

NUCLEAR REGULATORY COMMISSION

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Progress of Regulatory Reform

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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MEETING WITH NRC STAKEHOLDERS
PROGRESS OF REGULATORY REFORM

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THURSDAY

OCTOBER 18, 2001

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ROCKVILLE, MARYLAND

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The meeting commenced at 9:00 a.m. at Two
White Flint North, 11455 Rockville Pike, Rockville,
Maryland.

PRESENT:

- Chairman Richard A. Meserve
- Commissioner Greta J. Dicus
- Commissioner Edward McGaffigan, Jr.
- Commissioner Jeffrey S. Merrifield

1 ALSO PRESENT:

2 UNION OF CONCERNED SCIENTISTS....David Lochbaum,
3 Nuclear Safety Engineer

4 NUCLEAR CONTROL INSTITUTE.....Dr. Edwin Lyman,
5 Scientific Director

6 CONSTELLATION NUCLEAR.....Robert Denton,
7 President

8 SOUTHERN NUCLEAR.....George Hairston,
9 President and CEO

10 DETROIT EDISON.....Douglas Gipson,
11 Executive Vice-President, Power
12 Generation and
13 Chief Nuclear Officer

14 NUCLEAR ENERGY INSTITUTE.....Joseph Colvin,
15 President and Chief Executive Officer

16 INSTITUTE OF NUCLEAR POWER Fred Tollison,
17 OPERATIONS.....Executive V.P.

18 ELECTRIC POWER RESEARCH Dr. Theodore Marston,
19 INSTITUTE.....Vice President and
20 Chief Nuclear Officer

21 STATE OF CONNECTICUT.....Dr. Edward Wilds,
22 Director, Division of Radiation, Department of
23 Environmental Protection

24 NRC DEPUTY EXECUTIVE DIRECTOR William Kane
25 FOR OPERATIONS

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1 ALSO PRESENT: (CONT.)

2 NRC OFFICE OF NUCLEAR REACTOR Samuel Collins

3 REGULATION

4 NRC OFFICE OF NUCLEAR Ashok Thadani

5 REGULATORY RESEARCH

6 NRC GENERAL COUNSEL Karen D. Cyr, Atty.

7 NRC SECRETARY Annette Vietti-Cook

8 NRC DEPUTY EXECUTIVE DIRECTOR Patricia Norry

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

(9:00 a.m.)

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3 CHAIRMAN MESERVE: Why don't we get
4 underway. Good morning. I am Richard Meserve. I am the
5 Chairman of the Regulatory Commission. And on behalf of
6 the Commission, I would like to welcome everyone to this
7 meeting with the nuclear regulatory stakeholders on the
8 topic of progress of regulatory reform.

9 We are pleased to have a panel representing
10 a broad range of our various constituencies, including
11 public interest groups, nuclear utilities, financial
12 communities, nuclear industry associations and the
13 states.

14 Before I introduce our panelists, I would
15 like to make a few opening remarks.

16 The events of September 11 and their
17 aftermath have deeply affected all of us in many ways
18 both personally and professionally. While security at
19 nuclear power plants and other nuclear facilities has
20 always been a key concern for the commission, the last
21 five weeks have seen these issues pushed to the
22 forefront. I and my fellow commissioners continue to be
23 fully engaged on these issues and we are determined to
24 see that the American people can have confidence that our

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1 licensees' operations are carried out in such a way as to
2 protect the health and safety of the public.

3 At this time, we are not aware of a credible
4 threat directed at our licensees' facilities. As all of
5 you may know, there was an event last night at Three Mile
6 Island where there was a threat that we had to take
7 seriously at that time that did require a response in
8 various actions by ourselves, our licensees and various
9 other federal agencies. That threat was determined this
10 morning not to be a credible one. In any event, we have
11 maintained a heightened security status since September
12 11 at all of our nuclear power plants. Licensees have
13 taken a number of steps to strengthen security at nuclear
14 facilities. And the NRC has worked with many other
15 agencies of Government to assure a coordinated response.
16 Staff has also been directed to undertake a top-to-bottom
17 review of the NRC's security requirements so as to assure
18 that there is an appropriate programmatic response to the
19 events of September 11. I expect there will be many
20 changes at the NRC and elsewhere in Government as a
21 result of the heightened nature of the terrorist threat
22 that our Nation confronts.

23 Other issues that were before us before
24 September 11 are still before us. We must continue to
25 work on these other matters as well. One of the most

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1 significant initiatives in which we have been engaged is
2 our effort to risk inform our regulations. We continue
3 to believe that risk insights can be employed to better
4 ensure the safety of our licensees' facilities and
5 operations and we support changes in the regulatory
6 process accordingly.

7 The purpose of this meeting is to solicit
8 the views and concerns of our stakeholders on the broad
9 subject of regulatory reform. This is intended to be an
10 open forum in which we receive input from representatives
11 of the various sectors, take what we hear from you today
12 into account as we move forward.

13 Let me now introduce our panelists and
14 proceed with the meeting. From left to right from the
15 point of view of the audience, our panel includes Mr.
16 Ashok Thadani, Director of the NRC's Office of Nuclear
17 Regulatory Research; Dr. Theodore Marston, Vice-president
18 and Chief Nuclear Officer of the Electric Power Research
19 Institute; Mr. Joseph Colvin, President and CEO of the
20 Nuclear Energy Institute; Mr. David Lochbaum, Nuclear
21 Safety Engineer of the Union of Concerned Scientists; Mr.
22 George Hairston, President and Chief Executive Officer of
23 Southern Nuclear; Hub Miller was intending to be here,
24 but in light of the events last night is unable to join
25 us this morning; Mr. Robert Denton, President of

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1 Constellation Nuclear; Mr. William Kane, NRC's Deputy
2 Executive Director for Reactor Programs; George, did I
3 skip over you? I'm sorry. I'll come back and do the
4 commissioners at the end.

5 MS. NORRY: I'm sitting.

6 CHAIRMAN MESERVE: Pat Norry is here; Mr.
7 Douglas Gipson, Executive Vice-president, Power
8 Generation and Chief Nuclear Officer of Detroit Edison;
9 Dr. Edwin Lyman, Scientific Director of the Nuclear
10 Control Institute; Dr. Edward Wilds, Jr., Director,
11 Division of Radiation of the Department of Environmental
12 Protection of the State of Connecticut; Mr. James
13 Asselstine, Managing Director, Fixed Income Research for
14 Lehman Brothers; Mr. Fred Tollison, Executive
15 Vice-president of the Institute of Nuclear Power
16 Operations; and Mr. Sam Collins, Director of the NRC's
17 office of Nuclear Reactor Regulation. Sprinkled
18 throughout the panel, of course, are my fellow
19 commissioners, Edward McGaffigan on my right; Greta Dicus
20 on my right; Jeffrey Merrifield on my left; Nils Diaz, as
21 all of you know, has recently rejoined us, but prior
22 commitments require that he not be here and he asked me
23 to send his regrets that he could not join us this
24 morning. We have senior managers available in the room

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1 if necessary to address specific questions in their area
2 of responsibility.

