in Maryland considering that very thing.

14 My question is with regard to the license
15 application. I'm curious to know if the construction
16 authorization is granted, if the DOE would like to build an
17 ISFSI outside of the mountain, does it need to apply for a
18 separate license for that, or could it be built under the
19 general construction authorization license as a, you know,
20 ISFSI separate from the actual repository.

21 MR. CAMERON: Bill, before you answer, does -- I
22 guess one thing is that you might want to tell people what
23 an independent spent fuel storage installation is. And I

1 can't even pronounce the acronym, so I'm not going to try to
2 do that. But, Amy, I'm inferring from your comment on
3 transportation that you meant that the draft EIS doesn't
4 adequately address transportation rather than there not
5 being anything in the EIS?

6 MS. SHOLLENBERGER: That's correct.

7 MR. CAMERON: Okay. And that's correct.

8 And also I didn't mean to imply with my remarks
9 that we were trying to you know squelch any comments that
10 any -- all of you had on this potential change in the
11 hearing process. The only thing that I was trying to say is
12 that those of us from the NRC --can talk about what the
13 commission is considering because it's pre-decisional.

14 But, again, if you go back and take a look at -- I
15 think this is important for people to try to understand this
16 more at this point because it's the only information that's
17 out there -- is if you go back and take a look at the
18 transcript of that October 25th and 26th workshop, you'll
19 hear people making the comment about the fact that the high
20 level waste rules should not be changed in terms of the
21 hearing, and you'll hear rationales for that, and also you
22 get you an idea of what when Amy referred to as informal
23 versus formal hearing, you get an idea about what the

1 differences are between those two concepts and what the
2 difference is between the existing formal hearing process
3 that is in place for the repository now and what the
4 commission might be considering in this changes.

5 But I do want to emphasize that it is not a
6 foregone conclusion that the rules for the hearing process
7 for the repository are going to be changed. Given the fact
8 of the comments made in the hearing process workshop and
9 also we have letters such as public citizen has sent in and
10 supported -- that was supported by citizen groups from all
11 over the country. And with that long -- sorry, Bill, but --

12 MR. REAMER: Okay. I do have copies of the letter
13 from Mr. Riccio (phonetic), public citizen -- or I have a
14 copy if anyone would like to see it -- his letter and the
15 commission's response that you refer to.

16 An independent spent fuel storage installation is
17 a facility the purpose of which is to store fuel for a
18 specified period of time. A license typically for an
19 independent spent fuel storage installation would be granted
20 on the order of 20 years. There is under commission
21 regulations the ability for someone to ask to renew that
22 license. If the department wanted to construct an
23 independent spent fuel storage installation, they'd need to

1 file a separate license application to do that.

2 Now, there are -- I'm not even sure legally
3 whether they can do it, but I'm not trying to get into that
4 portion of the issue; I'm just trying to answer what I think
5 is your question.

6 MR. CAMERON: Okay. We're going to go to Mal
7 Murphy and then up to Judy Shankle and then we're going to
8 go to this gentleman down here.

9 MR. REAMER: Hey, could I add one point just to --

10 MR. CAMERON: Yeah. Go ahead.

11 MR. REAMER: -- tie up a loose end which Janet
12 reminded me of that responds to Dennis' question.

13 Dennis, you asked the question about how does the
14 commission decide about the confirmatory; how does the staff
15 -- how does Bill Reamer decide what confirmatory analyses
16 are done. And I neglected a very important point and that
17 would be the comments I hear from you and from affected
18 citizens.

19 I think there -- there's clearly kind of a way in
20 which we can go about doing our review and decide what
21 issues to review. And if we spend time and resources on
22 issues that are of concern to you, I think that is a very
23 good way to spend our money. I think that the -- that in

1 regulatory projects that the outcome in general has been
2 better because of public involvement, that the project is
3 safer because of concerns that people have raised, the
4 concerns act as -- at -- as a minimum a watchdog for the way
5 we're doing our job, and more specifically, you know that we
6 hear concerns in a particular area is a good way for us to
7 direct our technical resources to look at those and come up
8 with conclusions.

9 So I am very much supportive of spending money to
10 look at technical issues that are of concern to people in
11 the community, and so that would clearly be another way we
12 could make our decisions with respect to confirmatory
13 analysis.

14 MR. CAMERON: Great. Thank you, Bill.

15 Let's go Mal and then we're going to go up.

16 MR. MURPHY: Just a follow up to Dennis' question
17 about the EIS, Bill, and your response, as I understand it
18 -- and I don't think we need to go into the details of the
19 regulations, but as I understand it, under the NRC
20 regulations both part 60 or the part 63 that will come part
21 two of the general procedural rules and part -- whatever it
22 is -- 50 or 51 of the environmental rules, there is -- the
23 potential at least for the determination as to whether or

1 not the NRC can under the Nuclear Waste Policy Act adopt the
2 DOE EIS as a practical matter.

3 There's the potential at least for that to be
4 referred to the hearing itself so that the parties in the
5 state of Nevada, Nye County, the public citizen, and et
6 cetera, and the Department of Energy, potentially at least
7 could litigate that issue, could present evidence,
8 testimony, expert witnesses, documents on the question of
9 whether or not the transportation considerations are
10 adequate, for example.

11 We still have the potential to try to litigate
12 those issues whether or not the NRC can adopt that EIS as a
13 practical matter before the -- safety and licensing board.

14 MS. SHOLLENBERGER: But that's only if we get a
15 formal hearing.

16 MR. MURPHY: Well, not necessarily. The --

17 MR. REAMER: It's kind of apples and oranges, but
18 the --

19 MR. MURPHY: How we proceed certainly depends on
20 whether or not we get a formal hearing; no question about
21 that. But whether or not we get -- but it's -- I think I'm
22 correct in saying that there is still the potential -- a
23 strong potential that the parties will be able to somehow

1 subject to some procedural rules litigate the question of
2 the adopt- -- the NRC's adoption of the DOE EIS before the -
3 - team or before when everybody conducts the licensing
4 period.

5 MR. CAMERON: And that's an important point to
6 emphasize is that this distinction between the so-called
7 formal hearing and informal hearing doesn't affect the
8 substantive issues that can be considered by the tribunal
9 that hears this. It affects what process is used to bring
10 those issues forward.

11 MR. REAMER: It is -- would it be useful to say,
12 for example, that a formal process involves things like
13 lawyers, typically cross-examination, discovery rights,
14 imagine a trial, and that the other extreme, an informal
15 process -- and example of that might be a legislative
16 hearing process where the questions are asked by the
17 presiding officer, not by the parties, and where discovery
18 is completely -- or could be completely different? I just
19 -- there may be some people here that don't -- when we talk
20 about formal versus informal, they don't know exactly what
21 we're talking about.

22 MR. CAMERON: Right.

23 MR. MURPHY: Would you agree with -- or some or

1 between?

2 MR. REAMER: Yeah. Right. Right.

3 UNIDENTIFIED MALE VOICE: So what about official
4 public record -- isn't that part of the formal process?

5 MR. CAMERON: It's the official public record
6 would be part of either process. There will be an official
7 public record that will be certified, for example, to the
8 courts if anybody wants to challenge the agency's decision.

9 There's a broad spectrum of mechanisms that could
10 be, as Mal indicated, either in the hearing or not in the
11 hearing; in other words, this -- there's no bright line
12 difference between what we call or formal or informal. For
13 example, the only difference between the rules that we have
14 for a formal hearing now and a potential change to the
15 process might be that there would be no cross-examination by
16 the other parties or witnesses that were brought to that
17 hearing by the Department of Energy or some other party. It
18 could be just a small change --

19 MS. SHOLLENBERGER: That's a huge change. That is
20 not a small change.

21 MR. CAMERON: Well, I don't -- wait a minute.

22 MS. SHOLLENBERGER: That's a huge change.

23 MR. CAMERON: Let me not say that it's small in

1 terms of important. Okay? That's not what I meant. What I
2 meant it could be just one single change like that, and as
3 Amy vociferously pointed out, that's an important --

4 MS. SHOLLENBERGER: Yes.

5 MR. CAMERON: -- change. Okay?

6 Amy, I guess we're going to go to Judy Shankle,
7 but thanks for reminding me of that. I didn't mean to use
8 it that way.

9 Judy?

10 MS. SHOLLENBERGER: That's okay. No problem.

11 MS. SHANKLE: Judy Shankle. Basically I wanted to
12 ask you because the EOC keeps on changing repository design
13 and I don't think the cask design has been finalized. Is
14 there some point where this repository design -- cask design
15 is going to be stopped and reviewed as a final design? And
16 how can you approve a license if no final design is made?

17 MR. REAMER: Right. There needs to be a final
18 design -- reference design, and there are various terms that
19 people use, but there needs to be a design -- at least this
20 is my view and this is what I'm telling the Department of
21 Energy -- we must have in our -- in the license application
22 a design that we can review, a design that the technical
23 analysis supports.

1 There -- you know engineers will tell you that
2 it's important that as projects get built that there be
3 flexibility to modify the design, and NRC rules, rules
4 typically -- and I'm not taking about 63 -- NRC rules
5 typically say that design changes are permissible during
6 construction provided first there is an analysis of that
7 design change and a decision made as to whether it makes --
8 it raises any new safety issue that hasn't been reviewed.
9 If it raises a new issue, typically the rule says you must
10 have NRC approval in order to make that design change if it
11 raises a new safety issue. And NRC approval means everyone
12 gets involved.

13 If the decision is made that it does not raise a
14 new issue, the change does not raise a new issue, then that
15 must be documented in records. We must be informed of that.
16 And we have the right when we inspect that facility to look
17 at that document and decide basically whether we agree,
18 disagree with the decision.

19 MR. CAMERON: Okay. And we're going to go to this
20 gentleman here, and then to Kevin Kamps. and final comment
21 on this session from John. And then we're going to move to
22 the next presentation which is going to cover some of the
23 same ground. And if we need to come back at the wrap up for

1 questions that were raised, we'll do that. But let's take
2 these final three and then move on.

3 Yes, sir.

4 UNIDENTIFIED MALE VOICE: And hold the
5 microphone --

6 DR. MICHEL: Okay. My name is Dr. Robert Michel.
7 I am ex -- France and I also working with the ABA who does -
8 - and I don't understand why you chose the site of the Yucca
9 Mountain close to the neighborhood site where there was 928
10 home. It is very -- and the -- toxic location for -- clean
11 up. But I don't know why this was the worst location that
12 you have this site to put these deposits because it is
13 really pollutant with -- pollution which puts out --
14 residue.

15 I've personally visited this site, I've personally
16 visited the Yucca Mountain from 1980 to 1999, I was -- I
17 assisted to -- an explosion from -- or from the -- location
18 -- and I know that's very -- pollutant location. This one
19 is -- permitted location of the -- because it's testing --
20 the Yucca Mountain is just next door to the test site. Why
21 do you -- give -- and -- was to follow the -- and I -- want
22 to change -- and I don't know. This --

23 MR. REAMER: Yeah. Well, there's a long history

1 that the -- why was this site chosen. Of course, strictly
2 speaking it has not been chosen as the repository site; it's
3 been identified by the Congress as the site to be
4 characterized, and that's in the statutes. And if there are
5 questions that are technical questions that pertain to the
6 pollution that you're referring to that could impact how
7 that repository performs, then we will have to review those
8 questions in any license application to assure that the
9 repository will perform safely.

10 Now, you mentioned the EPA standards. The law
11 says that the commission must -- the commission's rules must
12 be consistent with the EPA standard. Now, EP- -- the final
13 EPA standard. EPA has proposed a standard, but they have
14 not completed their process. The NRC has filed comments and
15 we disagree with some aspects of the EPA standard, but
16 ultimately it's EPA's decision on what standard to issue and
17 the law says that NRC is to be consistent with that
18 standard.

19 So that -- I think that was your second question.
20 Did that respond?

21 MR. CAMERON: Okay. Thank you, Bill.

22 Let's go to Kevin and then to John.

23 And then, Sandy, are you ready to present?

1 All right. Kevin?

2 MR. KAMPS: My name is Kevin Kamps. I'm with
3 Nuclear Information and Resource Service in Washington, D.C.

4 And I had I guess just a comment and maybe a short
5 question.

6 On the independent spent fuel storage information
7 question that was asked earlier, I found it interesting that
8 it would require a separate license process because at the
9 nuclear plants around the country it does not at this point.
10 Starting in the early 1990s with the Palisades Plant in
11 Michigan, nuclear reactor were allowed to develop these
12 independent spent fuel storage installations under their
13 general licenses, which meant that no environmental impact
14 statement was required, there were no public hearings, and I
15 think that gets back to this whole talk about informal
16 versus formal.

17 In Michigan in the early '90s when the public
18 wanted to be involved in the decision at Palisades about dry
19 cask storage, there were no licensing hearings, no
20 adjudicatory process, no cross-examination, no discovery.
21 This was the first plant in the country where this took
22 place and there was a litigation. Public interest groups,
23 environmental groups, even the state attorney general of

1 Michigan argued against the immediate loading of these casks
2 and sought an injunction in federal court.

3 And in that injunction proceeding, the NRC and the
4 utility company, Consumer's Power Company, assured the judge
5 that if there were a problem with the casks, that they would
6 simply reverse the process of loading and unload the casks.

7 And this was a major concern to the public because these
8 casks had never been used anywhere, they hadn't been full
9 scale tested. But the judge went along with that line of
10 reasoning and allowed -- and disallowed the injunction, the
11 casks were loaded, and just a year after that, the fourth
12 cask that was loaded in the summer of '94 proved to be
13 defective.

14 And here it is six years later and it still sits
15 there fully loaded; it has not been unloaded. There's been
16 no unloading procedure demonstrated in the country with dry
17 cask storage. So it is a huge issue as was said that
18 there's no cross-examination, no formal process.

19 And so I'm just -- I'm perplexed that at Yucca
20 Mountain it would not requ- -- that it would require a
21 separate license proceeding. I'm just confused about the
22 contradiction.

23 And a second question I had from earlier was you

1 mentioned that the groundwater pathway is the primary source
2 of contamination or exposure to the public. So my question
3 -- and it gets back to what you just said about disagreement
4 with the EPA -- why does NRC not want to have a separate
5 protection standard for groundwater if it's the primary
6 pathway of exposure?

7 MR. REAMER: The answer to the first question --
8 and, Rob, if you -- Rob Lewis, who talked about
9 transportation, is also knowledgeable in this area -- but
10 the answer to the first question is that the regulation that
11 allows nuclear power plants to store in an independent spent
12 fuel storage facility has words that wouldn't cover Yucca
13 Mountain. I think that's the simple answer.

14 MR. CAMERON: Rob, do you have -- you want to add
15 anything to what Bill said for Kevin's benefit?

16 MR. LEWIS: No. I was going to say exactly what
17 Bill just said that the regulation for independent spent
18 fuel storage facilities says a reactor has two choices.

19 First choice is they can have what we call a
20 general license which means there's no separate license
21 review just for the independent storage facility, but it
22 only applies if you have an existing reactor license.

23 And there's a second option. You can apply for a

1 specific license which does have a license review process
2 and that involves all the stuff we're talking about. And
3 DOE is I think what we're trying to speculate here is that
4 DOE would be subject to the specific licensing process if
5 they wanted to operate in --

6 MR. KAMPS: But why? I don't understand.

7 MR. CAMERON: Okay. Thank you, Rob.

8 Okay. We're --

9 MR. KAMPS: Would have the license. Of course
10 if --

11 MR. CAMERON: Let's come -- let's come back -- if
12 there's a question on this, let's come back and do it at the
13 end, but make sure we do it. Okay. You're replying on that
14 one.

15 John?

16 MR. REAMER: Well, I think there's more -- he also
17 had a question with respect to the EPA groundwater.

18 MR. CAMERON: Oh. But you -- do you have an
19 answer for it?

20 MR. REAMER: Well, I haven't --

21 MR. CAMERON: I mean I think it was just asked --

22 MR. REAMER: -- I haven't answered it yet.

23 MR. CAMERON: He could ask it again.

1 MR. REAMER: No, no. I know what the question is.

2 MR. CAMERON: Okay.

3 MR. REAMER: The -- you know the commission's
4 comment, Kevin, are all kind of right out there on the
5 record. It's all public.

6 As I recall, the argument that the commission was
7 making is that we think Yucca Mountain should be regulated
8 the way we regulate other facilities. The commission does
9 not implement a separate resource protection standard they
10 use in overall all pathway standard. If that's protective,
11 there's not the need in the commission's view for resource
12 standard. EPA obviously doesn't agree with that. Their --
13 the standard they -- that they imposed on the wet facilities
14 includes a groundwater protection standard, and the standard
15 that they proposed for this facility also includes a
16 groundwater protection standard. And as I said, the law
17 says once they final -- go final, we need to be consistent
18 with.

19 MR. CAMERON: Okay.

20 John?

21 MR. HADDER: John Hadder, Citizen Alert. I have a
22 few comments here to close out after the discussion.

23 First, in -- regarding the discussion around the

1 point that Judy brought up about part 63 and the fact that
2 moving forward with the process when rules hadn't been
3 decided on, I guess what comes to mind to me is that this --
4 what the comment was is the structure of this process here
5 is the same, and yet when you talk about licensing and
6 licensing inspections, the new part 63 has nothing about
7 subsistence -- subsystem performance which is a physical
8 characteristic of the repository. So it seems to me when
9 you're talking about licensing, that's a pretty big
10 difference. And that -- and so I don't really know if I
11 quite understand the comment that there is no difference in
12 our -- in the structure of this process. So that's kind of
13 a question and comment.

14 Also on the issue of also related to that, it
15 mentioned -- it was mentioned that in terms of the
16 determining or resolving the part 63 that the DOE's site
17 guidelines would then come to the NRC and there would be a
18 concurrence process. One, I don't think the public really
19 understands what this concurrence process is all about and
20 there's a lot of questions around that. I think that
21 Nevadans probably generally think the concurrence process
22 is, well, whatever the DOE gives you, let's make it work.
23 That's kind of what it looks like to a lot of us here in

1 Nevada. It's sort of a wait-and-see policy. This 63 is
2 kind of hanging out there in the wind until DOE finally
3 decides what will make Yucca Mountain work and then we'll
4 just -- so that -- and then the NRC will just kind of go
5 along with it. That's kind of what it looks like to
6 Nevadans. So I'd like that to be addressed somehow is what
7 the concurrence process is and that it really is an
8 independent rule making. And we understand that there needs
9 to be some consistency in the rules.

10 We definitely want to -- definitely want to
11 advocate again for a formal hearing process. This is
12 definitely a recourse which Nevadans you know are very --
13 would strongly support. So in that -- in your discussions
14 and in the commission's discussions, all the arguments that
15 were made in favor of it, Citizen Alert is fully behind and
16 will protest heavily if it doesn't happen.

17 And also, too, the other thing that comes up
18 around the transportation discussion, my question there is
19 why is the transportation treated separately in this process
20 at all? I mean it was brought up that it's not in the
21 license application; why is treated separately when clearly
22 transportation does impact the safety? If you have a
23 repository, you're going to be transporting waste, there's

1 clearly a safety issue there. I don't understand why it
2 isn't integral to the licensing application.

3 MR. CAMERON: Okay. Thank you very much, John.

4 And, Bill, there's --

5 MR. REAMER: Yeah. There's several.

6 MR. CAMERON: -- the concurrence process, the
7 transportation issue, and others. Go ahead.

8 MR. REAMER: Well, the first -- okay. The first
9 one I had was the comment about part 63. It's not like part
10 60. Part 63 as proposed didn't have subsystem requirements.
11 Yes, that's correct. Those comments were made that part 63
12 should have subsystem requirements. We owe -- the
13 commission owes a decision and a response to those public
14 comments. If it's going to issue a final rule that does not
15 include subsystem requirements, it needs to explain why.
16 And the proposed rule offered an explanation as to why; that
17 it felt that they were not an effective way to protect the
18 public because they did not specifically and directly
19 contribute to safety. You know I don't want to get -- kind
20 of get back into that again, but I'd be happy to talk with
21 you separately or again -- who really knows more about this
22 issue than I, if you'd like to talk more about that.

23 But in any event, it's a pending issue we owe

1 response on that.

2 The part 963 concurrence process. Well, the last
3 -- the last time the commission concurred in citing
4 guidelines was in 1984. There were guidelines that were
5 issued by the Department of Energy, the commission had a
6 concurrence process. One of the conditions of that -- of
7 the concurrence was that any change to those citing
8 guidelines would have to be brought back to the agency to
9 the NRC again for concurrence. That's basically where we
10 are right now. We don't -- I don't really have any more
11 information to give you on the concurrence process.
12 Presumably the department of energy will at some time give
13 the commission the proposed 963 guidelines and the
14 commission will speak to its -- how it's going to be conduct
15 concurrence.

16 The third -- well, you mentioned that you're very
17 supportive of maintaining the hearing process. Okay.

18 Fourthly, why is transportation treated
19 separately. Rob's got something to say, but let me take an
20 initial crack at it.

21 The statutes are basically what describe the
22 commission's role in this project. Remember I said
23 typically the Department of Energy is self-regulated.

1 Hanford, they're a low level waste facility at the NTS,
2 other facilit- -- they are not regulated by us. This is
3 different. This project we are regulating. The statute
4 describes our role. It says we are to regulate storage,
5 meaning -- and storage under the law means disposal. It's a
6 little weird, but that's the way it's been interpreted. So
7 the law says we are to regulate disposal.

8 It also says we are to certify packages. And so
9 the lawyer's answer is that's what we've been told to do and
10 that's what we do. The simple answer is that's I think why
11 transportation is not part of the repository licensing
12 proceeding because it's not disposal.

13 MR. CAMERON: Okay.

14 MR. REAMER: Rob was --

15 MR. CAMERON: Rob, do you have something to add
16 there?

17 MR. LEWIS: Just real briefly.

18 The one thing to keep in mind, too, is that maybe
19 we're painting a little bit of an improper picture. In any
20 license application that NRC reviews and maybe eventually
21 issues a license, transportation is not typically addressed
22 in the application. And there's a basic reason for that:
23 because in transportation, we're allowing facility -- we're

1 allowing material -- radioactive material to leave the
2 facility and enter the public domain -- the highways, and
3 the railroads, and the aircraft. And the -- what we do is
4 we look at the sum of all the radioactive materials'
5 transportation and that is occurring at any one time and
6 determine the overall impact.

7 Now, there is estimates that there are like three
8 million shipments of radioactive materials a year, some
9 estimates are even higher, but I guess what I'm trying --
10 and the DOT has the primary authority to regulate that --
11 the material that's in commerce, whether it be radioactive
12 material or other hazardous material.

13 So I guess all I'm trying to say is that Yucca
14 Mountain is not unique in that transportation is not part of
15 the license application. And there's not a chapter on
16 transportation in the license application because all the
17 other licenses that we have at NRC for the power plants and
18 the hospitals and everything else also is that process.

19 MR. CAMERON: Okay.

20 MR. HADDER: Transportation --

21 MR. CAMERON: Thank you.

22 MR. HADDER: -- scenario is a lot different,
23 however, is it not? For a power plant, you're -- because

1 you're just basically talking about transportation of the
2 new fuel to the plant is a lot different beast than spent
3 fuel.

4 UNIDENTIFIED MALE VOICE: Your comments won't be
5 transcribed, sir, unless you're on --

6 MR. CAMERON: We're not picking you up there, but
7 let's come back if we need to put a finer point on
8 transportation later, and let's get Sandy on here.

9 Unless you have a -- do you have a real quick one?

10 MS. TILGES: Yeah, I do.

11 My name is Kalynda Tilges, Citizen Alert. I
12 wasn't going to ask any questions, but I have to at this
13 point.

14 You're talking about transportation is not part of
15 the licensing process; however, it is up to you to license
16 -- approve and/or license a cask; is that what -- is that
17 correct? Did I hear that correctly? A cask design?

18 MR. REAMER: Correct.

19 MS. TILGES: Well, wouldn't part of approving or
20 licensing that cask design be how it handles the
21 transportation process?

22 MR. REAMER: Yes.

23 MS. TILGES: So why wouldn't the transportation

1 process be part of licensing the cask design then?

2 MR. REAMER: Because there's the -- they're two
3 moons. They're two separate -- sorry. They're two separate
4 proceedings; they're two separate matters. One matter is
5 this repository. The separate matter is a particular cask
6 design. Rob comes from the office that reviews the cask
7 design and that's handled in a distinct -- by a distinct
8 process. The public is involved in that as well, but it's
9 separate.

10 MS. TILGES: Well, then what is it that you look
11 at to approve the cask design if it's not how it performs in
12 --

13 MR. REAMER: Oh, I agree that we do look at how it
14 would perform in transportation. I think we are in final
15 agree- -- I mean I think we agree. I understand what you're
16 saying. The cask would be reviewed with respect to
17 transportation conditions and how it would perform under
18 those conditions.

19 MR. CAMERON: Okay. We're going to move on to
20 Sandy now, but I think -- Bill, you want to do one last
21 thing, but I think that our discussion really emphasized one
22 thing here is that we need to be much clearer in describing
23 what our responsibilities are to consider and regulate all

1 aspects of transportation. Because it is -- and it is
2 confusing and I don't think that we're really, clearly laid
3 that out yet, and I think we need to note that for the
4 future.

5 MR. HADDER: I don't think that's an accurate
6 summary.

7 MR. CAMERON: Well --

8 MR. HADDER: I mean I think it is -- I think
9 clarity's one thing, but also responsiveness to what the
10 public concerns are about how transportation is also --

11 MS. TREICHEL: This whole thing is being
12 misconstrued because we're not here to chat and play our
13 role. We have no serious role. So you know I certainly
14 think this should continue because we've got an agenda and
15 we're all in our seats, but that's about it. So -- and we
16 can do that at the end.

17 MR. CAMERON: Well, and just let me say that I
18 wasn't trying to summarize everything in the world in terms
19 of transportation, John. Okay? All I was saying is that at
20 a minimum what we need to do and -- is to let the public
21 know clearly what the responsibilities of the NRC are for
22 regulating transportation.

23 MS. SHOLLENBERGER: But we understand that and we

1 don't agree is what we're saying.

2 MR. CAMERON: Okay. Well, that's fine. That's
3 good.

4 MR. HADDER: My comment was only that this is
5 going --

6 COURT REPORTER: These comments don't get
7 transcribed --

8 MR. HADDER: My comment only was is going into
9 transcription and that your -- someone that wasn't here
10 would kind of get the sense that that was what that came out
11 of the discussion, and that was a piece of it, but I think
12 that there's more. So that's why I --

13 MR. CAMERON: Okay. Thank you very much, John.

14 COURT REPORTER: You have to speak to mic --

15 MR. CAMERON: Okay. We're going to come back and
16 give you the opportunity to say that again. All right?
17 Sandy?

18 And, Bill, you want to do one more thing?

19 MR. REAMER: Yeah. I wanted to introduce one more
20 person if I could. Bob Latta. Bob is a new arrival to our
21 on-site office. Right now we have three people in the
22 office. I think two of the three are here: Bill Belke and
23 Chad Glenn (phonetic). And Bob would be an addition to the

1 office.

2 The effected units of local government wrote a
3 letter to the chairman the end of February, and they raised
4 some questions -- some concerns with respect to how our --
5 how we are dealing with them, how we are supporting the
6 effected units of local government with our personnel at the
7 site. And the chairman responded to that letter and said it
8 would be a topic for this meeting, and so it's something
9 that we'd be happy to talk about. Copies of that exchange
10 of the correspondence are available at the front desk if
11 you'd like to see it.

12 Bob, when we kind of thought about what was being
13 said and we realized that you know we should look at the
14 on-site reps office as on-site representatives and ask
15 ourselves how can they more effectively interact with the
16 effected units of local government and we have a strategy
17 that we've talked about in that regard. And Bill and Chad
18 who are familiar to many of you are part of that strategy,
19 and Bob who is new and will be at the site, are part of the
20 strategy to do a better job of supporting the effected units
21 of local government in their activities.

22 So Bob comes from a -- our nuclear reactor
23 regulation office, he's -- has over 15 years with the NRC,

1 he's served as a resident inspector as a nuclear power
2 plant, he brings extensive background in dealing with local
3 concerns, public issues, and interacting with people
4 one-on-one in the vicinity of a nuclear facility, he knows
5 the importance of listening, just as Chad and Bill
6 understand the importance of listening and hearing what's
7 being said, and making sure that those concerns are relayed
8 back or responded to on the spot depending upon what they
9 are.

10 He will ultimately, as I said, be located here at
11 the on-site reps' office.

12 So, Bob Latta?

13 MR. CAMERON: Did you want to say something Bob?

14 MR. LATTA: Well, I think Mr. Reamer probably
15 covered all the bases. I just wanted to explain that I'm
16 very happy to be joining the on-site representative office
17 there. My family and I are very anxious to move back out
18 west. We are westerners. I can assure you that as
19 residents of the community and state of Nevada, we are very
20 interested in the environment. Our job in the OR's office
21 is -- provided the facility at Yucca Mountain is approved
22 for construction, is to ensure that the facility is
23 designed, constructed and operated in accordance with the

1 government regulations.

2 Also, collateral duty though for us is interaction
3 with community groups. The meetings like this are an
4 excellent opportunity to identify concerns and for us to be
5 responsive. That's our job. That's why we're here.

6 Outside the door there were contact sheets which
7 have Chad's number on it, Bill's, and mine. I won't be here
8 till the August time frame, but clearly that's one of our
9 functions, and we look forward to working with you and
10 trying to resolve the issues.

11 Thank you.

12 MR. CAMERON: Thank you, Bob.

13 Okay. We're going to bring Sandy Wastler up now
14 to talk about what happens when the NRC receives a license
15 application.

16 And we will before we close come back to get any
17 comments about transportation on the record.

18 All right. Sandy?

19 MS. WASTLER: Thanks, Chip.

20 I hope everyone can hear me. I wanted to thank
21 Bill for the information he's provided between the questions
22 asked by the audience this morning and Bill's presentation.
23 I think we've touched on quite a bit of the information that

1 I'm going to be presenting in my slides today. But I
2 believe a lot of this is very important, so it's worth a
3 second view.

4 My name is Sandra Wastler. I'm the chief,
5 performance assessment and integration section. I work for
6 Bill. I've been with the NRC for 25 years and in that
7 capacity I have been involved in the licensing process for
8 pretty much my whole career. I started out in reactors,
9 I've been involved in low level waste disposal facilities,
10 uranium recovery facilities, 11-E-2 byproduct disposal
11 facilities. So I've got a very broad background basically
12 going from the front end of the nuclear cycle to the back
13 end.

14 An overview of what I'm going to be talking about
15 -- and again, some of this we've already discussed -- would
16 be: the statutory requirements that impact the licensing
17 process; pre-licensing consultation; the licensing
18 philosophy; the regulatory roles -- DOE's role in this
19 process and NRC's role; the licensing activities in general;
20 and the licensing actions that can result at the end of the
21 process.

22 All of you are I'm sure aware of the Nuclear Waste
23 Police Act. And there's a couple of things in there that

1 impact the licensing process. Like it has been said
2 previously, the process that is going to apply to the high
3 level waste repository is the same process that we would
4 apply to the other areas that we regulate, but the Nuclear
5 Waste Policy Act did provide some changes. And I just was
6 going to point those out.

7 First is pre-licensing consultation. While in
8 many other facilities, reactors, we do often meet with a
9 licensee that is thinking about coming in for a license
10 application, in this particular case, Congress mandated us to
11 interact early with DOE with regards to licensing. The
12 Nuclear Waste Policy Act requires us to complete the
13 construction authorization and come up with a decision
14 within three years with the opportunity for a year
15 extension. In other areas that we regulate, that is not the
16 case.

17 And lastly as was discussed here is a difference
18 in the process for the final environmental impact statement,
19 which in this particular instance we are to adopt to the
20 extent practicable.

21 I just want to touch on pre-licensing consultation
22 a little more. And the goal here is for early
23 identification and public discussion of safety issues. And

1 it allows us to make sure that DOE understands where the
2 concerns are so that we will basically -- so DOE can focus
3 on preparing a complete and a high quality license
4 application.

5 As was -- Bill had mentioned, our licensing
6 philosophy and really the paramount goal that's driving all
7 of our licensing is public -- protecting public health and
8 safety. And DOE and the NRC have two different roles for
9 that in this process. DOE is solely responsible for the
10 safe use of nuclear materials, and NRC must assure that DOE
11 complies with our regulations.

12 The NRC's licensing -- regulatory role involves
13 two aspects. One, again we've discussed this to some extent
14 this morning -- developing regulations. We're talking about
15 the draft part 63 and guidance. We are in the process of
16 developing the Yucca Mountain review plan and that's
17 guidance to the staff to provide consistent application and
18 review of the license application when it comes in.

19 Our other role is to assure compliance with the
20 regulations. We review an application -- if -- oftentimes,
21 as many of you maybe aware, our review plans, our guidance
22 documents while they're for the staff benefit, many times
23 licensees will look at it and say, okay, this provides

1 guidance to a potential -- for our potential license
2 application, so we know what kind of information the NRC is
3 going to be looking for for us to demonstrate compliance.
4 So they will use this guidance as well.

5 And it is just that; it's guidance. If a licensee
6 in any type facility we license decides that they would like
7 to use a different approach, then we have the responsibility
8 for reviewing and examining that approach -- excuse me --
9 and make sure that it meets the NRC's regulations.

10 The other thing that we're required -- that is
11 part of our requirement is the inspection process. And this
12 is where we determine the implementation of a program while
13 an an -- license application you might see the operating
14 procedures, this is how a licensee (phonetic) is proposing
15 that they will operate the facility. The way we determine
16 that this is carried out is through our inspection program,
17 and Blair Spitzberg is going to be talking a little later in
18 more detail about the inspection program.

19 DOE has its own responsibilities in our regulatory
20 process. One, they need to provide a high quality
21 application that demonstrates compliance with our
22 regulations. But the burden is solely on DOE to show that
23 the action that they're proposing is safe, that they

1 demonstrate compliance that the regulations are met, and
2 they ensure that -- the continued compliance with those
3 regulations. When we need additional information to do our
4 evaluation, that they provide us that additional information
5 when requested, and we keep -- and that they keep detailed
6 records of all their activities.

7 Licensing. As Bill mentioned, we're an
8 independent agency; an objective agency. The NRC does not
9 participate in the design or the site selection.

10 Some of the principles of good regulation that we
11 try to apply across the board of all our facilities:
12 obviously protective. That's our main focus; protection of
13 public health and safety. We want to be efficient. We want
14 to manage our regulatory activities to the best of our
15 ability. We want to be clear. We want to make sure what we
16 say when we ask questions, when we state our position, that
17 it's clearly understood what we want and that it could be
18 easily applied or easily determined. And that we're
19 reliable, we're consistent, that we consistently apply our
20 regulations.

21 As Bill mentioned, this is a multiple stage
22 licensing process. We've had some discussion about that.
23 And I'd just like to reiterate what Bill said; only the NRC

1 can authorize construction of the -- a repository, only NRC
2 can amend the license to authorize operation and receipt of
3 waste, only NRC can amend the license to authorize permanent
4 closure, and only NRC can terminate the license.

5 In general, our review objections are three. One,
6 to support the commission's construction authorization
7 decision, to determine completeness of the application, to
8 determine DOE's compliance with our regulations and document
9 that within the first 18 months of the three year period for
10 construction authorization, and to develop -- write our
11 safety evaluation report.

12 Basically there's three types of reviews that go
13 on. The first is an acceptance review. And I'll touch on
14 each of these separately, but it kind of asks the question
15 is the application complete. And if you're familiar at all
16 with most -- any of our licensing, this is often called a
17 docketing review. The second portion is a safety review;
18 determine if all requirements have been met. And then an
19 environmental review; what extent can the NRC adopt the
20 final environmental impact statement.

21 On the licensing acceptance review, I mean what
22 we're doing here is verifying that all the information
23 that's required, for example, in the regulation is provided

1 for, and does it contain sufficient technical data to
2 support the assertions made by the applicant, in this case,
3 DOE, and whether it complies with our LSN requirements.
4 This is not a detailed technical review. Now, if the
5 application is accepted, if we find that all that
6 information is there and it's -- they provide sufficient
7 technical information, that's when the three year clock
8 starts ticking.