3 With that, let me turn to my colleagues to
4 see if they would like to make some opening remarks.
5 Okay. Let us proceed. I suggest that we proceed or
6 start with our outsiders, not the NRC staff. The NRC
7 staff, of course, will have their opportunities to engage
8 in the discussion. What I suggest we do is sort of walk
9 around the table and ask for people to give their
10 comments, concerns, issues and so forth. After everyone
11 has had the opportunity to make some opening comments, we
12 can then have a discussion of the principal points. With
13 that, why don't we proceed. And our first speaker is Dr.
14 Theodore Marston.

15 DR. MARSTON: Thank you, Mr. Chairman. This
16 is a real pleasure to be here as a member of the
17 stakeholder committee. My comments today will be focused
18 on the improvements we have seen in the last 20 years
19 involved in our risk assessment and risk management
20 program. And I would like to preface my remarks by
21 saying I worked in a number of industries, including
22 petro-chemical, the chemical refining railroad, etcetera,
23 and who use quantitative risk assessments. But I think
24 the nuclear industry has benefitted the most from that,
25 although I must say that we committed more time than

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1 resources into the development of the risk assessment
2 management approach. My comments have been provided to
3 you in a paper that we submitted earlier this year at the
4 request of NEI and it's called, "Safety Benefits of Risk
5 Assessment at U.S. Nuclear Power Plants." The details,
6 really, of the paper outline the transformation from a
7 deterministic compliance culture to a risk-informed
8 safety culture. And I think some of the benefits of this
9 transformation are worth noting. All of the plants have
10 models of expertise and experience with applications. We
11 have seen in the last 10 years that the average core
12 damage frequency has been reduced by a factor of 3. And
13 this is not as a result of modeling improvements, but a
14 result of equipment reliability improvements, performance
15 improvements. With the decrease in core damage frequency,
16 we have also seen an improvement in capacity factor of
17 our plants by over 20 percent. We are running almost 90
18 percent right now. We have seen the scram rate reduced
19 by a factor of 4. And according to your own
20 calculations, you have seen significant events reduced by
21 a factor of 10. This has been a very major contribution
22 to this. There have been a number of things outlined in
23 the paper and I will mention in a moment.

24 I think the important thing for the
25 country's perspective that this has now increased our

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1 nonemitting contribution to our society. Very important.
2 We are contributing about 70 percent -- 76 percent of the
3 nonemitting generation. And that is important when we
4 look at a global climate change perspective. I think
5 four insights from this assessment are important. One we
6 found out that design basis accidents really are not the
7 major contributors to risk. We found the more commonly
8 occurring transients such as trips, loss of outside power
9 and small rate locusts (phonetic) are, in fact, the major
10 contributors. And many steps have been taken to improve
11 that. We also found the dominant contributors are very
12 plant specific. That is an important one. And finally,
13 we found that only a fraction of the traditional safety
14 equipment really contribute to the prevention and
15 mitigation of risk or core damage events. And there are
16 a number of specific examples, which I won't go into.
17 The industry has had a number of voluntary initiatives.
18 The NRC has also mandated initiatives such as station
19 blackout, the atlas rule and the maintenance rule. So I
20 think we made a lot of progress. However, I think more
21 progress is certainly appropriate in this means.

22 We still have a number of deterministic
23 regulations that we really don't believe contribute a lot
24 to safety but do draw significant resources from both the
25 industry as well as the regulatory situation. And we

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1 think that it is important. And some of those events are
2 large rate locust, improvements in service inspection and
3 service testing and single point failure criteria. And
4 I think as we go forward, as the industry becomes more
5 competitive, it is more imperative that we pursue the
6 elimination of not safety significant regulations and
7 resource diversions for a number of reasons. We need our
8 existing fleet. We need to have that license renewed.
9 But also, if we want to have a deployment of new nuclear
10 power plants in this country, which is essential to
11 reduce the carbon dioxide burden that we are contributing
12 to the world, we really have to go a more risk-informed
13 regulatory process. So that is the end of my comments.

14 CHAIRMAN MESERVE: Thank you, Dr. Marston.
15 Mr. Colvin.

16 MR. COLVIN: Good morning and thank you very
17 much, Chairman and ladies and gentlemen for the
18 opportunity to be with you today. I would like to focus
19 my comments really in two areas. The first is on the
20 regulatory oversight program and risk informing of
21 regulations; and secondly, a few comments about moving
22 forward with new nuclear power plants in the United
23 States.

24 With respect to the regulatory oversight
25 process, it is clear that the Nuclear Regulatory

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1 Commission working with the stakeholders has made almost
2 incredible progress from the standpoint of revising the
3 regulatory oversight program and putting in place a
4 system that is transparent with a clear focus on safety
5 and providing the types of indicators and measures and to
6 provide a reasonable approach for both the public, for
7 our companies and for the NRC to look at in how we
8 provide the necessary oversight that the NRC provides to
9 ensure the safety of the public health.

10 The biggest challenge that we have moving
11 forward, while we made tremendous progress on that, is
12 now go back and take a look at the regulations we have
13 and revise the regulations that we have to incorporate
14 these risk insights and the performance-based approaches
15 consistent with those used in the regulatory oversight
16 program. We put a lot of effort in this and made some
17 progress, but quite honestly, that progress is slow. And
18 most likely, at least in my opinion, the reason that we
19 haven't made some of that progress really relates to what
20 I would characterize as cultural issues that exist both
21 within the industry and within the regulatory body. We
22 need to streamline some of the processes and make some
23 appropriate changes.

24 We submitted a letter to the commission on
25 September 10 that provides a lot of the details and I

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1 won't take time this morning to go into those, but we
2 think there are some opportunities to significantly
3 improve the processes and achieve some of these gains in
4 these programs while still maintaining the necessary
5 focus on safety. Just one example perhaps, we got a lot
6 of the programs where we have bundled some fundamental --
7 or I guess proposals and also perhaps some future types
8 of work that needs to be done that have been bundled
9 together with some issues which, in fact, can be dealt
10 with on an accelerated basis. While some of that
11 information needs to be dealt with, it doesn't
12 necessarily need to be dealt with with the issue that is
13 most at hand and most important. And again, our letter
14 focuses on that. And we are continuing to work with the
15 agency and with the other stakeholders in moving these
16 processes forward.

17 But the second point I wanted to make really
18 relates to new plants. And Ted Marston kind of alluded
19 to this, but I just wanted to make the point that even
20 after the events of September 11, our interests from the
21 industry standpoint, in new nuclear power plants has not
22 diminished in the least and in many ways has been
23 accelerated in our thinking because our nuclear power
24 plants provide a very, very important part of our
25 Nation's critical infrastructure our electricity supply.

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1 And as we look to issues related to energy security of
2 our nation, nuclear power plants and using uranium fuel,
3 provide a very important part of our future thinking. We
4 are still moving forward working with the commission,
5 with individual utilities and through NEI on early site
6 permitting programs and planning. We are still intending
7 to move forward in those areas. We are also continuing
8 our activities to work with the agencies on issues
9 relating to the combined operating license.

10 One of the areas that we have a great
11 benefit and new opportunity in new plants is to develop
12 a new risk informed framework for the licensing of these
13 new nuclear power plants. We have a lot of experience in
14 the many, many years of reactor operational experience.
15 And if we take that and, in fact, look at what we have
16 done in the regulatory oversight program and the risk
17 informing of the regulations that we have underway, I
18 think we have some great opportunities to start out in a
19 new and better way than we did the first time around.