9 The safety review is the detailed technical review
10 and the frame work for that, as we've spoken, is part 63 and
11 will be the Yucca Mountain review plan. Our scope is to
12 make sure that we evaluate all the technical issues that
13 affect safety, we want a sound technical review and -- to
14 determine the acceptability of the proposal, and to assure
15 that there's demonst- -- that the applicant demonstrates
16 compliance with our regulations. And the Yucca Mountain
17 review plan and past practice is the guide and focus of this
18 review.

19 And then as we've discussed previously, we have
20 the environmental review and the final EIS will be a part of
21 the license application. There will be an opportunity for,
22 as Mal had mentioned, possibly issues being raised in our
23 hearing process, but the issues that are resolved during the

1 NEPA process will not be re-litigated during our hearing
2 process unless there's additional information -- new
3 information provided if there is a substantially different
4 case being presented than was presented in the environmental
5 report.

6 The documentation of the -- during the licensing
7 review is our safety evaluation report and this basically
8 documents the results of the staff's technical review of the
9 license application. Now, during this process, during this
10 18 months that we'll be -- we will be involved in this,
11 we're going to have opportunity to issue questions. If we
12 get an application and as soon as the application comes in
13 the door, we start looking at and starting writing our
14 safety evaluation report, because there's going to be areas
15 where we will automatically be able to answer the questions.
16 We can look at the information, they've provided the
17 information, so we can write out the sections that -- for
18 this particular section of the regulations the applicant has
19 provided a demonstration of compliance. And others are
20 going to be more technical detail. And in some areas there
21 may be gaps. Maybe they didn't address a particular issue.

22 And so as we write this document, what we find are
23 holes where we don't have enough information to reach a

1 conclusion. And what we do at that point is we issue what
2 we call requests for additional information. And as been
3 mentioned, DOE is required to provide us the information
4 that we need to fill in those gaps. And basically the
5 safety evaluation report is a basis for the staff's
6 recommendations to the committee.

7 And, again, as Bill discussed, there's really
8 three -- only three options that's available to the
9 commission in this process: to grant a license, to grant a
10 license with conditions, or to deny a license.

11 With regards to the final decision, the ultimate
12 responsibility or the burden of proof is on DOE. The
13 adequacy of DOE safety case, not the NRC's safety review, is
14 the focus of the decision that will be made.

15 So -- a lot of this we've gone over, but I think
16 it bears repeating some of the points that were made. And
17 if there's additional questions that didn't get responded
18 to, I will try to respond.

19 MR. CAMERON: Okay. Let's go to Dennis Bechtel
20 first.

21 Dennis?

22 MR. BECHTEL: For the record, Dennis Bechtel.

23 What -- on slide 14 you mentioned issues resolved

1 during NEPA will not be issues in licensing. What
2 constitutes a resolution of the issues?

3 MS. WASTLER: At which -- I'm sorry. Fourteen?

4 MR. BECHTEL: Slide 14, it's the second bullet,
5 issues that which you would not be revisiting. What
6 constitutes in the NRC's eyes the resolution?

7 MS. WASTLER: In the EIS process --

8 MR. BECHTEL: Great. Great.

9 MS. WASTLER: As Bill mentioned, when -- and
10 through the EIS process, there's an opportunity for things
11 to be litigated in civil court. If those are resolved in
12 that venue, then they would not necessarily be part of -- be
13 re-litigated again in the hearing process.

14 MR. BECHTEL: I mean what -- if you had a final
15 EIS that came out and an issue wasn't litigated, but say --
16 are concerned about transportation, the transportation part
17 was not resolved in the final EIS, would that -- would NRC
18 consider that a resolution of the issue, I mean even if it
19 wasn't lit- --

20 MS. WASTLER: It was not resolved in the EIC
21 process?

22 MR. BECHTEL: Yeah.

23 MS. WASTLER: Then it would not resolved from

1 our --

2 MR. BECHTEL: I mean if it wasn't -- even if it
3 wasn't litigated and it was just --

4 MS. WASTLER: If it wasn't lit- -- if the issue
5 like transportation was not litigated --

6 MR. BECHTEL: Was not litigated, but it was in the
7 final EIS, would --

8 MS. WASTLER: That had been approved?

9 MR. BECHTEL: Yeah. Well, I mean it was -- the
10 EIS --

11 MS. WASTLER: Well, through the E- -- it proved
12 this in the sense of the EIS process.

13 MR. BECHTEL: Right.

14 MS. WASTLER: If there was substan- -- if there
15 was new information that was brought to bear on the issue,
16 yes, then it would be -- you would go through the process
17 that Bill talked about earlier, contention could be made,
18 and it could be raised at that time.

19 MR. CAMERON: Yeah. I think we're going to
20 probably try to put a finer point on that at some time
21 during today's discussion, and I think maybe, Steve, do you
22 have something on this?

23 MR. FRISHMAN: Well, it sounds to me like what

1 you're saying is if the DOE's environmental impact statement
2 goes final and is not overturned by litigation, then
3 everything in it is resolved. Well, that sounds like what
4 you're saying because there is no other mechanism that I can
5 think of in the bounds of what you're talking about.

6 MR. CAMERON: And let's stop right there to make
7 sure that we clarify that.

8 Sandy, you heard what Steve's -

9 MS. WASTLER: Yes.

10 MR. CAMERON: -- conclusion was. And what is he?
11 Is that correct?

12 MS. WASTLER: That's my understanding of the
13 process, yes.

14 MR. FRISHMAN: Okay. Well, let me -- as the -- as
15 they now say in Sweden, let me stretch you a little bit.

16 The no action alternative, if it is not changed
17 and if it not litigated, is not permissible under the Atomic
18 Energy Act or current Nuclear Regulatory Commission rules,
19 would you expect that that is resolved?

20 MS. WASTLER: If it is not -- it's not allowed
21 under our current regulatory -- and I say if because I'm not
22 clear on that point personally -- but if it was not allowed,
23 then it would not be closed. We have to look at it to see

1 whether we can adopt it, and if the EIS that is there is in
2 -- not in compliance with our regulations, then we could not
3 accept it; we could not adopt it. So we would -- it would
4 not be a complete application. It would be something that
5 would end up being litigated.

6 MR. FRISHMAN: Well, DOE is sure planning to give
7 you a gift.

8 MR. CAMERON: Okay. Thanks, Steve.
9 Judy?

10 MS. TREICHEL: I think on your slide four that one
11 of the things that has people in Nevada and possibly other
12 places so frustrated is the second bullet saying that part
13 of the pre-licensing consultation going on between the NRC
14 and the DOE is intended to encourage DOE to prepare a
15 complete and high quality license application. That to any
16 of us who are opposed to the project or have an inkling of
17 fairness, if you take this with any other sort of licensing
18 in the world that we're more familiar with, when somebody
19 goes to take the bar, there isn't anybody there helping them
20 have a good breakfast and making sure that they rested well.
21 There isn't anybody holding my grandchild's hand when they
22 go to pass their driver's test, thank God.

23 And for many things, there's a thank God sort of

1 thing, and particularly in the case of a repository, the
2 last thing that the citizens of Nevada want to see is the
3 NRC assisting or consulting or being in any way helpful for
4 the preparation of a complete and high quality license
5 application, because in so many cases, there's a very clear
6 belief that that site is a loser, it's a dog. And all it
7 would be doing is putting some real nice wallpaper on a
8 structurally insufficient house.

9 So I think -- and I know you have to say it. It's
10 the way it's written. Nobody has advocates like DOE. I
11 mean they've got help coming in all directions. And the
12 citizens do not -- the citizens have not one single dollar
13 in which to do it. They've got to take the money from other
14 stuff to put together to give to people like me and Citizen
15 Alert in order to even be players. And NRC is fully funded
16 to do what they do, they consult, they're there, they
17 interact, they have continual -- I try and keep up with the
18 meetings. I know how many meetings there are between DOE
19 and NRC. And there's all of this stuff going with a lot of
20 help from Congress as well.

21 And that's where -- if this -- if you're here to
22 listen to us and to find out what some real problems are or
23 to train the new guy on the ground, that -- this is going to

1 be one of the bases for it. And I'm not sure that it's even
2 important that you respond. We're just -- we know, and we
3 see it, and that's the way it's set up, and it's lousy.

4 MR. FRISHMAN: Could I just add one point to that?
5 This -- the verbiage that you're using -- complete and high
6 quality license application -- do you recall where that
7 comes from?

8 It was Joe Paladino's (phonetic) very first
9 warning to the Department of Energy after the Nuclear Waste
10 Policy Act of 1982 was passed. And he said, "I'm warning
11 you now," and this has become a mantra and considered
12 guidance to the NRC staff now that you somehow have to help
13 them along. Joe said it as a threat.

14 MS. WASTLER: You've raised --

15 MR. CAMERON: And I guess there could be -- two
16 different perspectives presented there on -- in terms of
17 what that means, but I think it did originate as Steve said.

18 But let's go to Bill Reamer.

19 MR. REAMER: I just want to say I agree with the
20 sentiment both of what Judy and Steve have said, that the --
21 you know I sit up there and talk about independence and that
22 we will rigorously review, but you know the -- we have to be
23 careful that we don't give the impression to people that we

1 are joined at the hip here with the Department of Energy and
2 we both want this project to go forward. That is not my
3 sentiment, that is not what is intended by the statement.
4 It's much more don't give us a dog because that's going to
5 prolong the review, stack issues to the end, lead to a
6 process I think is far worse than a process that gets the
7 issues out on the table as soon as possible so that everyone
8 can see them and deal with them.

9 MS. TREICHEL: Why don't you just toss them out
10 the door like any other --

11 MR. CAMERON: Okay. Judy, we're going to -- we'll
12 come back over and get you and Amy and others over there.

13 Let's go right here.

14 MS. ADAMS: My name is Marta Adams, Nevada
15 Attorney General's Office. I have a question for Sandra.

16 Now, I'm understanding that the extent as NEPA
17 issues are being litigated, is it correct in understanding
18 that the NRC will halt progress on the environmental review
19 pending judicial resolution of those issues?

20 MS. WASTLER: Halt review? Well, until --

21 MS. ADAMS: Well -- or stay that particular act
22 pending review of whatever the issue is.

23 MS. WASTLER: Until -- I would -- until the issues

1 are resolved. I cannot see that we would be able to adopt a
2 final environmental impact statement because we don't have a
3 final decision. So we would have to wait until that --
4 those issues are cleared up in the courts before we could go
5 forward.

6 But I don't know if, Chip, you wanted to add
7 anything else to --

8 MR. CAMERON: Well, I think that that's correct.
9 If the EIS is in litigation as inadequate under NEPA, that
10 certainly the NRC is not going to be in there thrashing
11 about trying to decide whether it's going to adopt it. If
12 that was the question, Marta.

13 All right. And let's go to Amy and then I think
14 Judy had another comment that she wanted to put on the
15 record.

16 Amy?

17 MS. SHOLLENBERGER: Amy Shollenberger, public
18 citizen. I think my comment's probably similar to Judy's.

19 I don't understand why if the DOE gives you a dog
20 so to speak why would you not just deny the license? Why
21 would you say, oh, well, let us help you figure out how to
22 make this better? If I -- you know if I send in my
23 application for a college or a graduate school and it's --

1 and words are spelled wrong, they don't send it back to me
2 and say, "Hey, why don't you run your spell check." They
3 send it back to me and say we don't want you in our school.
4 And it should be the same for DOE.

5 I also have a question and I'd love to hear your
6 response to that, by the way. But I also have a question.
7 And that is I'm a little bit confused about this licensing
8 process. I'd like to know where in this process how does
9 the consideration report and the sufficiency review and the
10 notification to the state and other affected parties, where
11 does that all fit into this process?

12 MR. CAMERON: Okay. Let's go to that question --
13 the second point first to try to explain.

14 MS. WASTLER: Okay.

15 MR. CAMERON: And do you want to do it or --

16 MS. WASTLER: No. That's fine. Janet wanted to
17 say something I believe about the first question, so we'll
18 kind of take them in reverse.

19 But site characterization as was the VA (phonetic)
20 is all pre-licensing. The licensing aspect here doesn't
21 come to play until DOE submits a license applications for us
22 to review. But that is all part of their process for
23 building their license application.

1 MR. CAMERON: But I mean does that explain -- I
2 think that you had some other questions about how does the
3 sufficiency review -- Bill talked about it -- interact with
4 the DOE recommendation; is that --

5 MS. SHOLLENBERGER: Well, yes. As far as if my
6 understanding is correct --

7 MR. CAMERON: Get this on the record.

8 MS. SHOLLENBERGER: If my understanding is
9 correct, there's a thing called a consideration report that
10 the NRC is supposed to produce. There's a thing -- that's
11 DOE.

12 MS. WASTLER: That's DOE.

13 MS. SHOLLENBERGER: And that's before license?

14 MS. WASTLER: Yes. The next --

15 MS. SHOLLENBERGER: Could you just go through that
16 whole process?

17 MS. WASTLER: Okay. At this point, we're
18 considered in pre-licensing -- called the pre-licensing.
19 The next step or mandated interaction that we have is the
20 site recommendation.

21 All right. We -- our responsibility is to review
22 DOE's site characteration (sic) -- site recommendation
23 consideration report. I believe I have that acronym

1 correct. And we're going to look at that as defined in the
2 Nuclear Waste Policy Act to determine whether -- let me --
3 Janet, correct me if I'm wrong -- it's -- we look at in
4 depth -- I'm forgetting the quote. Our responsibility with
5 regards to reviewing the -- it's at depth site
6 characterization --

7 MS. KOTAR: Yes.

8 MS. WASTLER: -- and waste form for --

9 MS. KOTAR: Proposal. The waste form proposal.

10 MS. WASTLER: The waste form proposal for license
11 applications. So it's a very narrow review.

12 At that point, we will review their -- that
13 document, and at this point I believe we're supposed to get
14 that report in May of next year. And by November of '01,
15 we're to provide our comments. Our comments with all the
16 site recommendation documents and the final EIS make up the
17 site recommendation that the secretary, Department of
18 Energy, will give to the President to make -- for the
19 decision on whether to go forward with the license
20 application.

21 MR. CAMERON: Amy --

22 MS. SHOLLENBERGER: Well, can I ask you another
23 question?

1 MS. WASTLER: And there is in that process an
2 opportunity I believe it's also the state and has the
3 responsibility to also provide comments that are part of
4 that package.

5 MR. CAMERON: Okay. And, Amy, during the break
6 what we'll do is we'll try to write these things in sequence
7 down so that we don't confuse everybody and so that they're
8 clear.

9 And I know Janet wants to say something about you
10 -- what you said. Do you want to --

11 MS. SHOLLENBERGER: Yeah. I just want to ask if
12 the way -- if I understood what you said correctly, that all
13 of that happens before the license application, but if the
14 final EIS is not going to be adopted until well into the
15 license application, how can the final EIS go to the
16 President with the site recommendation before the license
17 application happens? That's what I'm confused about.

18 MR. CAMERON: Yeah. Let me get you a mic and you
19 can explain this to everybody.

20 MS. KOTAR: The law, not our regulations, but the
21 law requires that the site recommendation be accompanied by
22 a final EIS and NRC's comments as Sandy indicated on very
23 narrow issues. We're asked only at that juncture to comment

1 on the adequacy of site characterization at depth and on the
2 waste form proposal, not -- you know a final safety judgment
3 about you know how that waste form will perform and how --
4 make the safety evaluation report that we're required to
5 once the license application comes in. But we're basically
6 -- we're asked to tell the Congress have they done enough to
7 get to the point of submitting a license application.

8 I did want -- what?

9 MS. SHOLLENBERGER: So you won't have a document
10 to FEIS yet?

11 MR. CAMERON: This is --

12 MS. WASTLER: No. No, no.

13 MS. KOTAR: No. No. No.

14 MR. CAMERON: This is not going on. What -- let
15 me suggest that what we do is we get these steps written up
16 here and then have Janet or Sandy go through them and answer
17 questions on it. So --

18 MS. WASTLER: I think I'd like to be clear because
19 it --

20 MR. CAMERON: -- we'll come back to that.

21 Okay. And you wanted to say something in regard
22 to Amy's first point now?

23 MR. MURPHY: Yeah. Yeah. I think -- and I do it

1 myself a lot of times in this program -- we tend to confuse
2 or overlook the confusion between NEPA and Nuclear Waste
3 Policy Act with respect to EISs.

4 Under the Nuclear Waste Policy Act, the Department
5 of Energy is obligated to submit to the Congress and the
6 President, along with its site recommendation report, an
7 environmental impact statement. The Nuclear Waste Policy
8 Act also says that the NRC is to adopt the DOE's final EIS
9 as its final EIS to the extent practicable. Now, remember
10 NEPA requires any federal agency which is considering a
11 major action significantly affecting the quality and
12 environment to adopt an EIS.

13 So we have to remember that the NRC has several
14 alternatives, but the two major alternatives are can we as a
15 practical matter adopt DOE's final EIS, which is a final EIS
16 with respect to the Department of Energy? Can we adopt that
17 as our final EIS, or if we can't, it's not the end of the
18 process. If we can't, the NRC then under the National
19 Environmental Policy Act proceeds to write its own EIS.

20 MS. WASTLER: Well, it's a supp- -- it would be a
21 supplement.

22 MR. MURPHY: Or a supp- -- well, either your own
23 or a supplement. But the question is -- but you know the

1 final answer is not is there an NRC EIS or is there not an
2 NRC EIS. The question is can the NRC adopt DOE's EIS. If
3 it can't, then it has to produce its own document which may
4 with respect to impacts have an entirely different analysis
5 than DOE's. And in that case, licensing becomes a lot more
6 interesting.

7 MS. WASTLER: Chip?

8 MR. CAMERON: Do you want to respond to Amy's --
9 all right. Amy's first point. All right.

10 MS. KOTAR: Yeah. And I just wanted to get back
11 to making sure we clear up the role that we're playing in
12 pre-licensing. And I -- recognizing that analogies are not
13 perfect, I didn't sit for the bar because I'm not an
14 attorney, but I did take graduate record exams, and no,
15 nobody called me up and asked me if I had a good breakfast
16 and so forth. But I did get a nice little booklet from the
17 testing authorities that explained to me how to fill out the
18 forms, it explained to me what the questions were going to
19 be, that provided me and everybody else who would take the
20 same test a common baseline of understanding so that you --
21 the test is really a good measure of what I know and not did
22 I put an X in the thing rather than fill in the little
23 circle right.

1 And that's the type of pre-licensing interaction
2 we're talking about. We can't make an adequate judgment on
3 the safety questions if that information for this
4 first-of-a-kind facility doesn't come into us in a way that
5 will support a judgment upon the merits of the application.
6 And to be fair, this is not something that we do everyday as
7 far as a repository application. We do it in a lot of other
8 contexts where we have a lot of other applications.

9 And that information about how to approach the NRC
10 and get a license to use medical material or to apply for a
11 reactor license, that's a matter of public record, too. We
12 provide that information. But there's an awful lot more
13 experience within our agency and within the applicant
14 community at large on how to approach the NRC and that --
15 for those more common applications.

16 That's what we're trying to provide here. We are
17 not trying to cook the books so that we get -- so that DOE
18 will pass.

19 MR. CAMERON: Okay. Thanks, Janet.

20 Let's go to Steve and Judy -- not as a couple, but
21 separately. I didn't mean it to sound like that.

22 MR. FRISHMAN: Sandy, the elusive language that
23 you're looking for what you have to do in the -- with the

1 recommendation is -- and this is out of the act,
2 "Preliminary comments of the commission concerning the
3 extent to which the at depth site characterization analysis
4 and the waste form proposal for such site seem to be
5 sufficient for inclusion in an application."

6 MS. WASTLER: Thank you very much. I didn't --
7 couldn't get the right words to start out the quote and it
8 went right out the window. Thank you very much.

9 MR. FRISHMAN: Well, my question follows that, and
10 that's that you're doing this report. Now, what influence
11 --

12 MS. WASTLER: We're doing what report? I'm sorry.

13 MR. FRISHMAN: You're doing the sufficiency report
14 for -- well, you will be if this is a --

15 MS. WASTLER: We're going to comment on DOE's.

16 MR. FRISHMAN: No. You're going to follow what
17 the law says. You're going to say -- you're going to put --
18 give a report on the extent --

19 MS. WASTLER: We're going to provide preliminary
20 --

21 MR. FRISHMAN: -- to which that information seems
22 to be sufficient for a license application. That's what the
23 law tells you to do.

1 MS. WASTLER: Yes. That's right.

2 MR. FRISHMAN: My question is to what extent will
3 that report influence the acceptance and safety review?

4 MS. WASTLER: Well, in the first --

5 MR. FRISHMAN: And the reason I ask is because you
6 have -- in the law you have preliminary and you have seems
7 to be sufficient. But my guess is that that's going to
8 become like a Bible.

9 MS. WASTLER: Could I ask you to clarify it just a
10 little bit? I didn't catch the last part of your question.

11 MR. FRISHMAN: You're doing this report to
12 accompany the site recommendation. On the preliminary views
13 of the commission on the extent to which the information
14 seems to be sufficient for a license application. Now, what
15 I'm asking is to what extent will that report influence the
16 acceptance review and the safety review of a license
17 application?

18 MS. WASTLER: Okay. Our comments --

19 MR. FRISHMAN: And I'm surmising what it will.

20 MS. WASTLER: Our comments on that review will be
21 like a snapshot in time. What we're going to do is use our
22 -- the regulations and a review plan to look at at depth
23 site characterization and the waste form and use that to say

1 where is DOE at. And our comments are going to be based on
2 that. All right. So that when they come in, it'll be the
3 area -- define the areas where they need additional
4 information in those particular areas should they come in
5 with a license application that they have to provide
6 additional information in.

7 Now, should they choose, for example, not to
8 respond when the applica- -- or the acceptance review takes
9 place, that would impact -- or review would be impacted by
10 that. We would look at it and say, all right, we've said at
11 the time of SR we had these comments, we felt there wasn't,
12 for example, maybe sufficient information in certain areas,
13 so that when -- if we -- we would use that as a focus at the
14 acceptance review to look at the license application, say
15 did they provide that information.

16 MR. FRISHMAN: Well, you have just --

17 MS. WASTLER: If they did not, we would go back
18 and say we can't -- you know we could partially accept the
19 application and go back and say you need additional
20 information in these areas like we told you at the SR, or we
21 could reject the whole thing, depending on how deficient it
22 was.

23 MR. FRISHMAN: Okay. Well, you have just

1 confirmed my suspicion, which is when you say it is
2 sufficient in this preliminary view about seems to be, that
3 you're never going to look back. That if it -- if you say
4 it's sufficient at a site recommendation in your acceptance
5 review and your safety review, you're not even going to
6 review it -- to review that earlier decision to find out.

7 MS. WASTLER: Oh, no, we won't look at it again.
8 We will look to make sure that --

9 MR. FRISHMAN: My point is that once you do that
10 report and submit it to the secretary it's behind you and
11 should never be referenced again by the NRC.

12 MR. CAMERON: Okay. And, Sandy, let's get that
13 last comment you wanted to make on the record and this maybe
14 something that we need to clarify.

15 But go ahead, Sandy, you wanted to respond to
16 Steve and --

17 MS. WASTLER: Well, I was just going to say that
18 we -- when the license application comes in, we are going to
19 look at all aspects. If they -- if we've made in the SR --
20 if we've reviewed the information that was there and we said
21 we had a problem or didn't have a problem in a particular
22 area to relate it to our responsibility of the SR, when the
23 license application comes in, we'll also review the

1 information to make sure that the same information that was
2 provided that we made our decision on is there.

3 So it's not like that we're going to ignore it. I
4 mean we will look again. We're not going to simply say,
5 okay, well, they said it was all right at the SR and
6 provided this information; I'm sure they've got it in their
7 license application. That's not the case. We will review
8 it.

9 MR. FRISHMAN: Well, I'd like to follow it up with
10 asking Bill about --

11 MR. CAMERON: All right. Let's --

12 MR. FRISHMAN: -- how this is going to work.

13 MR. CAMERON: Let's make -- okay. We're going to
14 go to -- Bill, do you want to say anything at this point?
15 Is that what you -- you wanted to get -- hear a comment from
16 Bill.

17 MR. FRISHMAN: What I would like is that Bill's --
18 what I'd like is Bill's response to my proposal that once
19 that sufficiency report is done, that it no longer plays any
20 role in future reviews and considerations of the commission.

21 MR. CAMERON: Okay. We're going to go over to
22 Bill to respond to Steve's suggestion on that.

23 MR. REAMER: You know I think I agree with it.

1 You know not knowing everything you made behind it, I think
2 I agree with what you're saying. It's not -- it's part of
3 pre-licensing. You know we've had a lot of discussions with
4 you, Steve, and with the state. The concern is that
5 pre-licensing not resolve in a position or resolution that
6 is binding, that is somehow fixed for the licensing process,
7 and you know we agree with that. The pre-licensing
8 resolution of issues is not binding; it's not binding on the
9 state, it's not binding on the staff as well.

10 MS. WASTLER: Can I just continue to say , Steve,
11 that that's where I was going when I said we will look at
12 the license application because that is the document that we
13 will be looking at. You're right. Once SR, we make our
14 comment, that's it for that document.

15 The next statutory requirement is if DOE comes in
16 with a license application, that's what we review, and it
17 has to stand on its own merits. And even though they may
18 have --

19 MR. FRISHMAN: Well, I hope I don't have to remind
20 you of this at sometime in the future.

21 MS. WASTLER: -- made conclusions on the SR, we
22 will be looking at the license application as a separate
23 document.

1 MR. CAMERON: Okay. Judy, did you have something
2 before we go to Abby? And then I think we need to take a
3 break.

4 MS. TREICHEL: I disagree with Janet, but that's
5 okay.

6 MR. CAMERON: Okay. So noted. Judy Treichel
7 disagrees with Janet Kotar in terms of the analogy between
8 the DRE booklet and the NRC.

9 MS. JOHNSON: Abby Johnson, Eureka County.

10 On your last slide, it's called decision. I don't
11 get it and I just need you to go over it again so that I can
12 understand it. The first bullet says addressed only issues
13 admitted for consideration, and I looked back through all
14 your slides and I didn't see the word consideration used
15 anywhere else. Can you explain what that means?

16 MS. WASTLER: This is in reference to the hearing
17 process. The hearing process that we currently have and is
18 applicable to the other -- when as you talked earlier about
19 contentions, issues that arise that are litigated in our
20 hearing process, this is what I'm referring to.

21 That the -- there are -- the parties involved in a
22 hearing will submit the issues that they feel are not --
23 where DOE has not met their responsibility for demonstrating

1 compliance with specific -- and the board will admit those
2 issues and I'm -- turn to the lawyers as far as what their
3 criteria is for whether they're admitted or not into the
4 hearing. But it's only those issues that go through the
5 hearing process.

6 Maybe I'm clear, and I don't know if Bill or Chip
7 want to raise the -- because it's -- those are the issues --

8 MR. CAMERON: Let's find out if Abby still has
9 further questions.

10 MS. WASTLER: Did that answer your question.
11 That's what I --

12 MR. JOHNSON: Well, I think this goes back to the
13 original request for this meeting which really was focused
14 on the hearing process. And so the blank looks that you see
15 on my face, and the huhs, and I don't get its are because I
16 am personally extremely unfamiliar with that process, I have
17 very little knowledge, and I need that knowledge.

18 And so I realize that there's some you know rock
19 and hard place situation about why you guys can't really
20 talk about this stuff and do a training session on that -- I
21 don't really understand it, but I'm not pushing it. But
22 there have been sort of been you know hints and allegations
23 about the hearing process, and that's the part that we don't

1 quite understand yet. And so I mean I still really don't
2 get it, but I can tell you that I'm not going to get it
3 between now and when take a break.

4 MS. WASTLER: It's not -- currently, as Bill said,
5 because there is consideration of a potential change to the
6 hearing process with the commission, that's just -- you know
7 we really can't say that much because we don't know whether
8 or if anything is going to come out of it.

9 If you have a question I guess with regard to the
10 hearing process that exists in the current regulations, I
11 don't --

12 MR. CAMERON: Well, I think that --

13 MS. WASTLER: -- we could address --

14 MR. CAMERON: I think that we said that we would
15 try to clarify anything about the current process. And I
16 don't know if you're going to understand it any better
17 before the break after Murphy gets done or if it'll be
18 worse, but we're going to go to him. And I think that we
19 thought that we could try to give answers to questions that
20 came up in the context of all this other stuff. But I think
21 it's becoming apparent that we really need to do and will do
22 an in depth just on hearing process for everybody, for those
23 of you who might want to participate in it assuming that

1 there is a license application.

2 Why don't we go to Mal and then I think we need to
3 probably break. And we're going to go through the steps and
4 we'll write down these steps in the process for you.

5 Mal?

6 MR. MURPHY: Yeah. Abby, I think what that's
7 referring to is -- it's in no way unique to a Yucca Mountain
8 hearing process; it's standard administrative law. And all
9 they're saying is that unless some party -- the NRC staff,
10 Nye County, State of Nevada, you know Citizens Alert --
11 unless some party raises an issue by filing a contention,
12 that issue will not be litigated.

13 A good example, say Nye County raises contentions,
14 has -- takes issue with the Department of Energy's
15 information with respect to saturated zone flow and
16 transport and you know some other technical issue, but does
17 not raise any issues about vulcanism. We can't then go --
18 get to the hearing, and when the evidentiary phase starts,
19 and say, oh, incidentally we've got an expert on vulcanism
20 who's going to be our next witness. You know the Court will
21 say, just as the Court would say in -- an administrative law
22 judge would say if we were trying to license a barber shop,
23 no, you didn't raise that issue; we're not going to let you

1 litigate it.

2 As a practical matter I think -- as a practical
3 matter, that's not really going to be a problem because
4 there are going to be so many problems with so many
5 different interests and so many different areas of expertise
6 in this whole process that I can't imagine a single,
7 significant, technical area which is not going to be put in
8 issue by somebody.

9 You know so -- yeah, I mean we can -- this is sort
10 of a nice, interesting, philosophical discussion about what
11 consideration you know they're going to give to this and
12 who's going to put in contentions, etcetera. But I would be
13 shocked if at the end of the contentions process when the
14 hearing starts the field isn't covered by someone -- or by
15 everybody. So it's not something that keeps me awake at
16 night.

17 MR. CAMERON: Okay. Thanks.

18 Let's take a break for 15 minutes or so and come
19 back and we'll see if we can make clear these steps in the
20 process and go onto Dan Graser, LSN Administrator.

21 Thank you.

22 (Recess)

23 MR. CAMERON: If everybody could take their seats,

1 we're going to get started. And we're still working on
2 laying out the steps here, and so what we're going to do is
3 couple of things during the wrap-up session. We want to get
4 people on the record who have things to offer, a lot of them
5 being in the transportation area. And we want to mention
6 some transportation meetings we're going to be doing, but
7 right now we're going to get started with our third
8 presentation.

9 And Dan Graser is going to talk about the
10 licensing support network. And Dan is the licensing support
11 network administrator. And, Dan, are you all set, ready to
12 go?

13 MR. GRASER: Absolutely.

14 MR. CAMERON: And, Janet, you're all set?

15 (No Audible Response)

16 MR. CAMERON: All right.

17 MR. GRASER: Okay. I'm going to walk relatively
18 quickly through my prepared remarks and hopefully leave more
19 time for question and answers.

20 The licensing support network is a system that is
21 intended to make available the relevant documents that the
22 various participants are going to have -- are going to make
23 available for general search and retrieval. The system is

1 called out in an NRC rule. It's 10 CFR, Part 2, Subpart J.
2 And that rule requires the availability of this system and
3 the availability of the documents, and the rule also covers
4 the electronic availability of the official docket of the
5 proceeding.

6 The object of the system is going to be to connect
7 together the various collections that the parties are going
8 to be making available. The parties determine the documents
9 that they feel are relevant, and the parties certify that
10 they have made those documents available and have placed
11 them on a machine in the Internet accessible environment.
12 And the object of the licensing support network is to
13 connect all of those various document collections together
14 so that users of the system can go to one place and have
15 access to all of those collections. And NRC is going to
16 build a system that insures that you can utilize a single
17 search interface so that you don't have to learn the search
18 and retrieval software that you would find at any of the
19 participant sites.

20 The system is going to be available via the
21 Internet, very similar to going to something like Yahoo or
22 some other site. And all you would need to access that
23 system would be a standard web browser on a computer PC

1 device where you have some level of Internet service,
2 Internet service provider, where you have some level of
3 access to the Internet. And the system is intended to be
4 operational by July of 2001.

5 On slide two, I'm just outlining in very rough
6 form here for you who the parties are, or who's involved in
7 this particular activity. It's the parties to the licensing
8 proceeding and also the general public, because the system
9 will be available generally for general access on the
10 worldwide web.

11 The object of the system, as I said before, is to
12 use computers to assist the parties and also the general
13 public in identifying information. There is going to be a
14 large volume of information out there. Even our smallest
15 estimate of participants' potentially relevant materials is
16 in millions of pages frame, framework. That represents a
17 significant challenge for finding the documents that you
18 need.

19 As I said, the access is intended to be through
20 the Internet and we intend to have the system operational
21 starting sometime in July of 2001. The system is intended
22 to be available throughout the duration of the licensing
23 proceeding. So even though the initial loading of the

1 system will be fairly labor intensive up front, that
2 activity should steady out and those repository collections
3 stabilize, and then the documents would just be maintained
4 and made available for the duration of the license
5 proceeding.

6 Who's involved in the development of the license
7 support network? Well, until about a year ago, the
8 responsibility for designing and implementing the system
9 rested with the Department of Energy. There was a revision
10 to the rule I referenced earlier about a year ago which
11 shifted the responsibility for that system development back
12 into the hands of the Nuclear Regulatory Commission, and NRC
13 will be responsible for implementing and operating the
14 network portion of the licensing support network. The
15 participants will still be responsible for making their
16 documents available, maintaining their documents on a web
17 accessible environment.

18 The parties and potential parties have been
19 involved in this process through a licensing support network
20 advisory review panel. That's a federally chartered panel
21 that was instituted as part of the original 10 CFR. And the
22 charter of that advisory review panel has always been to
23 provide guidance on the design and operation of the

1 licensing support network.

2 As a result of early negotiated rule making for
3 the development of 10 CFR 2, Subpart J, a number of parties
4 have had long-term commitment and involvement with the
5 activity. Includes State of Nevada; affected units of local
6 government; NCAI, National Congress of American Indians;
7 Nevada Nuclear Waste Task Force; U.S. Nuclear Regulatory
8 Commission obviously; the Department of Energy obviously,
9 and also a coalition representing the nuclear industry.

10 From a computer technologist guy's point of view,
11 the challenges that the system is intended to address is the
12 fact that yes, there is a significant amount of information
13 that is out there. And in fact, you probably don't have the
14 time or the resources, or even the interest to attempt to
15 read every piece of paper that is out there. However, you
16 do know which issues are of interest to you in whatever role
17 or whatever capacity you may have. And you know that
18 there's information out there and you know the issues that
19 you are particularly interested in. And the system is
20 intended to assist you in finding the information that you
21 need in order to help you better participate in the process.

22 The next slide is with permission of the Las Vegas
23 Review Journal. This is particular cartoon has been posted

1 in my office for about the last five years. And it's kind
2 of difficult to read it even in the handouts and on the
3 overhead, but the two fellows that are buried down there in
4 the pile of paper, at the tail end of the question there
5 they're asking what we have to figure out is where are we
6 going to store all of this paper. Well, the answer is we're
7 not going to store paper. The data is going to be available
8 electronically, so we don't have to worry about storing the
9 paper. What we do have to worry about is figuring out how
10 to get to it in an electronic environment.

11 I've included a couple of examples of what a
12 centralized site might look like. And if you have an
13 interest in pursuing this, I'd recommend to you that the
14 National Library of Medicine has an excellent site. And if
15 you have an opportunity to go to that site in fact you can
16 see what a portal location would look like, the fact that it
17 characterizes different collections of materials, covering
18 different subject areas, provided by different aspects of
19 the National Library of Medicine.

20 And on the second chart, there is -- or the second
21 overhead associated with this, there is a representation of
22 what a screen would look like after you've conducted a
23 search. And it will tell you here are a number of documents

1 that are responsive to your request. You would be --

2 MS. TREICHEL: What's the address for that one?

3 MR. GRASER: Pardon?

4 MS. TREICHEL: What's the address for that one?

5 MR. GRASER: Oh, the address for that. I'm going
6 to have to take off my bifocals for that one. I can
7 probably grab that off my full-size overhead. If you want,
8 I'll be glad to handle that after the presentation.