20 There are a number of things we need to do
21 in working with the commission on and staff on -- part
22 52.

23 Still some issues that need to be dealt
24 with, programmatic high-tech, generic treatment of
25 environmental issues relating to new plants. Obviously,

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1 you are doing a lot of work in the hearing process and
2 issues relating to Price Anderson coverage and how all
3 those pieces fit together and integrate. As we really
4 intend to move forward, we look forward to the
5 commission's and staff support to work on these important
6 issues as we deal with the other issues that are
7 currently before us. Thank you very much.

8 CHAIRMAN MESERVE: Mr. Lochbaum.

9 MR. LOCHBAUM: Good morning. I think one
10 area we would like to point out as the greatest gains in
11 recent time has been the area of public participation.
12 In the five years since I joined UCS, there has been
13 tremendous improvements in the area of public
14 participation. The public meeting process over the last
15 year is a lot better than it was two, three years ago.
16 And I think that those initiatives that are underway and
17 already realizing improvements are going to help public
18 acceptance of what our regulatory reform agency
19 undertakes. And although there has been some bumps in the
20 road and some problems with public meetings in other
21 areas, I think the gains justify continuing the process
22 and working around those bumps or tolerating the bumps
23 and proceeding forward with the initiatives that are
24 already underway.

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1 As far as the regulatory reforms themselves,
2 we continue to believe that the biggest flaw in the
3 process is the quality and scope of the risk assessments
4 that are being used to drive the regulatory reforms. The
5 risk assessments pretty much are limited to in analyzing
6 risk of power reactors operating at power. Low power
7 shutdown risk is pretty much excluded from the risk
8 analysis. Spent fuel safety is excluded from the
9 process. And sabotage is excluded from all, including
10 the full power risk. Therefore, there is not a complete
11 picture of the risk and you can't make risk informed
12 decisions if you don't have a more complete understanding
13 of what the risk is.

14 Related to that or just as important as that
15 is the process itself. The back fit rule protects
16 licensees from undue addition of improvements that do
17 increase safety levels at the plants but which don't have
18 a corresponding cost benefit. So therefore, the agency
19 cannot impose a new requirement that clearly improves
20 safety unless it is shown to be cost effective. But the
21 reverse of that, which the agency has as its top
22 priority, going from a higher level of safety to
23 something less than that -- equal or less than that,
24 isn't protected under the same formal analysis. Basically
25 a requirement can be eliminated or lessened simply by

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1 agreement between the agency and the industry. It seems
2 unfair or it is unfair. And unless there is equal
3 protection for the public against reduction or
4 elimination of requirements as there is for the industry
5 when new ones are imposed, the process itself is flawed
6 and there can be mistakes made that reduce safety. Since
7 one of the NRC's performance goals is to maintain safety,
8 it would seem necessary that that kind of process
9 equivalence be provided before any more risk reductions
10 are made. Thank you.

11 CHAIRMAN MESERVE: Mr. Hairston.

12 MR. HAIRSTON: Thank you, Mr. Chairman,
13 Commissioners and others in attendance. I have been
14 asked to talk on public confidence. I think we drew
15 straws and somehow I got the short end. And as I thought
16 about, you know, in times like this, what do you say
17 about public confidence? And surely as the winds of war
18 blow across America for the first time in 150 years, this
19 is an important topic. Public confidence, what does it
20 mean? The commission has appropriately identified this
21 as one of your strategic goals. I assure you that
22 establishing and maintaining a high level of public
23 confidence in us and in our regulator is essential to our
24 current and expanded use of nuclear power and technology.

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1 As with the book, there are many story lines
2 that play out. Today, I would like to talk about two,
3 two factors that affect public confidence. The first is
4 how well we operate our plants today. It is essential
5 that we continue to improve our operations, our safety.
6 Our reliability is at an all time high. This past
7 Wednesday -- yesterday, I was at INPO talking to 10 or 12
8 plant managers. And certainly what I had to say to them
9 changed a little bit after September. And all of us were
10 50, 55, 60 years old and we can't go join up. Most of us
11 have served, but there is something we can do for our
12 Nation and that is to renew with vigor the excellence in
13 which we operate our power plants. Our power plants are
14 an essential infrastructure of the U.S. and we can do no
15 less than to operate them with vigilance and vigor.

16 The second factor, I think, affects public
17 confidence is the regulatory process. I want to make a
18 few comments about that. First, deliberate and timely
19 decision-making improves public confidence. Certainly
20 the work that has gone on over the last 10 years on the
21 regulatory reform, the many inputs from the stakeholders,
22 the feedback from the stakeholders, has increased public
23 confidence in nuclear power. The transparency of the
24 process alone is not sufficient. Transparency only
25 provides a window on the regulatory process. Confidence

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1 is built when the public views a process that includes a
2 deliberate evaluation of the issues, due consideration of
3 all the stakeholders, practical application of problem
4 solving and timely decision-making. Rule-making must be
5 conducted in a timely and orderly fashion. Public
6 confidence will be improved by reducing the duration of
7 this process. Confidence is also improved when the
8 public sees the commission appropriately balance the risk
9 and the benefit of any action. Small uncertainties
10 should not be allowed to obstruct opportunities to
11 quickly capitalize on regulatory improvements that are
12 readily evident.

13 Last, balance. Balance. We have many
14 publics. All have a right to be included. The NRC has a
15 leadership role to ensure that changes are based on need
16 and do not have unintended consequences. We have a
17 system today that works and it works well. Changes --
18 and surely they will come -- should only be made where
19 they improve our current system. The public expects this.
20 The public demands this. Thank you.

21 CHAIRMAN MESERVE: Mr. Denton.

22 MR. DENTON: I appreciate the opportunity to
23 participate today and this is an excellent forum where
24 diverse stakeholders can participate in public to discuss
25 all facets of nuclear regulation. Today I will

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1 concentrate my remarks on the issues associated with
2 attracting, maintaining and managing a skilled nuclear
3 workforce. This workforce is a critical resource
4 companion, the well-designed hardware which constitutes
5 the plant.

6 In my recent experience, the single event
7 which has enabled the industry to attract and maintain a
8 workforce that has improved the ability of the industry
9 to attract and maintain a workforce is license renewal.
10 This is a regulatory and industry success as far as
11 providing avenues of career path opportunity for many
12 talented engineers and skilled craft which prior to this
13 event were leaving some of our older plants. Certainly,
14 the extension of plant lifetime for up to 20 years has
15 changed the picture dramatically for those plants who
16 have taken advantage of the process. I personally have
17 seen and expect to continue to see renewed interest by
18 young engineers and skilled craft in a career in the
19 nuclear power field. The leadership provided by the NRC
20 in establishing a thorough, predictable process for
21 license renewal has not only renewed the life of the
22 hardware industry, but also the life of the credible
23 resource of the workforce in the industry.

24 There are some challenges also to managing
25 that workforce. Managing the workforce requires

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1 recognition of the roles of the regulator and the roles
2 of licensing management. Licensing management is
3 accountable to the NRC for regulatory compliance. And in
4 turn, the NRC has enforcement options available to ensure
5 this accountability. Likewise, plant employees are
6 accountable to licensees for compliance. Management must
7 be able to enforce accountability when needed.
8 Occasionally such enforcements will lead to allegations
9 by employees. In these situations, I encourage the NRC
10 to be mindful of the need for consistent accountability
11 to licensing management and not accord protection too
12 readily such that employees may be tempted to
13 inappropriately use the provisions for protection merely
14 to shield accountability.

15 Other aspects of performance that are
16 currently being discussed, I believe such as measuring
17 employee performance, I believe employee performance can
18 best be measured by the safety performance on the whole
19 of the plant. Overly prescriptive rules get in the way.
20 Cause discourse that is unnecessary, such as current
21 discussions on permissible work errors. Rules or
22 guidelines we had in place for 20 years that served the
23 industry well. Further discussions I don't believe will
24 lead to any incremental improvement in the safety of the

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1 plant. Again, I thank you for inviting me here today.
2 Thank you very much.

3 CHAIRMAN MESERVE: Mr. Gipson.

4 MR. GIPSON: Thank you, Mr. Chairman. I
5 would like to, if I could, just say a few words about
6 nuclear security and the industry's efforts in our
7 security force and our security plants. Since September
8 11, the security plants in this country have been on a
9 heightened level of alert. The industry and the
10 regulator made that decision on September 11 and we have
11 remained there. Communications between the regulator at
12 the regional level has been excellent between the region
13 administrators. And communications between the staff and
14 the nuclear industry has been excellent as well.

15 Some of the lessons learned or questions to
16 be answered from September 11 is the role of plant
17 security in support of our national defense; how that
18 will be delineated and how that will be defined.
19 Clearly, we have to decide at what point our civilian
20 security forces meet their objectives in the national
21 government and the defense of the country takes over.
22 That dialog is ongoing at the congressional level as well
23 as the industry level and, of course, with the
24 regulators. We feel that our plants are probably the
25 most hardened facilities in the country. They are

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1 industrial security forces and they are not military
2 forces. They have functioned well in the past and we
3 continue to work on improving our security process. We
4 need clear and comprehensive rule-making from our
5 regulator to ensure that our security programs remain not
6 only robust as they are at this present time, but that we
7 continue to improve them.

8 The industry has been working with the
9 regulators and we have a security working group. Many of
10 the stakeholders in this room have attended meetings
11 where we have openly discussed these plans and our idea
12 about rule-making and how to go forward with rule-making.
13 One of the industry's endeavors is to ensure that that
14 rule-making is clear, measurable and realistic security
15 requirements. Inspection and evaluations must be
16 consistent with the rule and performance should be
17 measured against the requirements. And there should be
18 continuous learning. There should be a disciplined
19 management process to resolve issues and ensure that the
20 learning is incorporated not only in the facilities that
21 are practicing and participating in our safeguards
22 programs, but that information is also shared with the
23 other licensees and owners of nuclear facilities across
24 the country.

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1 The industry will remain focused on security
2 requirements. We live around these plants. We work in
3 these plants. And it is our obligation to ensure that
4 these plants are not only operated safely, but that they
5 are protected as well.

6 So we look forward working with the industry
7 going forward on rule-making. And we will continue to do
8 our part to communicate with the regulators.

9 Just one area that I would like to just
10 mention is the sharing of information. Since September
11 11 and this heightened level of security that we are at,
12 sharing of information is not necessarily in the best
13 interest of the public with respect to what the response
14 actions of the plants are and the response action of the
15 regulator. So to that end, we, as an industry, are
16 asking that everybody act responsibly with respect to
17 sharing of information and how information is delineated.
18 And I think the commission did a good job and their staff
19 did a good job of immediately recognizing this and moving
20 to a safeguards mode with security information. That
21 concludes my remarks.

22 CHAIRMAN MESERVE: Thank you. Dr. Lyman.

23 DR. LYMAN: I would like to thank the
24 Commissioner for the invitation to participate here.
25 Security, obviously, is at the forefront of our concerns

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1 at the Nuclear Control Institute. And it has had a
2 pretty direct impact on my ability to participate in
3 today's meeting. And I refer to, of course, the absence
4 of most of the material on the web site. Ordinarily, I
5 may have -- in preparing for a meeting like this, there
6 are certain issues that I track. I would have tried to
7 get the most recent information. It wasn't possible. So
8 if it sounds outdated, there is a reason. I mean, I
9 think I would like to stress the availability of
10 information at this point is a very important issue. But
11 this information largely is already out there. And I
12 think the response of trying to compartmentalize and
13 protect as much information which has -- which can
14 arguably have safety or security significance, but also
15 arguably doesn't, will really impair the ability of the
16 public to participate and maintain a level of confidence.

17 So I would urge the process of bringing up
18 the web site to be done as soon as possible and a
19 defensible boundary be drawn between what is being made
20 available to the public.

21 Other aspects of security, I think, is
22 crosscutting every realm of safety. And one is the issue
23 of the current vulnerabilities of nuclear power plants.
24 And I do appreciate the Chairman's comments on focusing
25 the commission on this issue, but we are not convinced.

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1 And I think there is still a great deal of concern among
2 the media and the public that response has not been
3 adequate, at least what is visible, leading to
4 inconsistencies that vary from state to state. Some
5 states have now called out the National Guard. Others
6 nearby have not. And that leads to, I think, an overall
7 confusion of what the actual threat is and the actual
8 response.

9 Security also impacts a whole variety of
10 other issues, including construction of new facilities,
11 some of which are now in progress. And I refer
12 particular to the mixed oxide fuel fabrication plants.
13 It seems to me that any new licensing procedure really
14 has to be postponed until review of the regulatory
15 commission takes place. And that is why we have signed
16 on to a petition with a Georgian public interest group to
17 that effect.

18 Other issues, mixed oxide fuel programs, I
19 think, really have to be looked at in a secured
20 environment. Various initiatives -- for instance, the
21 downgrading of security requirements for storage of fresh
22 plutonium fuel reactors seem to be on the way things were
23 going before September 11. I hope issues like that also
24 be given a hard look.

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1 Now the relationship between security and
2 risk information which Dave Lochbaum previously discussed
3 is a very good one. There is no way to assign a
4 defensible risk number to a sabotage attack. Any kind of
5 informed risk initiative now has a variable in it. And
6 one has to think hard about issues about whether we can
7 reduce conservatism in regulations without having a
8 disproportionate risk of a terrorist threat. I really
9 hope that is going to be looked at.

10 Moving on, I would like to site a number of
11 risk information issues that in the overall context that
12 I am concerned about. One is risk informing combustible
13 gas regulation particularly with relationship to --
14 (inaudible)

15 VOICE: Could you please use the microphone.

16 DR. LYMAN: I am concerned that parts of the
17 Rule 5044 which are cited to be too onerous be thrown
18 out. That is going on a fast track, while addressing the
19 issues about potential vulnerabilities like ice condenser
20 plants and additional requirements.

21 Another issue, extended power upgrades.
22 These are in the works. Some of them were very large.
23 Fractional percentage power increases, I haven't seen any
24 risk analysis of those particular applications, and which

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1 I think are highly significant. So this is just a
2 scattering, but my own opinion. Thank you.

3 CHAIRMAN MESERVE: Dr. Wilds.

4 DR. WILDS: Good morning, Mr. Chairman, and
5 thank you for inviting Connecticut to be here. I am just
6 going to focus on one topic. I think that in going
7 forward with risk informed regulations and security both,
8 NRC is going to have to develop a more effective
9 relationship with the states. The states are clearly
10 involved at the nuclear power plants, not directly in
11 nuclear safety issues, but on other issues. And if that
12 partnership isn't formed, there may be, you know,
13 conflicts or disconnects in what the licensee needs to do
14 to meet both the state requirement or an NRC requirement.