9 But generally the intention of the system is that
10 once you have been pointed to the fact that a document
11 exists out there, if you clicked on the object you would be
12 linked to the actual document. And if it's not text, you
13 would actually be linked to the image version. Images would
14 be appropriate for things like maps or engineering drawings,
15 or whatever the case may be.

16 So moving along, the basic functions of the system
17 here is to provide some mechanism for sharing the access to
18 the collection of materials that's out there. As I said,
19 it's a large collection of documents. It's a very diverse
20 collection of documents. It has a lot of technical
21 disciplines and it has a lot of technical jargon, a very
22 rich vocabulary, because it uses the vocabulary found right
23 in the documents that are being searched.

1 The system is intended to provide timely and
2 effective access, search, and retrieval. This is
3 particularly important because these would be the sorts of
4 materials that participants would want to access in
5 preparing their contentions. And contentions is one of the
6 subjects that was mentioned in the morning session. And
7 given a limited amount of time to do that, you want to make
8 sure you have an adequate resource that gives you the
9 availability to the information when you need it.

10 The documents will be structured so that there are
11 unique identifiers. You will be able to identify whose
12 collection a document came from; you would be able to focus
13 in on any key words that may have been assigned to a
14 particular document. If the document has a DOE document
15 number identifier, or a contract number that you're
16 particularly familiar with, you'd be able to drill in on
17 those aspects of retrieving all of the information
18 associated with those sorts of concepts.

19 The system is going to impose a uniform numbering
20 capability across all of the participant collections. This
21 is important, because this would be the number that the
22 official docket would use to identify the document from
23 whoever's collection it came from. Once the LSN is --

1 becomes aware of that document, the unique identifier that
2 would then be referenced throughout the rest of the course
3 of all the proceedings would be the number that's being
4 assigned by the licensing support network.

5 The documents that are out in that system in fact
6 are documents that may be included as exhibit material, or
7 the participants may want to include them as part of the
8 overall evidentiary materials that they want to submit and
9 have entered into the docket. So ideally, we do not want to
10 be dealing with paper. We want to take the electronic
11 version that's sitting out in the LSN environment and move
12 it electronically into the Nuclear Regulatory Commission, an
13 electronic version of that document directly into the
14 official docket, if the document in fact is accepted for
15 inclusion into the docket.

16 Not all of the materials in the licensing support
17 network will end up in the docket. They will not all be
18 part of the official record. It's only when a party
19 introduces that document does it get selected out of this
20 big collection and get included into the docket.

21 One of the responsibilities assigned to me as the
22 LSN administrator is to insure that the documents that are
23 floating around out there on the Internet are as they were

1 originally put out. So that if you found it two years ago
2 and you come back to it two years later it'll still be the
3 same document that was there two years ago; that if you
4 found it two years ago it hasn't disappeared in the
5 meantime; and that nothing gets added to that collection
6 that you're not able to access in the interim.

7 And the rule, 10 CFR 2, also requires or assigns
8 me the responsibility of devising some mechanism to insure
9 that the documents maintain their integrity from the time a
10 participant posts them out onto the Internet until that
11 point in time when the document in fact makes its way
12 through the Internet via e-mail, through our electronic
13 information exchange process, and into the docket. I need
14 to insure the integrity and the authentication of that
15 document once it starts moving its way across the Internet
16 environment.

17 As I mentioned, the system is intended to perform
18 over at least a three year licensing time frame. That has
19 been alluded to. There's also a option for -- not a option,
20 but there -- accommodations can be made for up to an
21 additional year.

22 As part of -- the next slide. As part of the
23 overall approach to using automation in the licensing

1 process, the licensing support network is only one piece of
2 it. It's an up front piece of it. The back end pieces of
3 it will include, as I said, this electronic docket. And NRC
4 is currently looking at automating the courtroom
5 environment, so that if we begin the process electronically
6 we don't end up having to make paper copies of everything
7 and bring it into the court environment.

8 This chart has a bullet on it that indicates, in
9 fact, that it is NRC practice to conduct the licensing
10 hearings in the locale where the license applicant intends
11 to establish a facility. So that would mean that the
12 license hearings would, following that practice, be
13 conducted in Las Vegas. The -- we are, as I said, we are
14 currently exploring how to make that entire process, the
15 entire courtroom an electronic type courtroom, so that the
16 documents that are already in electronic form could be
17 presented on overhead monitors and other sorts of automation
18 for the various legal representatives or individuals who are
19 appearing before the panel, before the judges.

20 The NRC is also looking at digitally recording the
21 entire proceeding, so the official record would be in
22 digital format. And the entire case file, should the case
23 go forward for any sorts of appeal, for example, the entire

1 case file would be in electronic format, including
2 recordings of the actual courtroom proceedings, embedding
3 into it overheads or simulation models that -- of various
4 computer simulation programs, so that all of that visual,
5 multi-media material can be included into the record.

6 We are also examining the capability, since all of
7 this will be in a digital form, to provide live feeds into
8 something like C-SPAN so that this could be pumped out over
9 cable type capabilities, so that individuals could sit in at
10 the proceedings and see this, again, via cable access. And
11 we're also examining, since it's going to all be in a
12 digital type form, the capability to pump out a audio-video
13 stream into the Internet, so that individuals who have
14 audio-visual capabilities through their PC capabilities
15 would also be able to use a computer to monitor the
16 proceedings.

17 As I said, these are currently being examined.
18 They have to go through the budget process. I'm not making
19 a commitment at this point in time, but just to let you know
20 that we are attempting to view all of this as utilizing the
21 investment that is made in the digitization of all of this
22 information.

23 On the next slide, I just provided for you a

1 couple of straightforward milestones here. In terms of the
2 implementation of the system, we intend to have the design
3 of the system completed sometime in the September 2000 time
4 frame. We will be moving into a system development phase in
5 October 2000, which is the start of the new government
6 fiscal year. And I believe that we can have the system, the
7 license support network component of the system, available
8 and operational in the June 2001 time frame.

9 The system is, again, this is in 10 CFR 2, the
10 system is required to have the first two participants
11 connected within 30 days of the site recommendation. And
12 the two parties at that point in time who would need to be
13 connected is the Department of Energy and the Nuclear
14 Regulatory Commission. And then connectivity to the rest of
15 the participants is then tied 30 days of the license
16 application, I believe.

17 And one final point. The system is being designed
18 with enough latitude and enough flexibility to anticipate
19 that there may be participants that we have not been in
20 these last 12 years of constant conversation with, who may
21 in fact come before the presiding officers and petition for
22 standing at the license proceeding. And these may be
23 parties that we were not aware of, but who do have a

1 perfectly legitimate, perfect, you know, viable rationale
2 for being admitted, and they in fact may be admitted as
3 participants to the proceeding.

4 Therefore, the system design needs to accommodate
5 these yet unknown potential participants coming before us
6 and asking to be connected into the licensing support
7 network. And the system hopefully is going to be designed
8 with enough simplicity and enough powerful tools to allow us
9 to do that in a relatively rapid manner.

10 That's basically what I had in terms of the
11 prepared remarks. I'd be certainly happy to answer any
12 questions at this point in time.

13 MR. CAMERON: Dan, while I'm going up to Amy you
14 may want to just emphasize the implications of the last
15 statement you made so that everybody does understand that,
16 basically there -- the requirements in the rule, that to be
17 a party to the proceeding an organization has to meet the
18 requirements of the licensing support network. Could you
19 amplify on that so that people understand that?

20 MR. GRASER: Okay, certainly.

21 The rule does require that parties make their
22 documents available to the licensing support network, and
23 that is a prerequisite for participation. It may very well

1 be that some parties have very few number of documents, or
2 limited resources with which to make those documents
3 available on the Internet. And I approach it from the point
4 of view that the threshold needs to be set very low in that
5 regard, that -- within the requirements of the rule. That
6 if documents can be made available in a shared environment
7 with perhaps participants or potential participants pooling
8 their resources and having six collections from six
9 different participants all sitting on the same machine and
10 everybody agreeing to share costs, we can accommodate that
11 from a technological point of view.

12 But the documents do need to be made available
13 according to what is called out for in the rule, in terms of
14 a structured data description of the document and a textual
15 version of the document. And if the document is not
16 textually oriented, then an image version of that document.
17 And what we are trying to do is to set the standards as very
18 general type of standards that people with ready access to
19 automation, even relatively simple automation tools, can
20 make those documents available, and come up with some
21 creative and cost-effective ways of making their documents
22 available. And that's certainly one of my high priorities.

23 MR. CAMERON: Thanks, Dan.

1 Amy.

2 MS. SHOLLENBERGER: Apologize. I came in late and
3 missed the very first part of your presentation. But if
4 understand your slide three correctly, it's called licensing
5 information access. It says that the who is the parties and
6 the public. And so I'm assuming that what that means is
7 that the public will have access to all of your documents.
8 Whether they're a party or not, they can still, just like
9 they can now, go in and pull down any document that you all
10 are reviewing or have written.

11 MR. GRASER: That is correct. And it -- the
12 public would have access, although it is not a primary
13 objective of developing the system, because the primary
14 objective of the system is to accomplish the shared document
15 discovery process from the legal point of view. But if the
16 collections are established on a web accessible server, then
17 the answer is yes, the general public will have access to
18 that system.

19 MS. SHOLLENBERGER: So my question is right now
20 you have document rooms that the public can go to if they
21 don't have web access and can't get on ADAMS or -- to get
22 the documents. But if I understood what you said correctly,
23 there won't be any paper version of these documents

1 anywhere. And so my question is are you planning to put in
2 -- and this is a bigger question too, because I think it
3 needs to be done for ADAMS as well. Are you planning to
4 put, you know, PC's that are public access PC's into your
5 document rooms so that people who want to retrieve documents
6 and can't afford or don't have access to the Internet, or
7 possibly can't download your documents for one reason or
8 another?

9 Personally, using your ADAMS system for me has
10 been impossible, and I have a really nice PC in my office
11 and a server to work from. I can't imagine what it would be
12 like if I were at home with a, not even a Pentium computer
13 trying to download stuff. And so my question is what are
14 your plans for how to allow the public to access these
15 documents?

16 MR. GRASER: Well, first of all, again, the system
17 is designed as a web environment, as opposed to NRC's ADAMS
18 system, which is making an internal type records management
19 system may -- opening that up to be accessible through an
20 intermediary piece of software. The LSN design is going to
21 be designed so that it is a web application. So first of
22 all, you don't have that kluge type situation that
23 everybody's experiencing right now with that Sitrick

1 (phonetic) software and trying to get through their fire
2 walls. Okay? Which NRC has recognized is a significant
3 problem, and it is being looked at by the chief information
4 officer right now.

5 But to go back to your question. In terms of
6 first of all, you indicated that no paper documentation
7 would be available. And there's a point of clarification on
8 that one. The parties, okay? The parties are making their
9 evidentiary materials available on their own computer
10 resource, on their own computer servers. The parties may in
11 fact still have paper versions of a document that they have
12 retained as part of their normal records keeping
13 environment.

14 And one of the things that the rule requires is
15 that for each document that is placed out in an electronic
16 version the participant has to include an identification of
17 where an imaged version of that document may be acquired.
18 And it doesn't require that it be a digital image. Okay?
19 So the parties may in fact still be maintaining a paper
20 version of that document in their own records repositories.

21 I believe there is a section in the rule that also
22 indicates that the availability of this system doesn't
23 preclude using normal FOIA (phonetic) channels to acquire

1 versions of documents. So you also have that mechanism to
2 get access to paper versions of the document through a
3 normal FOIA request, for example, or for whatever media the
4 participants have stored an image version of that document
5 in.

6 In terms of the public document rooms, there are
7 two initiatives going on there. We have identified already
8 that all across the state of Nevada the public library
9 system all have Internet access available at all of the
10 libraries in the state of Nevada. And we are considering as
11 part of the deployment planning for the system pursuing some
12 sort of cooperative activity with the state librarian and
13 archives association here to provide additional training to
14 the librarians in use of those public library resources to
15 access the document collections.

16 MS. SHOLLENBERGER: I'd like to respond to that.

17 MR. GRASER: Okay.

18 MS. SHOLLENBERGER: I travel quite a bit for my
19 job. And one of the things that I'm constantly faced with
20 is how to get access to my e-mail from wherever I am,
21 because I don't have a laptop. So I've been in libraries in
22 a lot of different places. Almost everywhere there's a 15
23 minute limit for Internet access in public libraries. If

1 you're trying to access a searchable database of documents
2 there is no way you can get what you want in 15 minutes.

3 In many libraries you pay up to a dollar a page to
4 print. That can be very expensive for someone who's trying
5 to print out, say 20 or 30 pages of information from
6 something that the printing alone can take up to 15 minutes,
7 not to mention how long it took you to access it. I don't
8 think saying that there are Internet -- there's Internet
9 access in libraries is a good answer to saying that the
10 public will have access to your documents.

11 I think that the NRC really need to look at that,
12 and to say that either there will be document rooms where
13 people can go and get the printed version of the documents,
14 or there will be dedicated computers that are only for
15 people to get NRC documents from where they can have
16 unlimited access to the computers.

17 MR. CAMERON: Thanks, Amy.

18 MR. GRASER: The third piece of what I was going
19 to respond to the first question with is the fact that the
20 10 CFR 2 does require that DOE and NRC public document rooms
21 provide access to the system. So at both the DOE and the
22 NRC public document room locations, at headquarters in
23 Washington, at the NRC regional offices, at the Department

1 of Energy's various public document room capabilities, there
2 is provision in the rule for access through those public
3 document rooms.

4 MR. CAMERON: Judy.

5 MS. SHANKLE: So you want the people in Nevada to
6 go to Texas to get access?

7 MR. CAMERON: Let's get that on the record.

8 MS. SHANKLE: Well, I was, when you said at the
9 NRC regional offices, my understanding is that the regional
10 office for Nevada and most of the west is in Texas.

11 MR. GRASER: That's correct. And the Department
12 of Energy has public document rooms located in the state of
13 Nevada.

14 MS. SHANKLE: Right.

15 MR. GRASER: And both DOE and NRC public document
16 rooms are identified in the rule.

17 MS. SHANKLE: Yes. I have a brief comment on
18 public document rooms. I don't disagree with what Amy's
19 saying. I think that for Nevada, the library system, we've
20 made some progress there in talking to them, and access and
21 that kind of thing. But public document rooms are far apart
22 too. And I agree with Amy that a broader big picture look
23 on this whole issue of public access, both in Nevada, in

1 California, and nationally, is important for the NRC to do.

2 MR. CAMERON: Okay. Thanks, Abby. Let's go to
3 Judy.

4 MS. TREICHEL: Well, just as another little aside,
5 when -- now that everything is so technical, and I think
6 it's great that the entire world is going to be able to
7 watch this on TV, except for the maximally exposed
8 individuals who don't have cable. And there's just all of
9 these glitches when you get to doing this stuff. So I think
10 it would as a gift to Amagossa Valley to run some cable in
11 there, since they can see the mountain but they won't be
12 able to see the hearings.

13 MR. CAMERON: I don't hear Dan making any
14 response.

15 MR. GRASER: Well, I -- the reason I give pause to
16 that is because I have heard some discussions in terms of
17 where the siting for the actual hearing would be located.
18 And there have been some discussions about well, exactly
19 where should that be, should it be in Las Vegas or somewhere
20 else in the state of Nevada. So I don't want to necessarily
21 rule out or lead you to believe automatically that it will
22 definitely be in Las Vegas, and I don't want to rule out
23 that it might be somewhere else.

1 MR. CAMERON: Okay. Let's go to this gentleman
2 here and then we'll go over to Bob Halstead.

3 MR. REMUS: Andrew Remus, Enyo County.

4 Is it safe to say that all of the documents that
5 were cited in the draft EIS and then in the final, or
6 submitted in response to the EIS and the background data,
7 will be automatically included on the site, or will the
8 participants have to resubmit the documents and commentary?

9 MR. GRASER: The licensing support network itself,
10 it doesn't make the documents available. That's up to the
11 originating office, or the originating party to make those
12 particular documents available. Now it may be that some of
13 those documents that were originated at the Department of
14 Energy may also show up at the NRC web site in the
15 collection that is put together from the folks in Nuclear
16 Material Safety and Safeguards, because they have a
17 collection of documents that they, you know, that they have
18 been pulling together.

19 So NRC may make a document available; DOE may make
20 a document available, but the way the rule is structured,
21 it's the party who is originating that document is required
22 to identify and make that document and put it available on
23 their external server. It doesn't prevent it from showing

1 up in everybody else's collection as well, but the authoring
2 organization is responsible for placing it on their site.

3 Now in terms of what NRC is going to make
4 available, there is a core set of documentation that
5 constitutes the license application and the information that
6 needs to be submitted with the license application. And
7 those would be the core materials that trigger the opening
8 of a docket. So those license application documents that
9 DOE is required to submit to NRC in an electronic form,
10 those documents which constitute DOE's official license
11 application will go into NRC's docket file as the documents
12 that kick off the commencement of the licensing. So even
13 though they are authored by the Department of Energy, that
14 collection of materials that would comprise the license
15 application, those documents will automatically be placed in
16 the NRC system, because that's what triggers the docket.

17 MR. CAMERON: Okay. Thank you.

18 Let's go to Bob Halstead.

19 MR. HALSTEAD: Yeah, I have two questions, the
20 first one somewhat confused by your answer to the last
21 question.

22 I understand the requirement for electronic
23 filing. Is there any requirement for a hard copy filing,

1 and any intention to maintain, either in the public document
2 room in Washington at your site, at least one central
3 collection where there is a hard copy of every document that
4 is in the docket?

5 MR. GRASER: Okay. To the first question, is
6 there a requirement for a hard copy. There is no
7 requirement in 10 CFR 2 for a hard copy.

8 MR. HALSTEAD: And so there won't be anything
9 equivalent to the files of the PDR, where there is either a
10 hard copy or -- although I know a lot of that's gone to
11 fiche for, you know, space purposes.

12 MR. GRASER: Right.

13 MR. HALSTEAD: Well, I have a concern with that
14 beyond obviously the access issue that Amy and other people
15 have raised that is, I think, a very serious one. I think
16 it's been 14 years since I was a member of the LSS advisory
17 committee, so -- and a lot of things have happened. But at
18 that very early date, the discussion of providing dedicated
19 terminal access to all the parties and anyone who self --
20 find themselves as a party, which might include people along
21 transportation corridors who might not, you know,
22 automatically think of (indiscernible words). I really
23 think you're going to have to consider that.