15 I think since September 11, everybody is
16 noticing that the states do have a role down at the power
17 plants. We have probably been at more meetings with
18 various state agencies and the licensees in our states in
19 the last month than we have had in the last year. So
20 that is where I think, you know, I am going to keep my
21 comments on is that we do need that effective partnership
22 with the states and the recognition that what is done by
23 the NRC or the states both impact the licensee and that
24 we have to make sure that there is no conflicts. Thank
25 you.

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1 CHAIRMAN MESERVE: Mr. Tollison.

2 MR. TOLLISON: Thank you, Mr. Chairman,
3 commissioners, ladies and gentlemen. At INPO, our
4 charter is to promote safety and reliability in the
5 commercial industry and to promote excellence. And I
6 have a few comments today on two topics. First is the
7 current performance of the industry as we see it from
8 INPO's point of view. And second, a few words about our
9 activities to help improve the self-assessment and
10 corrective action activities of our membership.

11 First the industry performance: Performance
12 indicators, which are one indicator of our performance in
13 the industry, at the end of the year 2000, reflect the
14 industry's continued improvement and safety and
15 reliability. The first time in history at the end of the
16 year 2000, all 1010 performance indicators were met or
17 exceeded by the industry. I will mention just a couple.
18 First unit capability factor, the industry median value
19 reached an all time high of 91 percent. For unplanned
20 capability loss factor, the industry median value was a
21 new low of 1.7 percent. And for unplanned reactor
22 scrams, the median value continued to be zero for the
23 fourth consecutive year.

24 Every five years since 1985, the industry
25 has set more aggressive goals for itself. And today,

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1 median performance has reached the point to where, in our
2 view, there is reduced value in setting more aggressive
3 performance goals for most indicators. Instead, we
4 believe it is now more appropriate to shift focus toward
5 helping more plants achieve these goals to achieve the
6 current high level of industry performance. So this
7 shift in approach brings attention to the outlier plants,
8 as we call them, to help us channel our resources to
9 better help the plants have the greatest room for
10 improvement. For example, the new 2005 goal just set for
11 unit capability factor is 91 percent. And that figure is
12 a very high one. And it is precisely the median level
13 that the industry achieved at the end of 2000. But only
14 half the plants, those at the median or above, are
15 achieving that level of performance.

16 So our job at INPO in part is to help the
17 outlier plants improve their performance and safety and
18 reliability standards while ensuring that the better
19 performers continue to maintain their current high level.

20 To accomplish these goals, the industry
21 needs a strong capability and self-assessment and
22 corrective action. And this is equivalent, Mr. Chairman,
23 to the problem identification and resolution element of
24 the revised oversight process. We believe INPO has an
25 important role to play in helping the industry improve in

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1 this area. The concept of self-assessment and corrective
2 action underscores INPO's mission of promoting
3 excellence. In fact, any organization that seeks to
4 achieve excellence must first instill a culture that
5 values self-improvement. This area has become more
6 important over the last few years. We have continued to
7 build it into our evaluation and assistance activities
8 with our membership. During the past 15 months, we have
9 been evaluating the industry's self-assessment and
10 corrective action programs against a set of principles we
11 first published in 1999. We are seeing many programs
12 that are working well and frankly, some that need
13 improvement to fully support long-term, high performance
14 of the station. These programs can be improved in part
15 through more aggressive benchmarking against best
16 practices in the industry. Facilitating this
17 benchmarking process is one of INPO's core competencies.

18 We encourage the NRC to recognize the value
19 and effectiveness of the input in this area. And we hope
20 that NRC will accept as it did with the training issue
21 many years ago that these efforts reduce the need for NRC
22 oversight and self-corrective action. INPO and the NRC
23 have worked to minimize unnecessary overlap between our
24 activities and to focus our respective resources in ways
25 that best support our missions. The issue of

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1 self-assessment and corrective action is another example
2 where this approach can benefit the NRC, INPO, the
3 utilities and the general public. We are confident of
4 the industry's ability to make progress in this area --
5 further progress. And we will work hard -- we will work
6 hard to make sure this happens.

7 Thank you for this opportunity to
8 participate today.

9 CHAIRMAN MESERVE: I would like to thank all
10 of you for your comments. You have raised a number of
11 issues that are really central to the things that the NRC
12 has been engaged over the past year and which I am sure
13 are going to be matters that will consume us over the
14 next several.

15 Let me turn now to my colleagues and give
16 them an opportunity to comment or ask questions or probe
17 further on the issues that have been raised this morning.

18 First Commissioner Dicus.

19 COMMISSIONER DICUS: Thank you, Mr.
20 Chairman. I will make a couple of rather brief comments
21 based upon some of the things that we have heard this
22 morning. I know the Union of Concerned Scientists, in
23 your submitted -- in the letter submitted, expressed
24 among other things some very positive statements. And
25 thank you. We do appreciate those.

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1 Also, you expressed some concern that you
2 think that in our regulatory reform, we concentrate a lot
3 on the economic viability and maybe less so on some of
4 the safety issues, license renewal, grant in work in
5 progress and resolution of safety issues, etcetera. And
6 we need to be very mindful that we do have this balance.
7 And the term balance has certainly been used more than
8 once this morning. But I think in all fairness, it
9 clearly -- in our monthly reports to Congress, which we
10 are still providing, we do, I think, balance. The most
11 recent month's letter did inform Congress of the CRDM
12 cracks and what we are doing about that. And certainly
13 right now, we have the security-related issues. So I
14 think there is a balance. You feel concerned about it.
15 So obviously that is something that we will watch very
16 closely.

17 I want to address the issue also that was
18 brought up by Mr. Denton on the need for a good
19 workforce, a qualified workforce and the availability of
20 a workforce. And I think us and the industry are sharing
21 some concerns. And clearly, we have addressed this with
22 Congress. We are very much aware of it. And we are
23 working within our agency to try to address some of the
24 issues that we see that could impact us. I would like to

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1 point out this is also an international issue. So it's
2 not particularly the product of the United States.

3 I had conversations last week with
4 counterparts in Mexico and also with the industry in
5 Mexico. And they expressed the same sort of concern to
6 me. I also visited a medical facility there and was
7 struck by the limited number of people that they had
8 available for a very, very busy oncology practice that
9 they had there. So we have this issue to deal with. And
10 I think we are quite aware of it and we are trying to
11 deal with it to the best extent we can.

12 And then finally have to address the issue
13 of working with the states. As you well know, I hold
14 that concept quite dear to me. And I think you brought
15 out a very important point, that in the crisis that we
16 have been dealing with since September 11, certainly
17 become even acutely aware -- and I think we have always
18 been aware what the state capabilities were, but even
19 became more acutely aware, even with the communication in
20 working together. And I would suggest also that the
21 industry be very aware of the capabilities you have in
22 your own back yard and be able to utilize those to the
23 extent possible. Thank you, Mr. Chairman.

24 CHAIRMAN MESERVE: Commissioner McGaffigan.

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1 COMMISSIONER McGAFFIGAN: Well, I would
2 agree with the chairman. There is a large number of
3 issues that have been brought up. A lot of them are
4 issues that -- all of them are issues that we have been
5 working on.

6 I guess I will just briefly talk about risk
7 informed regulation because my colleague to my left, Mr.
8 Lochbaum, raised it. And I think that what we have been
9 doing has been appropriate. I don't think that the --
10 you know, that there has been a tremendous success in
11 recent years in risk informed regulation. That does not
12 mean that we have perfect PRAs for all of the plants for
13 all phases of operation. But it means we have had PRA
14 results good enough to make the decisions that we needed
15 to make. And I think we have been documenting those
16 decisions as we have made them.

17 I remember when we did the revised source
18 term. We had a very comprehensive rule-making. And we
19 went through why we thought that rule would not only
20 improve safety, reduce the unnecessary burden. We
21 thought that was a win all the way around.

22 Dr. Lyman mentioned the combustible gas
23 regulation that we are likely to change very shortly. It
24 is a comprehensive paper that we put out last September
25 by the staff as to why they thought that regulation was

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1 appropriate. And they raised some issues with regard to
2 ice condenser and the BWR Mark III containments, but they
3 were different issues. They were issues that we needed
4 to -- that we needed to address as we went forward. And
5 the staff is currently suggesting we deal with those
6 issues as a generic safety issue rather than rule-making
7 itself. We have been very transparent as we went through
8 that process.

9 I think Mr. Lochbaum's comments that we
10 don't necessarily go through the same rigorous analysis
11 as we do for a new regulatory requirement. But I think
12 it is incumbent on people we do these things in the open.
13 We have very voluminous rule-making packages. If people
14 want to comment that they don't think we are justified in
15 reducing the burden and quantifying the costs, I think
16 those are fair comments. But our rule-making process
17 requires regulatory analysis whether it is a new
18 requirement or a reduction in a requirement. The major
19 difference for the new requirements, as I understand it,
20 is not just that there has to be a cost benefit analysis
21 -- that it shows the benefits exceeds the costs -- but
22 that there has to be a substantial increase. So -- and
23 people probably have read my votes. I am not wild about
24 the substantial increase test. But I am very supportive
25 of the cost benefit criterion and that that needs to be

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1 part of our process. As I say, I think it is. It has
2 been in the rule-makings that I can recall recently that
3 we have done that have been so-called risk informed
4 rule-makings. It is intended to be in the ones we intend
5 to do in the future. And I think we need to have
6 comments on specific rules if people believe that we are
7 reducing burden without justifying why we think that
8 reduced burden will maintain safety.

9 CHAIRMAN MESERVE: Thank you, Commissioner
10 McGaffigan. Commissioner Merrifield.

11 COMMISSIONER MERRIFIELD: Thank you, Mr.
12 Chairman. I agree there is a lot of things on the table.
13 There's a couple of issues that I would like to have
14 people focus on and respond to some of the things that
15 were said this morning.

16 The first one I would direct to Drew Colvin.
17 I would be interested as a followup in your thoughts of
18 going forward on risk informing our regulations; where we
19 ought to be putting our priorities. One of the things we
20 recognize now is that risk informing our regulations is
21 not easy and requires a fair amount of staff and other
22 resources, resources which your members are picking up 96
23 percent of the bill at this point. And given all of the
24 other things that we have going forward, the possibility
25 for new reactor orders, license renewals, license

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1 transfers, grappling with the safety issues subsequent to
2 September 11, from a resource standpoint, is there
3 sufficient interest within NEI to pursue these
4 activities? So that would be something I'm interested in
5 from your perspective in going forward.

6 To Mr. Lochbaum, I appreciate the kind
7 comments about the NRC and our staff. And I agree with
8 you. I think it is a lot better than it was before I
9 became a commissioner three years ago. I was -- I had my
10 interest peaked by some of the comments you made about
11 our looking at some of our regulations in our efforts to
12 reduce unnecessary burden; have we cut the margins on
13 safety. You said perhaps we hadn't met our goal of
14 maintaining safety but, in fact, we reduced safety.

15 I am reminded of an analogy -- and I know
16 you make them very often. Our Nation has many, many
17 fewer nuclear missiles than we did 10 years ago. Is that
18 because we got rid of a whole bunch? Does that make us
19 any less safe? And I think the clear answer in that case
20 is no. I think an analogy could be made to the plants.
21 Just because we have gotten rid of some unnecessary
22 regulation, doesn't mean we are any less safe. But I
23 would be interested in specific examples you have where
24 you believe rather than maintaining safety, we have, in
25 fact, eroded it.

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1 To Dr. Lyman, I appreciate the comments on
2 security. I think we are all grappling with that around
3 here. One of the issues for me as a commissioner in
4 dealing with our licensees is how do we go about drawing
5 the line. We are a nation of laws. And we have as an
6 expectation, that as citizens, either as industry people
7 or as private citizens, that we are going to be protected
8 by our local and state police and by our Federal
9 Government and our military. We have as our regulations,
10 required our licensees to reply to a design basis event.
11 And I think in comparison, having seen 87 units in the
12 last three years, I think our licensees have very robust
13 structures in order to do that. We need to reassess in
14 going forward what else we think we need to impose. But
15 there is a quandary of how much do you impose on a
16 private citizen to defend themselves. Certainly, as
17 residents in our own homes, it is reasonable to expect we
18 lock the doors and keep the keys out of our cars and
19 button up to the extent that we can. But in an increase
20 to rising crime in our neighborhoods, the Government
21 doesn't expect us to arm ourselves and buy shotguns and
22 handguns. We expect the police to respond when we call.
23 So I am interested in hearing a little bit more from you
24 how we, as a commission, may go about defining that line.
25 What is appropriate for us to impose on our licensees

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1 given our Nation's desire not to have a lot of armed
2 militias around and what is appropriate for the federal
3 and state government to assume that we have the robust
4 security at these plants. Thank you, Mr. Chairman.

5 CHAIRMAN MESERVE: Thank you, Mr.
6 Merrifield. Commissioner Merrifield has raised a few
7 issues in which he would like to get a response. Before
8 we return to those, let me just add d two more and we
9 will get the people he has directed the questions to a
10 minute to think about the responses. And I will lay out
11 a few more for evaluation.

12 Several of you have mentioned the importance
13 of openness and about our processes as being an important
14 vehicle for us to have informed decision-making and to
15 establish public confidence. One of the things that we
16 have learned as a result of the September 11 event is
17 that there are concerns by many about some of the
18 information that we have made available as part of that
19 process. And it is a very painful kind of decision we
20 make in that I think in trying to address this issue in
21 that I have thought that it critically important for the
22 NRC's capacity to achieve public confidence is to make
23 sure we reach our decisions in the open, that we explain
24 why we made our decisions, have the information that is
25 the foundation for the decisions be publicly accessible

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1 so that all can understand how we have reached our
2 decision. They may not always be happy with them, but at
3 least they can understand the thought process that we
4 have gone through, and the concern being that things that
5 are done in secret would be presumed to have been made
6 for improper motives. So openness has been a critical
7 thing for this agency to -- as a means by which we can do
8 our work. We get the benefit of input we get from all
9 stakeholders. I think we make better decisions as a
10 result. September 11 has brought home the reality that
11 there may be some types of information that we cannot
12 disclose. So I would be quite interested in peoples'
13 suggestions as to how we can draw this boundary in an
14 appropriate way.