1 But I have another concern as a person who uses a
2 lot of documents from the PDR on transportation analysis. I
3 have a basic problem with the difficult legibility of many
4 of those documents, and I want to know what kind of protocol
5 you're thinking of. Part of this is a problem of the
6 contrast of the document itself. And then it's also a
7 situation where, for example, the safety analysis report on
8 a piece of hardware that's been NRC licensed, and so
9 presumably when we do transportation analysis as part of the
10 EIS we're going to be trying to work off of the files that
11 are part of the licensing docket.

12 Over the years, there has not been a
13 standardization of sizes of pages that are included, formats
14 of data tables, and so forth. And so just in the area of
15 establishing a protocol to insure the legibility of the
16 documents that go into this system, what are you doing in
17 that regard?

18 MR. GRASER: Okay. Let me address the first part.
19 Again, in terms of the availability, I certainly hear what
20 you're saying, and what everybody else has been saying in
21 terms of comfort level with having access to paper materials
22 in the PDR room type environment. So I just want to
23 acknowledge that I have heard those comments.

1 And they're not currently within my wherewithal to
2 answer that, because those people don't work for me and it's
3 not in my budget. But I have heard that and I can certainly
4 pass that along to the office of the chief information
5 officer at the Nuclear Regulatory Commission. They are
6 responsible for public availability and public access of
7 information, and I will certainly raise that issue with them
8 as well.

9 In terms of the issue of legibility, part of it is
10 a presumptive reliance on the fact that more and more of the
11 documents that are associated with this are being authored
12 in word processing packages. And that if the participants
13 understand that they can make the original WordPerfect file,
14 or the Microsoft Word file available, that you're not going
15 through the process of rendering a document to paper, and
16 then to microfilm, and then through a blow-back machine, and
17 then through a third generation copier, to lose 5 percent
18 resolution all along the way.

19 On the other hand, you blow it off that easy
20 because there is potentially a substantial amount of older
21 materials where in the DOE records management environment,
22 for example, the paper, after having been microfilmed, the
23 paper's now gone, and the electronic files back from those

1 old days of WordStar or software packages, those electronic
2 files are gone as well. So in some cases, you are correct,
3 we are going to continue to have to deal with the issue of
4 partially legible documents.

5 That's not an unusual circumstance in just about
6 any litigation that I've ever been involved in or ever seen,
7 that there are relatively poor copies of material out there.
8 And that all you can really do is ask that the participants
9 certify that they are giving you a true and accurate
10 representation and the best available copy.

11 Last October the LSN administrator issued a set of
12 preliminary guidelines at the October ARP meeting. And one
13 of the things that was included in those guidelines is that
14 the participants commit to making available the best
15 available copy. So as far as we can do in terms of issuing
16 guidance for people to voluntarily adhere to, we're asking
17 them to do the correct thing there in terms of making the
18 best available copy available.

19 MR. CAMERON: Okay. Let's, Bob, let me get you on
20 the record here. And what I'm going to suggest is that we
21 move on to Blair so that we can at least get that inspection
22 aspect on. And then we do have some items from before to
23 wrap up on.

1 MR. HALSTEAD: Yeah. I'm sorry to belabor this
2 point, but I think there are other topics besides
3 transportation where this comment is germane. Because we're
4 talking about an operational system that will not only
5 involve a repository, but the use of a lot of hardware
6 systems that have previously been licensed by the NRC, I
7 think in my area of transportation, I certainly envision all
8 or most of all the transportation records in the PDR being
9 part of this docket. Now do I, or do I through my boss
10 through the Nevada Agency for Nuclear Projects, do I have to
11 submit my prints of fiches from the PDR into the system, or
12 can I say by reference all of those transportation materials
13 in the PDR, that it's the NRC's responsibility to put those
14 into the licensing docket?

15 MR. GRASER: Again, the way the rule is currently
16 structured, it levies the responsibility for making
17 available the relevant documentary material to each of the
18 individual parties. The rule also provides a mechanism
19 whereby a participant who feels that somebody else has not
20 made available a certain collection of materials that you
21 are particularly interested in can go before the presiding
22 officer and ask that that other party make the following
23 additional materials available. So you will always have

1 that mechanism within, you know, of being able to approach
2 the presiding officer to ask for those materials.

3 As a matter of course, I -- the -- I do not -- I
4 cannot speak to the content of the collection that the folks
5 from NMSS have currently flagged for inclusion, although I
6 know it's a substantial number. I cannot say whether or not
7 that includes any substantial portion of the transportation
8 materials. I -- so I really couldn't answer that. But if
9 you would like us to follow-up on that, I can certainly let
10 you know.

11 MR. HALSTEAD: Well, I think we need a protocol
12 here, because you don't want me to send you my barely
13 legible paper copies of your fiches if you've got a better
14 copy in your system that you can electronically enter into
15 this docket. I think that's one of the things that we
16 really want to avoid. But, you know, we certainly will
17 comply by sending you many tens of thousands of pages if
18 that's what the rule requires us to do.

19 MR. GRASER: Well --

20 MR. CAMERON: Okay. I think that that issue --

21 MR. GRASER: I hear you, yeah.

22 MR. CAMERON: -- is pretty clear. Okay? And it
23 has to be addressed.

1 Let's move on to the inspection portion of this,
2 because this is, again, something that has not been
3 generally known. And thank you, Dan, for that.

4 MR. GRASER: Thank you everyone.

5 MR. CAMERON: And this is Blair Spitzberg, chief
6 of the inspection program down at Region IV, at least one
7 aspect of the inspection program.

8 Blair. And it's in Arlington, Texas. I think we
9 established that.

10 MR. SPITZBERG: I see these microphones are down
11 at the level where they can pick up up growling stomach, so
12 I will try and keep my prepared remarks brief to -- and
13 answer any questions afterwards.

14 As Chip mentioned, my name is Blair Spitzberg.
15 And I serve as the chief of the Nuclear Fuel Cycle and
16 Decommissioning branch in the NRC Region IV office in
17 Arlington, Texas. And my branch has responsibilities for
18 inspecting activities currently that are related to the
19 activities that would occur at Yucca Mountain if and when a
20 license is issued. And because of that, I was asked to come
21 out and provide an overview of the NRC's inspection program
22 in general, and to try and forecast as best I could and
23 describe what an inspection program for Yucca Mountain would

1 look like.

2 Just to let you know where I come from, the Region
3 IV office is located in Arlington, Texas, which is midway
4 between Dallas and Fort Worth. It's very close to the DFW
5 Airport. And the Region IV office is the largest of the
6 four regional offices with respect to the geographical area
7 that we regulate. We basically have, as you can see, the
8 entire western half of the United States. And our region
9 also extends up into Alaska, Hawaii, Guam, and the Johnson
10 Islands out in the Pacific.

11 Our office consists of about 160 employees divided
12 into four divisions, three of which are technical divisions.
13 My division is the division of Nuclear Material Safety. And
14 the other two technical divisions deal with the operating
15 power reactors.

16 And I want to say something about the role of the
17 regional offices, which are very simple. There's basically
18 just two responsibilities of the regional offices. The
19 first is the implementation of the NRC's inspection program.
20 And this is what -- this is why we're in the regions. This
21 is why we have regional offices, is this is our day-to-day
22 activity, is the conduct of the NRC's inspection program.
23 We serve as the eyes and the ears of the agency with respect

1 to how licensees are complying with the regulations and the
2 safety commitments that they've made.

3 And we believe that we are very effective in this
4 role in part because of our physical separation and
5 independence from our headquarters office, which allows the
6 regional inspection staff to focus on safety inspections
7 without being drawn into other activities performed in our
8 headquarters office, such as licensing, rule making, project
9 management, and other activities. So our focus and
10 attention is strictly on safety inspections.

11 Our second major responsibility is that of
12 emergency response. And that is we maintain an incident
13 response center in our regional office with a 24 hour
14 response capability. And the regional office would be the
15 first to respond to any events or accidents within the
16 region. And while this response mode has seldom been used
17 for actual events, we do train very hard for this
18 responsibility in the event that an event or accident does
19 call for it.

20 Next slide. I want to say what I can about the
21 development of the inspection program for Yucca Mountain.
22 Obviously there is no geologic repository that has been
23 licensed by the NRC, and so we don't have an inspection

1 program for one. However, we do have inspection manual
2 chapters and inspection procedures which would directly
3 relate to our inspection activities at a high level waste
4 repository when and if one is licensed. And I want to
5 discuss this just a little bit with you to give you the
6 flavor of our inspection program and how it would relate to
7 such a license.

8 We would expect that about the time that we
9 receive a license application that there would be an effort
10 made to start developing a specific inspection program
11 tailored to the Yucca Mountain site. This would probably be
12 done in conjunction between NRC headquarters, the program
13 office, and the regional office, although the details of
14 this have yet to be worked out. We have started thinking
15 along those lines, and I know that there has been some
16 effort to define, for example, the training and
17 qualification requirements for inspection staff that would
18 be expected to inspect the facility.

19 As I mentioned, the NRC already has inspection
20 programs and specific inspection procedures which will be
21 used likely as a starting point for development of a
22 geologic repository inspection program. And this slide
23 shows a few of these inspection programs that would have

1 elements common with a high level waste program. For
2 example, we have detailed inspection procedures for
3 construction activities, dry fuel storage operations, hot
4 cell facility operations, transportation activities,
5 security program inspection, emergency preparedness, and the
6 inspection of the quality assurance programs. And many of
7 these procedures are currently being implemented by members
8 of my staff at other like facilities.

9 These programs would be modified as needed to
10 develop the high level waste inspection program. It's also
11 likely that new inspection procedures will need to be
12 developed for the design, construction, or operational
13 features of Yucca Mountain that are unique or different from
14 other licensed facilities. And as with our current
15 inspection programs, the inspection program for Yucca
16 Mountain would be comprehensive, risk-based, and focused on
17 safety.

18 I want to speak just a couple of minutes on
19 getting back to basic principles on how the NRC insures
20 safety. You've all heard of the term defense in-depth. And
21 that means essentially that for processes and equipment that
22 are important to insuring safety, that at least two
23 independent controls be in place to prevent unsafe

1 conditions from occurring. And I like to think of the NRC's
2 regulatory programs also in terms of defense in-depth.

3 The first layer of safety oversight stems from the
4 regulations, codes, and standards that are established that
5 must be met by licensees. The second layer is the site
6 specific safety reviews and licensing safety analysis that
7 are performed by our high level waste branch and
8 headquarters in order to license a facility. The license
9 review will establish the safety basis and specific
10 technical requirements that must be met by the licensee, and
11 these are the requirements that we'll inspect against.

12 And that brings me to the third layer of NRC
13 regulatory oversight, and that's the inspection and
14 enforcement of the licensee's activities. And I like to use
15 an analogy at this point in describing the inspection
16 program. If you recall back in the, I guess it was in the
17 80's when the U.S. was negotiating a strategic arms
18 limitation treaty with the Soviet Union at that time. There
19 were members of the media that asked President Reagan, you
20 know, how can we trust the Soviets to comply with this
21 agreement? And his response was "Trust, but verify."

22 And that's the approach that we take to our
23 inspection program, is that we place the responsibility for

1 complying with our requirements upon the licensee, which in
2 this case would be DOE. However, we conduct a rigorous
3 inspection program to insure ourselves and the public that
4 they are indeed meeting those requirements. And instance
5 where they deviate from those requirements, then we call
6 that to the attention of the licensee and the public and
7 make sure that corrective actions are taken to bring them
8 back into compliance.

9 Next slide. This slide shows the major objectives
10 of the NRC inspection program, which are basically the
11 verification that site activities are conducted safely and
12 in accordance with the regulations and license requirements,
13 and determining that the licensee's administrative controls
14 are adequate and identifying any significant declining
15 trends in licensee performance. And although the inspection
16 program for Yucca Mountain has not yet been developed, if it
17 follows the model of our similar programs it will likely be
18 conducted principally by the regional office, with
19 assistance from project and technical experts from the
20 headquarters office.

21 I want to say a few things about the training and
22 qualification of the inspection staff. This is, I think,
23 one of our greatest strengths. And we're very proud of the

1 high level of technical expertise and objectivity and
2 professionalism of the NRC inspection staff. They're very
3 highly trained and dedicated, hard working individuals.
4 Most of them come to us and are recruited with quite a bit
5 of experience and high level technical training. Almost all
6 of them have technical degrees, with many of them having
7 advanced degrees.

8 But education and experience alone is just the
9 beginning. When we recruit individuals into our inspection
10 program they go through a formal training and qualification
11 process that can take anywhere from one to two years. It's
12 essentially like getting a master's degree in inspection of
13 a high level waste facility, for example. That's the --
14 that's how rigorous the training is.

15 At the end of this qualification process there's
16 two oral qualification boards. And once an inspector is
17 certified there's continuing refresher training. The NRC
18 does have a technical training center that has a very
19 sophisticated curriculum of internal and external training
20 courses. And finally, the -- all inspectors are evaluated
21 annually for the quality of their work and their
22 objectivity.

23 Next slide. I mentioned earlier that the

1 inspection program for Yucca Mountain would start with the
2 existing inspection procedures that are currently in use at
3 similar facilities. I wanted to depict some of these on
4 slide just to give you the flavor of the individual
5 inspection procedures that I believe would translate
6 directly to an inspection program for a geologic repository.
7 And I'm not going to go into each one of these inspection
8 areas, but I would mention that if you're interested in
9 looking in these in more detail they are available on our
10 web site.

11 Next slide. This slide shows some inspection
12 procedures which I think would be directly transferrable to
13 a high level waste inspection program. Other procedures
14 listed on this slide could be adapted for use at the
15 repository in areas such as construction of systems,
16 structures, and components important to safety; safe
17 transportation routes; material control and accountability;
18 inspection of vendor activities, heavy loads, and
19 pre-operational test.

20 Next slide. I do want to say a few words now
21 about another important area of the NRC's inspection program
22 which is conducted by the regional offices, and that's the
23 review and investigation of allegations. We do receive

1 numerous allegations from various sources, both members of
2 the public, anonymous sources, workers, ex-workers, that
3 come from everywhere and every segment of our society. Some
4 of them have individuals names associated with them and
5 others don't.

6 But regardless of the source of the allegation, we
7 do put all of these allegations through a formal review
8 process which includes a formal panel that consists of
9 senior management in the region; it consists of technical
10 staff, our legal staff, our office of investigations. And
11 once these allegations are reviewed individually, a
12 determination is made as to whether or not there's potential
13 safety or compliance implications. If there is, then we do
14 investigate these allegations. And we have found over the
15 years that allegations provide a very important source of
16 information concerning licensee's activities.

17 I'll also mention that we, in our office in the
18 region and in headquarters, there's an Office of
19 Investigations, which is a separate independent staff of
20 investigators that -- whose purpose is to specifically
21 investigate wrongdoing at licensees. And some of their
22 investigations are self-initiated and others are initiated
23 at the recommendations of the regional administrator or the

1 program offices. But in cases where there's wrongdoing
2 either by a licensee's employees or managers at licensee's
3 facilities, we'll investigate those. And quite often my
4 inspectors accompany the investigators from the Office of
5 Investigations to investigate those allegations.

6 Finally, we come to activities that occur after an
7 inspection is completed. My inspection staff normally
8 performs inspections that are a week in duration. Sometimes
9 they're team inspections. At Yucca Mountain, if and when
10 it's licensed, there would almost like -- almost certainly
11 be resident inspectors out there. Resident inspectors might
12 do an inspection over some interval of time that's longer
13 than a week, such as a month. But in any case, the post
14 inspection activity would be similar. And that's basically
15 to debrief regional management prior to the end of the
16 inspection as to what the preliminary findings are, and to
17 also alert the licensee of any preliminary findings that
18 have potential safety significance so that they can start to
19 review and take corrective actions immediately as called
20 for.

21 Once the inspectors are back in the regional
22 office then they have a formal debriefing with senior
23 management in the office. And it's usually during this

1 meeting that determination is made as to whether or not any
2 of the findings are significant enough to require any kind
3 of formal enforcement to be taken with a licensee. We make
4 an enforcement decision during that meeting for lower level
5 violations.

6 If we have more significant violations we have a
7 formal enforcement process. We have dedicated enforcement
8 staff in the regional office; and at that time we would get
9 the program office involved, as well as our headquarters
10 enforcement staff, and we'd go through a formal process
11 there. We have a number of tools in our toolbox for
12 achieving compliance and enforcement. We have a enforcement
13 policy that lays out various options depending upon the
14 circumstances that can range anywhere from notices of
15 violation to civil penalties and orders to the licensee.

16 That concludes my formal presentation. I'd like
17 to entertain any questions that you have.

18 Yes, ma'am.

19 MR. CAMERON: Judy, let me give you the mike.

20 MS. TREICHEL: I'm sure that you noticed some
21 grins and snickers while you were doing this, because all of
22 us who have been following this for so many years and
23 looking at -- it's not just a first of a kind or a different

1 from other kinds of facilities. This thing is pretty
2 incredible. And to even consider that somebody would be
3 sent in there to inspect it is more, I think, than you can
4 train for.

5 But one of the things that Bill Reamer mentioned
6 in his presentation when he was talking about licensing was
7 once construction is substantially complete DOE would come
8 back for a license to operate. That's not true at all. The
9 construction will only be very minimally complete, probably
10 10 to 20 percent of the repository, and then you've got
11 building going on on one end and loading up going on on the
12 other end as they plan to do that.

13 How in the world would you have inspectors -- I
14 suppose it's possible for you to inspect the mining of the
15 rock for the tunnels and that kind of thing, but there isn't
16 any way that anyone -- that it's humanly possible to inspect
17 a repository. I think you're going to be real lucky if you
18 even get a working TV camera, as they envision it, in there
19 to show you if a rock has fallen on something, or if
20 something goes in crooked, or whatever. I can't imagine
21 inspecting that.

22 MR. SPITZBERG: We would be inspecting initial
23 construction activities of, for example, the waste handling

1 building and other system structures and components that are
2 important to safety. Now there are probably things that DOE
3 will be doing out at the site that are not directly
4 considered to be important for safety, and those would be
5 outside the sphere of the license that we would not inspect.
6 And I don't know whether tunneling would be something that
7 -- that doesn't sound like anything that I have expertise
8 in, or my inspectors.