15 Second question I would like to raise is one
16 with Dr. Wilds. You indicated that you think there are
17 improved ways in which the NRC can interact with the
18 states. And I would like to come back to you and get
19 some more concrete suggestions from you as to things that
20 we are not doing that we should be doing. We see the
21 states as important partners with us in the regulation of
22 nuclear matters. And if you have some concrete
23 suggestions as to how we should improve what we are
24 doing, I think it would be valuable for us to hear them.

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1 Let me turn now to the first question that
2 Commissioner Merrifield has raised to Mr. Colvin, which
3 was the question of given the range of activities that we
4 have before us, how should we set our priorities.

5 MR. COLVIN: Mr. Chairman, thank you. Let
6 me try to respond briefly to Commissioner Merrifield's
7 question. I think the real issue is how we look to the
8 priorities in working with the commission and staff and
9 the industry to set those. I think, first of all, the
10 question of priorities is working really well, the
11 setting process, the discussion kind of coming to a
12 common agreement what is more important, which has the
13 highest priority, so on and so forth. And the industry's
14 proposals and petitions to the commission have really fit
15 within that framework, which I think is working pretty
16 well.

17 I think the area that we really need to
18 focus on is really how to, as I mentioned in my brief
19 comments, improve the processes. For example, the
20 commission has SECY 0113 which relates to ECCS and so on.
21 We think there are some real opportunities to extract the
22 key issues where there is a great benefit without a long
23 delay in the process and bring those to bear while in
24 parallel, working on some of the more fundamental or
25 foundation work.

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1 If we go to the question of hydrogen
2 recombiners as an example, I think that question was
3 raised here. And the staff and the commission -- as
4 Commissioner McGaffigan has indicated, has really taken
5 a thorough look at that.

6 There are issues related to ice condensers
7 and Mark III containers that need to be dealt with, which
8 are referable to hydrogen control. So that is an example
9 of what is really working properly.

10 There are some issues I think we can move
11 quickly on. For example, I think you could go to a
12 direct final rule to adopt the American Nuclear Society
13 height standards while we are in parallel doing some of
14 the other foundational work on issues which in many ways
15 is an analogous example to the issue of hydrogen control.
16 So if you go to large break locust issues (phonetic) and
17 the type of studies that probably are appropriate to be
18 done in the meantime, there are a lot of analyses and
19 interim steps that can be taken. We can come up with
20 methodologies that look at appropriate different sizes.
21 And perhaps through that process, eliminate that.

22 I guess the last thing is we really need to
23 focus on what's important to overall safety. You know,
24 we are spending a lot of time, I say, on the issues which
25 we all agree are high safety importance. And where we

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1 can really gain the risk in sites, we are spending -- we
2 are all in agreement for the most part on those. It is
3 the issues of where we are spending the most time and
4 dragging out the discussions or on the issues which have
5 almost no or low safety significance. We have a workshop
6 -- the NRC is sponsoring coming up in November, an
7 all-day workshop on low safety significance; how we treat
8 these low safety significant systems. Now it is an
9 important issue, but that is a question of where we are
10 providing the appropriate balance. And I think we can
11 move in a more effective process to move more quickly to
12 deal with what's appropriate and not go through the back
13 and forths on these issues. And that is where we have
14 the biggest gain. The process issues and how we deal
15 with them provides us the benefits. It is not that we
16 want to circumvent that, but to figure out a way to move
17 it forward quickly and use the agencies and comments and
18 fiscal responsibility and user fees. But I think it's
19 really how we provide collective resources. And I will
20 be happy to talk about that perhaps in more detail. And
21 certainly we can entertain any other discussions with the
22 commission, with staff, on those issues.

23 MR. COLLINS: Joe, just to be sure we are
24 aligned on one of your comments, the purpose of the
25 meeting in November is for option 2. Option 2 is not

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1 just low safety or risk significant issues. It covers
2 all four areas of the spectrum, which includes high
3 safety, high risk and treatment applies to all four of
4 those areas. We are moving forward, I think, rapidly
5 with that. The reason we are having the meeting in
6 November is because NEI was not prepared to have the
7 meeting in October. So I want to be sure we are aligned.
8 with you on that.

9 COMMISSIONER McGAFFIGAN: I might pile on
10 here, too. I know the staff gave -- the commission gave
11 the staff the authority to go out before the rule-making
12 started with every member of the public to have a chance
13 to see the options they were considering with this
14 so-called open 2 rule-making. There are three options
15 out there. And the paper discussed -- and I think -- I
16 don't think we have a fixed position going into that
17 discussion with our stakeholders as to which of those
18 three options we are going to put forward. I think there
19 is honest disagreement within the staff. But that
20 process of putting the rule out even before we have
21 proposed it, we have used in other cases, primarily in
22 the materials area. It has served us well. As somebody
23 suggested, we needed to do, but that doesn't mean we are
24 necessarily going to agree in the end. We are going
25 through on a formal process and will make a final

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1 decision. But I think option 2 is -- shouldn't be an area
2 where there's a problem at the moment. I think the idea
3 -- we finished the south Texas exemption -- was it early
4 August, Sam? And we had three options for rule-making
5 options in September. I suggest you guys go deal with
6 EPA. If they get a rule-making in '91 and finish by
7 2001, that is pretty good. Sure in much better shape
8 with us.

9 MR. COLVIN: Mr. Chairman, let me comment on
10 this. This is not meant as a criticism. I think there is
11 lots of improvement in the process and I won't get into
12 who is ready and who's not. We really want to move
13 forward. I think the question Commissioner Merrifield
14 asked how do we, in fact, bring together the right
15 priorities and, in fact, make the appropriate judgments
16 on what we want to work on and what we ought to allow
17 those resources to be used in different areas. And that
18 is really the purpose of where I think all of our
19 collective discussions should go.

20 COMMISSIONER MERRIFIELD: I think this was
21 brought to a head by some of the efforts related by
22 National Fire Protection Association 805. We are trying
23 to risk inform the fire requirements of part 50. And we
24 came up with a proposal for which there was zero industry
25 interest in moving forward on that. I know our staff and

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1 NEI credits -- and we are engaging with other
2 stakeholders to come up with something that makes sense
3 and something positive out of that effort. It is clear to
4 me to the extent that we are communicating what we think
5 it is going to cost us to do these various efforts. And
6 if at the end of the day only a small number of utilities
7 ultimately want to take advantage of some of the things
8 we are coming up with despite what may be some
9 significant regulatory costs from those, from a budgetary
10 standpoint, the five of us have to make the decisions
11 everywhere. Is this the right place to spend the money?
12 And that was the genesis I was trying to come from with
13 the questions.

14 MR. COLVIN: I appreciate that. On each of
15 these issues that are either paid for through specific
16 licensing fees paid by an individual licensee or paid
17 through by the generic funds which comes out of the whole
18 industry's pockets, I have the same obligation with NEI
19 and the board of directors to make sure we are focusing
20 the resources appropriately also. So I appreciate that
21 comment.

22 CHAIRMAN MESERVE: Before we move on to
23 Commissioner Merrifield's second issue, let me ask if
24 there is anyone else who has comments on this priority
25 setting issue. Ashok.

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1 MR. THADANI: Thank you, Chairman. I think
2 in principle I believe we are in complete agreement. And
3 I think we have had some successes, 5044 in terms of
4 looking at recombiners up front and then taking time to
5 study better the issues with the ice containments and
6 Mark III containments. That is the path, as you know, we
7 are on.