9 But we do have expertise on construction of
10 systems and structures that are important to safety. We
11 have expertise on quality assurance; we have expertise on
12 security, emergency preparedness, health physics,
13 radiological protection, environmental protection. If
14 there's activities that are undertaken by DOE that are
15 considered to be important to safety where we don't have the
16 expertise to inspect, then we would bring in experts either
17 from headquarters or perhaps even from other regional
18 offices to do that.

19 MS. TREICHEL: Well, I guess what I was saying is
20 that there's a lot of this that just plain is not
21 inspectable. And people here would worry that as we see
22 right now all the time, things being decided that aren't --
23 that don't matter, or aren't necessarily important to

1 safety, just because they're real tough to do. And we don't
2 want that to happen.

3 MR. CAMERON: Judy, I think the larger issue you
4 may be raising is how do you -- which is a little bit
5 different than inspection, but how do you monitor the
6 natural processes at work after the waste has been in place?

7 MS. TREICHEL: Yeah. How do you turn it off if it
8 doesn't work, like you would with a reactor?

9 MR. CAMERON: How do you turn it off if it doesn't
10 work, like you would with a reactor, was the statement.

11 Blair, do you have anything to offer on this, how
12 inspection -- not on how do you turn it off, but on the
13 relationship between an inspection program and a performance
14 -- I don't know if I'm using the right phrase, performance
15 monitoring?

16 MR. SPITZBERG: Well, I think if you're referring
17 to the monitoring of the in place waste, I'm not sure I'm
18 the best one to answer that question. Maybe Janet has a
19 better feel for that, because I've only become involved in
20 this within the last couple of weeks.

21 But my understanding is that the way things
22 normally work is that when a licensee is required by their
23 license to monitor something, whether it's an environmental

1 parameter or some parameter associated with the in place
2 waste, then they have criteria that are established for that
3 monitoring. And if they reach an action level which is some
4 fraction of the criteria, then their license would specify
5 what actions they are to take once they meet that action
6 level. And that is an inspectable aspect of their license,
7 and we would be able to inspect that.

8 MR. CAMERON: Okay. Let's go to Janet on this and
9 then Amy, and then we'll go over to Bob.

10 MS. KOTAR: The reason Blair is here is because he
11 wants to give you a flavor for how we structure an
12 inspection program for a range of facilities, not because,
13 you know, we have those inspectors trained and ready to
14 march out to Yucca Mountain right now.

15 The -- both the existing regulation and the
16 proposed regulation of Part 63 would put in place a
17 performance confirmation program. There's going to be
18 monitoring throughout, monitoring before, monitoring during,
19 monitoring after waste is in place. And that's not just
20 monitoring for a leak. It's long before that. It is are
21 the models that were the technical basis for making the
22 judgments that allowed construction to begin, have we gotten
23 new information that would suggest that those models were

1 incorrect.

2 I mean you're talking about a very sophisticated
3 confirmation program here. It is not just a matter of oh,
4 we're, you know, fat, dumb, and happy until we see the first
5 leak. That's not it at all. What we're looking for is
6 we're looking for continual vigilance that the technical
7 basis that supported judgments will continue to be valid.
8 And that type of inspection you can do, and you -- and
9 that's part and parcel of the license conditions, for
10 example, that might be placed in the part of -- in the
11 process of granting a license to construct or to receive
12 waste; that this is contingent upon you continuing to
13 monitor parameters X, Y, Z, and that those parameters
14 continue to show that your models A, B, C were indeed the
15 right models.

16 MR. CAMERON: Great. Thank you.

17 Okay. Let's -- Judy wants to be convinced that
18 DOE can fix it. Okay? And, Janet, I don't know if you have
19 anything. Do you have anything to say on that regard?

20 MS. KOTAR: We do too.

21 MR. CAMERON: All right. We do too.

22 Amy.

23 MS. SHOLLENBERGER: I guess my question is

1 similar. And, Janet, I hear what you're saying, that there
2 are a series of things that you can monitor before a leak
3 happens. But my question is what happens if you find out 20
4 years into it that your models aren't correct and you've got
5 two-thirds of the waste in place and you've got 5 leaking
6 containers? How in the world do you bring this facility
7 back into compliance? That's what you said your goal is.
8 You know, fining the DOE \$80 billion isn't going to change
9 the fact that at that point people are being poisoned.

10 MR. CAMERON: Janet, I would like you to address
11 that. And we will go to Bob. And also I think we need to
12 clarify this point that Judy raised, at what point can DOE
13 file for a license to --

14 MS. KOTAR: First of all, let me just break the
15 link between any leakage and people being poisoned. There
16 is a lot between what we can monitor initially and see
17 evidence that things aren't performing as were expected and
18 someone actually receiving an exposure. And our monitoring
19 would be very vigilant to see to it, or we would insist that
20 monitoring be very vigilant to see to it that any indication
21 that performance is not consistent with the licensing basis
22 would initiate action promptly.

23 That being -- well,

1 MS. SHOLLENBERGER: But you can't put it back in
2 the container.

3 MS. KOTAR: Well, first of all, our requirements,
4 by law, the commission has to include in its regulations
5 provisions for retrievability. That's part of the existing
6 regulations. It's also part of the proposed regulations.
7 And any licensing judgment has to reach a finding, the
8 commissioners have to reach a finding that there is
9 retrieval for some finite period of time.

10 That was -- we solicited a comment on that in the
11 proposed rule as to whether that's the right amount of time
12 and how that would be implemented. But there is -- yes, we
13 can. We have the authority to say to DOE this is totally
14 out of line with what were the assumptions upon which we
15 predicated you being able to receive an in place waste. You
16 have to take it out.

17 MS. SHOLLENBERGER: But taking it out of the
18 mountain is different --

19 MR. CAMERON: Okay.

20 MS. SHOLLENBERGER: -- from taking it out of the
21 groundwater.

22 MR. CAMERON: Amy, we're going to come back over.
23 I think that, yeah, I think that point is obvious. We're

1 going to come back over to that, to you for that.

2 I'm going to Bob now, but I want Bill to just
3 provide any clarification he has on Judy's first point.

4 MR. RIZAMER: Okay. I think the point was that
5 construction could be going on at the same time that waste
6 could be in place. And you were questioning a statement I
7 had made about the facility being substantially complete.
8 And the regulation that was proposed includes the
9 requirement that the facility, the repository be
10 substantially complete before the application to in place
11 can be processed.

12 MR. CAMERON: Okay. And if -- I mean you guys can
13 have a dialogue on this too after we end the formal session.

14 Bob.

15 MR. HALSTEAD: Well, I have two comments and a
16 question, Blair. The first comment is I'm glad at the end
17 of your talk you mentioned resident inspectors. Speaking
18 for the State of Nevada, I find it incredulous that there
19 would be any doubt in your mind that you wouldn't have at
20 least one resident inspector solely dealing with spent fuel
21 storage as part of the lag storage package preparation. I
22 don't want to belabor that point.

23 Secondly, you mentioned -- someone mentioned

1 something that you'd been doing this, thinking about this
2 for two weeks or something. And I don't want to, if you
3 haven't thought about this a lot, you know, my job isn't
4 here to fillet you. But the bottom line is your
5 presentation is totally ill informed about the complexity of
6 spent fuel receipt and handling operations at the
7 repository.

8 Now maybe DOE will be lucky and a lot of this fuel
9 will come in by rail in something like an MPC, where the
10 canister doesn't have to be opened. And hopefully somewhere
11 down the line one of your inspectors at say South Texas has
12 figured out how to do an inspection that might make an
13 acceptable waste acceptance decision. But a lot of this
14 waste is going to come in from Jinee, and Indian Point, and
15 Lackbar (phonetic), and Humboldt (phonetic). It's going to
16 be delivered one truck at a time. So you're going to have
17 to have 5 to 10 truckloads coming in from a reactor before
18 you can batch that fuel and put it into a disposal
19 container.

20 This is one of the problems with the lack of
21 explicit detail, and why I think that this license -- I
22 think that this EIS that DOE has prepared is certainly an
23 inadequate basis for a license application, because the most

1 basic nuclear fuel handling operations are not detailed in
2 any specificity. So you're going to have to have
3 enforcement over a whole range of things, probably including
4 operation of a large wet pool where truck casts are
5 unloaded.

6 And decisions have not yet been made, like I said,
7 whether there'll be wet or dry storage before you have the
8 proper batching. And there are all kinds of questions about
9 whether we would allow DOE to mix batches of fuel in
10 disposal canisters, which is a truly bad idea. So the
11 complexity of the fuel handling operations at the surface
12 facilities of the repository is not reflected in your
13 presentation, and I'm very disappointed about that.

14 But I have a question for you, and that is how the
15 hell does this word of --

16 MR. SPITZBERG: Can I respond to that before you
17 ask your next question?

18 MR. HALSTEAD: Yeah.

19 MR. SPITZBERG: Yeah. I was not trying to tell
20 you exactly what the inspection program would look like for
21 Yucca Mountain, because I must admit that I was not familiar
22 with the concept of operations to that level of detail.

23 I will say that we do inspect now, under the

1 inspection programs that I've outlined, the placement of
2 spent nuclear fuel in cast from spent fuel pools at about a
3 half a dozen locations in our region now. So the loading of
4 the cast from the spent fuel pool, the fuel handling
5 operations, the quality assurance that goes along with that,
6 the pre-operational tests, the heavy loads verification, the
7 cast operations, we do inspect that. And that's essentially
8 the front end.

9 The back end of that process once it arrives at a
10 repository is not too different from that in reverse.

11 MR. HALSTEAD: Well, I think it's different, the
12 complexity is different by a couple orders of magnitude.
13 And that needs to be reflected in your presentation.

14 MR. SPITZBERG: In what way --

15 MR. HALSTEAD: And there ought not to be any doubt
16 in your mind that you wouldn't have at least one resident
17 inspector just paying attention. You're talking about daily
18 deliveries of fuel, daily activities back and forth between
19 hot cells, wet pools. I mean, you know, we could go through
20 a list of about 500 operational checkoffs that are going to
21 be required. So I'm just saying it does not build
22 confidence in the State of Nevada in the NRC's ability to
23 carry out its responsibility to inspect this facility when

1 you come in and give us a very abstract approach to dry
2 storage inspection. And those of us who work on this know
3 it's a lot more complicated and we expect to hear a little
4 more. And we certainly want you to go home knowing that if
5 there's any doubt in your mind about having a resident
6 inspector responsible for this, that ought to be eliminated.

7 MR. SPITZBERG: The only reason I couched it in
8 those terms was that that's not going to be my decision, how
9 many resident inspectors there are going to be out here and
10 when they'll be on-site. I expect there to be resident
11 inspectors, yes. When will they be on-site; when will the
12 off-site -- on-site representatives become resident
13 inspectors and report to the regional office? I don't know
14 the answer to that question.

15 MR. HALSTEAD: I'll drop my question.

16 MR. CAMERON: Okay. But I think that there is a
17 question here that relates to plumbing the expertise of the
18 State of Nevada and others in terms of developing inspection
19 procedures. And is that usually in a -- I mean if we were
20 going to develop inspection procedures, Blair, would that --
21 would it be useful for us to do that with the public input?
22 Is that usual process?

23 MR. SPITZBERG: Sure. You know, in fact I'm

1 interested in your comments on the level of sophistication,
2 the difference in level of sophistication between that and
3 what we inspect now at the loading end of a cast. But
4 that's something we would work with headquarters on, and
5 those inspection procedures are subject to comment and
6 revision. We revise inspection procedures quite often.

7 All I'm trying to convey is that I did not come
8 here with the expectation that you would be able to walk out
9 of here and have a detailed understanding of what the
10 inspection program will consist of at Yucca Mountain,
11 because I don't think we know that yet. Or at least I don't
12 know that.

13 What I hoped you would come away from this meeting
14 with a better understanding for is the fact that we do have
15 regional offices whose purpose is to perform safety
16 inspections that are separate and separated from our
17 headquarters office, separated from the licensing function.
18 And that is our focus, is safety inspections. We do inspect
19 sophisticated operations. You know, we inspect power
20 operating reactors, which I don't think is going to be any
21 more sophisticated than the Yucca Mountain facility in terms
22 of the technical challenges involved.

23 I wanted you to understand that we have a formal

1 enforcement program for bringing licensees into compliance
2 if they are determined or found to be out of compliance with
3 our safety requirements. That's what I hoped to convey. I
4 didn't hope to convey the detailed specifics of what the
5 inspection program will look like, because it is not
6 defined.

7 MR. CAMERON: Okay. Thanks, Blair. Let's take
8 one more question on inspection, and then let's go back and
9 revisit some issues from this morning, because I know you're
10 probably all getting a little tired.

11 MR. FRISHMAN: I want to start just very quickly
12 following up on this construction substantially complete.
13 For a long time now the department has said in the presence
14 of people from NRC that they plan to stay maybe 10 drifts
15 ahead of in placement. So a 24 year repository in placement
16 program is a 24 year construction job. And does their
17 vision of how they're going to do this match up with the
18 NRC's definition of when construction is substantially
19 complete? If there's been silence, I guess I have to assume
20 that it does, but that's -- the word substantially wouldn't
21 seem to indicate that. I do have another question too.

22 MR. CAMERON: Let's let's Steve put this one on
23 and then we'll go down --

1 MR. FRISHMAN: The implication in earlier
2 discussion was that safety inspection is going to include
3 the NRC's oversight of performance confirmation? Just
4 doesn't sound right to me. How are -- how is the commission
5 going to keep up with DOE's long performance confirmation
6 activity that really is part of licensing?

7 MR. CAMERON: Yeah. And I don't -- I didn't mean
8 to inextricably tie inspection with performance
9 confirmation, so I'm sorry if I gave that impression. But I
10 think there's legitimate performance confirmation --

11 MALE VOICE: I do have another question, too.

12 FEMALE VOICE: There's an answer for that.

13 MALE VOICE: Let's see you put this one on, and
14 then we'll go down --

15 MALE VOICE: The implication in earlier discussion
16 was that safety inspection is going to include the NRC's
17 oversight of performance conformation? It just doesn't
18 sound right to me. How are -- how is the Commission going
19 to keep up with DOE's long performance conformation activity
20 that really is part of licensing?

21 MR. CAMERON: Yeah, and I don't -- I didn't mean
22 to inextricably tie inspection with performance
23 confirmation, so I'm sorry if I gave that impression, but I

1 think there's legitimate performance conformation issues
2 that are being raised.

3 MS. KOTAR: Well, it was in response to the
4 question that talked about performance that was, in a sense,
5 new information that can -- contradicted the licensing
6 basis, and that's the purpose of the --

7 MR. FRISHMAN: Who's going to keep track of
8 performance conformation was the question that's on the
9 floor. Now Janet?

10 MS. KOTAR: Our inspectors through their inspector
11 program, and then of course DOE is obligated under our
12 regulations to report any new information, and update their
13 safety analysis report, per the regulations.

14 MR. FRISHMAN: Okay. Okay.

15 Dennis, let's do the last one here on inspection,
16 then go back to some other things. Go ahead.

17 MR. BECHTEL: Dennis Bechtel.

18 You've got a -- you've got, see slide 9 and let's
19 see, slide 8, I guess, where you allude to evidently types
20 of inspection you're already doing that you think are
21 relatable to this program.

22 Is there any way we could get some information on
23 how you do that, or -- I mean, my specific concern is things

1 like safe transportation routes, you know, how that's -- how
2 the NRC does that.

3 MR. SPITZBERG: Well, for that a specific example.
4 We do have inspectors that go out and travel these, the
5 proposed routes, to ensure that they meet the specifications
6 and criteria for a safe transportation route, as defined by
7 the DOT regs. That's something that my group does not do,
8 but others in our office have done that, and any new
9 proposed transportation routes would be similarly reviewed
10 and surveyed.

11 The other inspection areas that I've listed here,
12 there's a variety of different techniques that we use. A
13 lot of our inspections are performance based, an actual
14 observation of activities, eyes on the activity. A lot of
15 our -- some of our inspection is done by independent review
16 and independent measurements, interviews with individuals,
17 and then finally, you know, the documentation of the work
18 that's done is part of our inspection process.

19 It's a broad range of interactions with the
20 licensee to finally determine the adequacy of the particular
21 activity, but it does involve all of these techniques.

22 MR. BECHTEL: But it's somewhat informal, you're
23 saying in some respects, and maybe --

1 MR. SPITZBERG: I'm not sure how you would define
2 "informal." It's --

3 MR. BECHTEL: How, say, an individual would
4 translate Department of Transportation regulations into,
5 say, you know, I mean, I mean, in his mind -- or how that's
6 documented, and you know, the decisions made.

7 MR. SPITZBERG: The guidance is usually pretty
8 clear on what the specific criteria that we inspect against
9 is. It's the regulations. It's the license. And to that
10 extent, if the regulation needs further definition, they --
11 we usually have guidance in the form of regulatory guides,
12 or new reg documents that further clarify the expectations
13 for compliance, and that's what we inspect against. If
14 they're committed to that.

15 MR. BECHTEL: I guess the one I'm primarily
16 concerned about is, you know, how you could translate
17 another federal agency's requirements into something that
18 would mean safe in your mind, but may not mean safe in --

19 MALE VOICE: Such as like EPA's, or DOT's?

20 MR. BECHTEL: Well, I mean -- or local
21 governments. Or the state. I mean, the public, you know?

22 MR. CAMERON: Let me see if Rob has something to
23 offer on this.

1 MR. LEWIS: I think our office at headquarters
2 works with Blair's (phonetic) group, too, on developing
3 inspection procedures for transportation, and in terms of
4 how we look at what DOT's requirements are, we work very
5 closely with DOT and actually would share what we're
6 developing with DOT. And DOT has its own inspection program
7 also, and DOT's inspector would be involved in that process
8 to make sure that what -- and in an agreement we have with
9 DOT, we inspect DOT regulations, and they would participate
10 in how we're going to do that, during the inspection
11 procedure development.

12 MR. BECHTEL: Say outside parties have concerns
13 about their local governments, and if those parties are part
14 of the communication link, I think that's an important --

15 MR. CAMERON: Okay. Thank you.

16 There were a couple of things remaining from this
17 morning, and one is just these steps. And I don't want to
18 belabor this, but I think that maybe we should at least have
19 someone run through these quickly for you.

20 The other thing was just making sure that some of
21 the comments, the concerns about the transportation activity
22 get on the record, and I also want Rob Lewis to tell us
23 about an upcoming transportation meeting here in Las Vegas.

1 MS. WASTLER: I believe it was Amy that was asking
2 about the different steps, and she was having trouble trying
3 to fit all the pieces together, so what I've tried to lay
4 out here is kind of how this flows from kind of this point
5 on.

6 As I'd said, site recommendation is the next
7 mandated document, or step in the process. Site
8 recommendation is basically a DOE process. They're in the
9 process now of developing all the documentation on the sites
10 to support the site recommendation.

11 There will be hearings that DOE will hold. My
12 understanding is that this will take place in January of
13 this year -- of '01, I guess -- on the consideration of the
14 recommendation.

15 The site recommendation itself, the document, will
16 be made up of the FEIS, including the Department of
17 Interior, CEQ, EPA, and NRC comments. NRC comments on a
18 preliminary, or a separate document that DOE is producing
19 called the site recommendation consideration report. It will
20 include the view of governments and the states, and this is
21 not just Nevada, many different states, an impact report
22 that's produced by the State of Nevada, and all of these
23 make up the site recommendation.

1 When I was talking earlier I talked about, we will
2 get the site recommendation consideration report. It's
3 actually November. I flipped the dates around. We will get
4 it in November of this year, and our comments are due back
5 to DOE under the current schedule in May, and I had said we
6 were getting it in May and got to comment in November.

7 But all of these pieces -- and in fact I think
8 there's the Secretary of the Department of Energy also has
9 the ability to add other pertinent pieces of information in
10 this package. When it's completed, DOE's secretary makes
11 the recommendation to the President.

12 At this point they're, you know, DOE decides
13 they're going to recommend the site. It goes to the
14 President. This is where there can be litigation. Now this
15 is outside NRC framework. This is -- can you kind of
16 consider it the national program. This is where a little
17 bit of litigation can take place.

18 The President, once this is completed,
19 presidential recommendation -- recommends to Congress that
20 the site go forward.

21 At this point the Nevada has this notice of
22 disapproval. It will take a Congressional override for it
23 to go forward at this stage.

1 When all of this is completed, should it be
2 approved at -- down to this level, then and only then can
3 DOE go forward with a license application. At which time,
4 that's when our licensing proceedings take effect, and we --
5 they submit an LA to us. We do the acceptance review, the
6 safety review, and proceed into the hearing process, so
7 that's kind of a step-by-step approach.

8 And this is all outlined in the Nuclear Waste
9 Policy Act.

10 MR. CAMERON: Okay.

11 Let's get a couple of quick questions here on
12 this. Judy?

13 MS. TREICHEL: It seems to me real evident that
14 DOE cares absolutely nothing about -- certainly not about
15 the public comments, but probably not about yours either.
16 If you say that you get this SRCR in November, and your
17 comments are due in May of '01, and DOE has already
18 announced that it's coming with its site recommendation June
19 of '01, so they assume that you're going to say, "Looks
20 good. It's great, sufficient," because if you don't,
21 they've got this absolutely tight schedule that they will
22 not deviate from, and it just isn't going to matter.

23 That's one of the things we've fought about

1 forever, is this schedule, and its absolute supremacy over
2 everything.

3 MR. CAMERON: All right. Thanks, Judy.

4 There were been -- thank you, Sandy, and this is -
5 - these hearings are '01, and this report, SRCR, is -- comes
6 from when? When does --

7 MS. WASTLER: November '00, 11/00.

8 MR. CAMERON: So that's November '00, okay. And
9 then our comments are --

10 MS. TREICHEL: Due back --

11 MS. WASTLER: 5/01.

12 MR. CAMERON: All right.

13 MS. TREICHEL: That's the first step.

14 MS. WASTLER: Well, but of course only can comment
15 during the holiday season.

16 MR. CAMERON: But I guess I would point out is
17 that when DOE has the hearings on the recommendation, they
18 will not have the benefit of the NRC comments at that time.

19 MS. WASTLER: My understanding is that's done
20 before we even see the site recommendation and consideration
21 report.

22 MR. CAMERON: All right. A final comment on this
23 by Amy, and then let's make sure that we get the

1 transportation concerns on the record.

2 Amy?

3 MS. SHOLLENBARGER: I'm just curious if you all
4 are happy with this schedule? I mean, it seems like if I
5 worked for the NRC, I'd be awfully upset that, you know,
6 you're a slave to the schedule as much as we are and, you
7 know, I've been being told by all of you guys that you're
8 mandated by Congress to do this or that, and you're just
9 doing your job, seems like it's also your job to say when
10 it's not right.

11 MR. CAMERON: Any comment specifically or
12 generally from the NRC on how we try to deal with these
13 schedule issues, or there -- schedule issues that we've had
14 before we've just told DOE, "You got to slow down."

15 MR. RIZAMER: We're prepared to work within the
16 schedule, but safety trumps schedule anytime, so what
17 ultimately is going to matter is the quality of the
18 technical reports that we get, that we review, and the
19 questions that remain open at that time.

20 MR. CAMERON: Okay. Thanks, Bill.

21 John, I don't want to pick on you, but pick on Bob
22 Halstead. Now he just wants to be -- okay. Well, let me go
23 to John first because I wasn't limiting what we were hearing

1 in terms of doing a better job of explaining the
2 transportation process, and you wanted to, your or others
3 wanted to say, make sure that we had something on the
4 transcript in relationship to concerns over transportation.

5 So let me just turn it over to you for a minute.

6 MR. HADDLER: Well all -- I guess -- and the
7 question we asked, I asked, earlier, and all I would really
8 say at this point is just that don't -- we don't, or Citizen
9 Alert doesn't understand, and a lot of other Nevadans don't,
10 and most of the rest of us don't understand why the
11 transportation can't be explicitly part of the license
12 application. And I think that's, in my mind, an important
13 piece of the -- what needs to be on the record.

14 Yeah. It's, as Amy says, "Not just Nevadans."
15 It's across the country.

16 Another kind of a comment also that you could have
17 with that, too, is, you know, in terms of the licensing
18 part, well now if transportation should be part of the
19 licensing package, then what about, you know, inspections
20 related to transportation? Emergency responders, equipment
21 that they have in various communities, so on and so forth,
22 so that they're prepared for a radiological incident.

23 That, to me, should go along with the package,

1 nationwide.

2 MR. CAMERON: Anybody else back there want to --
3 Amy?

4 MS. SHOLLENBARGER: I also think that just in
5 addition to that, there should be people like -- is it Bob
6 Latta? Is that your name? I think you should have one of
7 him in every transportation hub, in all of the 100-plus
8 cities where there are 100,000 or more people, where this
9 stuff is going to be going through. You should have
10 somebody that the people can come and talk to when they have
11 questions.

12 MR. CAMERON: Okay. Let me ask -- I'm going to go
13 over to Bob for perhaps a final on this, but let me ask Rob
14 Lewis, how does Amy's last point, I'm short-handing it, on-
15 site reps in transportation hubs, how does this -- what does
16 the DOE -- DOT program like in that regard? Can you tell us
17 a little bit about that?

18 MR. LEWIS: Sure.

19 DOT does not have a resident inspector program in
20 the fashion that NRC does, so they won't have any on-site
21 reps in towns through which hazardous material concentrate
22 are transported.

23 As far as NRC providing people at those

1 facilities, or at those cities, I think I would question
2 whether that would be our role under the law, because the
3 law very clearly says that material in transportation is
4 subject to the Department of Transportation. The NRC
5 regulates the facilities at which the material arrives, and
6 from which it originates, and we have resident inspectors at
7 those facilities, and we do, in cooperation with DOT,
8 inspect the preparation of shipments as they leave, and
9 inspect the programs that our licensees use to ship in
10 accordance with DOT regulations.

11 But while the material is out in the public
12 domain, the Department of Energy, as the shipper of the
13 material, and possibly as the owner of the material, if it's
14 going to Yucca Mountain, will be bound by the Department of
15 Transportation regulations, and the NRC role is not clearly
16 defined.

17 The packages -- yeah, the question was, while
18 material is being shipped, who would inspect the packages
19 along the transport routes.

20 That function is normally performed by states.
21 For example, everybody's traveled on the interstate and has
22 passed a weigh station where the trucks have to go. At
23 those weigh stations are state inspectors, and if spent

1 nuclear fuel happens to be the shipment, there would more
2 than likely be a state inspector involved in a radiation
3 safety inspection.

4 And that is not a function performed by the
5 federal Department of Transportation. Often that's
6 performed by the state Department of Transportations (sic).
7 Some states do it differently. Other state agencies perform
8 that function. They have motor vehicle authorities that
9 might do that.

10 I think that's --

11 MR. CAMERON: Thanks. And would -- could you just
12 mention what the meeting that we're going to have out here
13 perhaps in August where we may address some of these things?

14 MR. LEWIS: Sure.

15 Many of you that have heard me talk before know
16 that NRC has two research projects going on at this time.
17 Actually one just wrapped up. Let me talk about that one
18 first.

19 We did a re-examination of our spent fuel shipment
20 risk estimates, and just in the last months have published
21 this new reg. It's new reg/CR6672 from Sandia National
22 Labs. I haven't been involved in that project very much,
23 but I probably know a little, enough to get me in trouble

1 here.

2 But we have another project that I'm in charge of
3 which is called the package performance study, and we were
4 here in Nevada for four meetings, two in -- I'm sorry, for
5 three meetings. Two in Henderson, a day and an evening
6 meeting, and then the next day over in Pahrump. Last
7 December we were here. And this project is called the
8 package performance study.

9 It's to look at the performance of spent fuel
10 casks in severe transportation accidents, and we're using a
11 public participation process to define the project itself,
12 in addition to using public participation throughout the
13 projects, as we obtain results. We're using public
14 participation to define the project itself.

15 In that respect we have just received our first
16 deliverable at NRC from our contractor, Sandia Labs. We
17 haven't issued it yet. I actually just got it Tuesday, and
18 it needs some work. I mean, they may be good scientists but
19 they're not necessarily good communicators, so we need to
20 look at it for about a month or so.

21 We plan on issuing that for public comment in
22 June. And that will be called the "issues and issue
23 resolution options report for the packaged performance

1 study," so that will be issued in June for public comment.

2 Also in June we'll be issuing a plain language
3 version of this report which is quite complicated, so we're
4 trying to work on a plain language version and get that out
5 in June, which would be about a 30-page brochure-type
6 document, even plainer language than the blue "transporting
7 spent fuel" that we always hand out that's out on the table.
8 We're trying to be even more understandable than that
9 document, so with all those documents that we're about to
10 issue in June, we will come back in August, and we're
11 looking at August 15th to have the second in this series of
12 meetings on the package performance study. There should be
13 one in D.C. also, and we're looking at September for that
14 one right now.

15 We have to do them about a month apart just for
16 our own logistical reasons, and it's --

17 MR. CAMERON: Rob, can I ask you just one question
18 that maybe will be helpful for people. Either this meeting
19 in August or the one in September will focus on the package
20 performance study, is it possible to try to lay out some of
21 the answers to some of the transportation questions that
22 we've heard today as part of that, just as a context?

23 MR. LEWIS: You're reading my mind, Doug.

1 Actually, the meeting in August is not only about
2 the package performance study. I misspoke in that respect.
3 Half of the meeting in August, as we currently have planned,
4 is about this re-examination study, and the second half is
5 about the package performance study and where we go from
6 here.

7 In addition, one of my objectives today is to
8 collect any concerns that you would like -- and let us know
9 today, or call me or write me, or something, what you want
10 to know in August, because the agenda is very flexible at
11 this point, and if there's something you want to know with
12 respect to transportation roles, if you would like DOT to
13 come -- they came last time. If you'd like them to come and
14 maybe have a speaking role on what their role is, and what
15 their inspection program is, anything like that, we can try
16 to work that in. It's very flexible at this point, and
17 we're amenable to anything.

18 MR. CAMERON: And Rob, can you put your phone
19 number and address and email up there so that people can get
20 in touch with you on that? And thanks for offering that.

21 MR. LEWIS: The first thing I'm going to put is
22 our website for the packaged performance study.

23 MR. CAMERON: First thing up there is going to be

1 the website for the package performance study.

2 MS. SHOLLENBARGER: Is that back up? Because it
3 was down for the past week.

4 MR. LEWIS: Oh, I wasn't aware of that. I should
5 be back up.

6 MR. CAMERON: Okay. And that is --

7 And let's go to Bob Halstead for a final comment
8 here, and then go to Bill Rizamer to close the meeting for
9 us. Bob?

10 MR. HALSTEAD: Thank you, Chip.

11 I want to make some general comments on the State
12 of Nevada's feelings about the proper attention that must be
13 paid to transportation as part of the licensing process.

14 For several reasons we believe transportation is
15 an integral part of the licensing process. First of all,
16 when you consider the nature of the facility, there's
17 nothing at Yucca Mountain to be disposed of, folks. It all
18 has to be transported there, so transportation is a
19 necessary prerequisite before anything can be disposed of in
20 a repository.

21 Secondly, the location of the site and its
22 transportation access -- or we should say it's lack thereof,
23 largely dictate the transportation mode and route choices

1 for the entire national waste system. A good example is the
2 question about whether rail access can be built, and in turn
3 how that will affect mode of choice and routing.

4 And finally, the transportation itself, both as a
5 physical process and as a day-to-day operational
6 consideration, has a big impact on the way that fuel is
7 actually received. You have to pay attention to the way the
8 fuel is loaded at the reactors, transported across country,
9 and that's going to be an issue in terms of waste
10 acceptance, and it certainly will dictate the way that
11 operations at the repository occur. And in particular, even
12 DOE, who believes they can move most of this waste by rail,
13 acknowledge that there are nine reactors that are going to
14 have to ship by truck. And truck shipment means an entirely
15 different set of pre-closure surface facility operations at
16 the repository.

17 Finally, in terms of the way that these issues
18 have to be dealt with in the licensing document, they should
19 be brought forward through a legally sufficient
20 environmental impact statement. So far what the Department
21 of Energy is proposing in the draft environmental impact
22 statement is not sufficient, partly because of a general
23 lack of specificity, and specifically because the

1 transportation analysis is neither mode- nor route-specific
2 for the 77 origins from which the Department proposes to
3 ship waste to Yucca Mountain.

4 Now how does this relate to other activities of
5 the NRC? And we believe that several, three specific areas
6 of NRC activity further dictate a full addressing of
7 transportation issues in the EIS.

8 First, last year, in August of 1999, the
9 Department issued new reg 1437, volume 1, addendum 1, which
10 was the transportation analysis in support of the 10 CFR 51
11 license extension decision.

12 Those of us who reviewed that transportation
13 analysis came to the conclusion that it was defective, and
14 we strongly felt that we should litigate the sufficiency of
15 that EA. Our lawyers told us, however, that because the
16 comment response document was liberally sprinkled with
17 references to how deficiencies in that NRC EA would be
18 addressed in the Yucca Mountain EIS, led us on our counsel's
19 advice to decide to wait how we would pursue those issues
20 until we see how the NRC decides to rule on the way
21 transportation issues have to be addressed in the full EIS.

22 Secondly, transportation risk issues in the
23 department's draft EIS largely revolve around assumptions

1 about the NRC's modal study, and Rob's described some of the
2 re-examination process that's going on.

3 Now some of us who are participating in that
4 process are hoping that it will be open-minded, and that for
5 the first time, because there certainly was not stakeholder
6 input of any value to the original modal study, and
7 unfortunately the risk reassessment that Rob spoke about
8 that's just been published, New Reg 6672, is conspicuous for
9 the lack of stakeholder involvement, and you'll remember,
10 Rob, that we discussed this at your meeting in Bethesda in
11 November, and I hope this is the old way of NRC doing
12 business and not the new way. You have a major risk re-
13 examination that has not been discussed with stakeholders in
14 draft form before it's finalized.

15 But the point I want to make here is it will be
16 two to three years before a proper modal study re-
17 examination can be completed, and if there are significant
18 new findings, we expect the NRC to require DOE to revise the
19 transportation portions of its environmental impact
20 statement. And that's certainly part of the licensing
21 process.

22 And finally, the commission accepted and published
23 a petition for rule making from the State of Nevada, PRM 73-

1 10 is the docket number. This raises, we believe,
2 substantial questions about the adequacy of the NRC's
3 safeguard regulations. It's possible that the NRC will
4 expedite the handling of this docket. It's also possible,
5 as rule-making dockets go, it may take several years to
6 resolve these issues.

7 And again we would remind the commission that if
8 there are significant changes in 10 CFR 73, which affects
9 not only the operational safeguards, but deals with issues
10 such as the definition of radiological sabotage, and is a
11 very important determinant of the type of consequence
12 assessment that comes out of a specific risk assessment,
13 particularly involving the possibility of a terrorist attack
14 on a shipping cask using a high energy explosive device, so
15 this is yet another area where the NRC is going to have to
16 be sensitive to the fact that the licensing docket for Yucca
17 Mountain is going to be affected by other ongoing activities
18 of the commission, just in the transportation area.

19 That is not to mention the other range of NRC and
20 EPA activities.

21 Thank you for the opportunity to make that
22 statement.

23 MR. CAMERON: Okay. Thanks a lot, Bob, for that

1 overview of various activities and needs in transportation.

2 And I'm going to let Bill Remir close this out. I
3 would just thank all of you for your patience and your
4 insights. I think there has been a lot of information from
5 both the NRC and from all of you that came out today, and
6 also we heard a lot of concerns that we need to consider.

7 But Bill, why don't you close us out?

8 MR. REAMER: Okay, Chip.

9 Well, I'd like to thank everyone as well, for
10 spending virtually the entire day here with us. This is the
11 informal dialogue as it unfolds. I know it is time-
12 consuming. I know it is resource-intensive from your
13 standpoint. However, I think it's very healthy for us to do
14 this, to hear what you have to say, and as I've said many
15 times before, we owe you responses, and we will give you
16 responses. You may not agree with our responses, but at
17 least we will give you responses. The process of
18 communication is really the only way that we understand what
19 is a concern, and you understand what our position is with
20 respect to your concerns. And I really want that to
21 continue.

22 In any event, I believe we'll be back here,
23 hopefully this summer, with some additional topics, and Rob

1 has mentioned transportation plans, so again, thank you very
2 much, and I hope to see everyone again at our next meeting.

3 MR. CAMERON: Thanks a lot.

4 [Whereupon, the workshop was concluded.]

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