8 Similarly, you refer to rule 5044, the ECCS
9 requirements. Again, in the proposal paper that we sent
10 to the commission, the thought process is really similar
11 to what you are talking about, meaning there are things
12 we can do in the nearer term and then there are others
13 that would take some more time. In fact, that is what we
14 are doing now. In fact, we have two options which we
15 expect to complete on a technical evaluation in the next
16 few months, as a matter of fact.

17 We do have to, also, it seems to me, not
18 ignore the issue of making sure we have a sound technical
19 basis for making changes. There are a number of issues
20 about risk analysis that need to be looked at fairly
21 carefully. So I think there are some fundamental areas
22 if we do make changes to those, such as a definition of
23 size or break and so on. We do need to make sure that we
24 fully understand the implications of those changes in

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1 terms of safety. And I think broadly our goal is the
2 same as yours.

3 You raise the issue of the ANS decay heat
4 standards. I can tell you, yes, indeed, on surface, it
5 looks like it should be a fairly easy thing to do. But
6 there are some issues with the models. And so one has to
7 consider all factors that are going to impact safety in
8 an important way. And I am not talking about an issue of
9 small uncertainties. We should not let small
10 uncertainties hold us back. Some of these issues go well
11 beyond that.

12 CHAIRMAN MESERVE: Let's turn to the second
13 subject that Commissioner Merrifield raised, which is
14 directed at Mr. Lochbaum, about whether there are some
15 specifics where there's concern whether there is an
16 appropriate slashing of the safety margin.

17 MR. LOCHBAUM: In the letter we provided for
18 today's meeting dated October 18, we listed three
19 examples of requirements that had recently been what we
20 felt were lessened without proper justification. The
21 first being the notice of enforcement discretion that was
22 granted by region 3 to the Firmey (phonetic) reactor when
23 they broke their diesel generator and allowing them to
24 continue running an extra week. That was a close call
25 for us because Jim Dyer (phonetic) and all the people

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1 making that decision I have the utmost respect for. But
2 I just think that that decision wasn't fully supported
3 and wasn't consistent with the guidance. And it wasn't
4 -- the conclusion may have been right, but it wasn't
5 justified on the right grounds. So you could come to any
6 conclusion that you wanted basically on that one. So I
7 don't think that was the right way to proceed, to assume
8 that an unknown risk is greater than a known risk.

9 The other example we cited in the report --
10 and I am not trying to defend EPA even though it was
11 raised to the agency in '91 and hasn't been resolved yet,
12 is the issue of steam generator that Dr. Hopenfeld
13 (phonetic) raised a year ago. The staff has made a
14 number of recommendations to steam generator -- the
15 number of related changes -- without proper
16 justification, without the right knowledge that that is
17 the safe thing to do based on the ECCS that was released
18 in February of 2001. We felt that those safety issues
19 that were raised and confirmed by ECCS has to be bona
20 fide and understood before allowing longer periods of
21 time between inspections.

22 Third example I would like to cite -- it
23 wasn't in the paper -- I believe the number is 01-100
24 that went to the commission in June, 2001, which included
25 the security levels at permanently shutdown plants. The

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1 paper that was released in October of 2000 by the
2 technical working group identified some safety threats
3 associated with spent fuel storage and discussed that
4 there were exemptions at plants that have been
5 permanently shut down that may not be consistent with
6 that safety hazard. So we felt there is an indication
7 that safety margins have been compromised without an
8 appropriate knowledge and understanding in advance. And
9 also, there haven't been any shortfalls that hadn't been
10 corrected yet.

11 If I could also address the Chairman's
12 question, if this is the right moment, about availability
13 of information.

14 CHAIRMAN MESERVE: Why don't we defer that
15 one as a separate issue and people can focus on this set
16 of issues that you have raised now. Any comment on --
17 you would like to make on the issues raised by Mr.
18 Lochbaum?

19 COMMISSIONER MCGAFFIGAN: I am going to take
20 a try. I think Dr. Hopenfeld's concerns were dealt with.
21 It was a little bit of a self -- we should have
22 terminated the DPO on numerous occasions. I think the
23 staff recognizes that, but he kept changing it. But the
24 DPO was put out for public comment as we were trying to
25 deal with steam generator issues as we were heading

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1 towards a generic letter of some sort. And in the end, I
2 read the February document from the ACRS totally
3 different from you. And I think Dana Powers (phonetic)
4 has confirmed to the chairman in writing and orally at a
5 commission briefing that our reading is correct, that
6 there was nothing alarmist by the ACRS report. They said
7 there are some things that the staff could do to improve.
8 And they felt that all the staff actions taken thus far
9 and prioritization of those actions in Dr. Travers'
10 (phonetic) updated action plan were exactly on the mark.
11 So, I mean, it may be, you know, that we can all treat
12 any ACRS as a Rorhshach block to project any views we
13 carry deep in our innards, but at least the author of the
14 report believes that we and the staff and Dr. Travers in
15 particular is correctly reading it.

16 With regard to the spent fuel pool study and
17 SECY 01-100, I think what we did based on -- and
18 previously in dealing with shutdown plants, the staff
19 felt that there was close to or absolute zero probability
20 that after a certain period of time there would be much
21 of a danger at those plants from external events. Now as
22 a result of that study last year, there is some minute --
23 still very, very, very low probability that things could
24 go wrong; that the spent fuel pool could be drained and
25 you would have a zirconium fire. And the staff correctly

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1 said to us in that paper, "We have looked at the
2 exemptions based on this study and we do not at this
3 point see any reason to terminate the exemptions although
4 we are going to look at it." And I think they still owe
5 us -- having looked at those exemptions -- whether they
6 recommend we try to roll any of them back. So I don't
7 know. Is the glass half full or half empty? I think it
8 is half full, although my colleague to my left obviously
9 disagrees.

10 CHAIRMAN MESERVE: Let me just note
11 Commissioner McGaffigan's comment of the ACRS
12 recommendation is correct. When the report came in, we
13 did ask them specifically about the adequacy of the
14 action plan. And I think we have an ACRS response on
15 that point to the pace we are proceeding with regard to
16 steam generation issues. There are issues that are
17 outstanding, but the pace we are addressing those
18 questions is reflected in the action plan is an
19 acceptable way to proceed. And we specifically asked
20 them for that guidance with regard to that report, which
21 you are mentioning, the earlier 2001. Sam, do you have
22 a comment?

23 MR. COLLINS: I think Mr. Lochbaum raised
24 some important points. The firm, NOED, and David raising
25 that issue, put some inconsistencies in the process that

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1 we are applying. There were words that would indicate
2 that we are actually doing these reviews of no increase
3 in risk. Those words were pretty clear in the
4 instruction. And really what we are looking at is an
5 aggravated risk, a balance of the considerations. And we
6 have been working internally with our staff and the
7 Office of General Counsel and the regional stakeholders
8 who have to implement this process to clarify those
9 words. And I know David has raised this issue in formal
10 correspondence, and we have responded. Reasonable people
11 can disagree on that point. The steam generator issue is
12 an important issue. And it is a challenge for the Office
13 of Nuclear Reactor Regulation in partners with our
14 research. We are looking at the concerns that were raised
15 internally. And the Office of Research is pursuing those
16 that have been raised by ACRS. ACRS, in indicating the
17 criteria is needed and that criteria can adequately
18 protect the public health and safety. And they went on
19 to say that there is more work needed in the severe
20 accident area. That is not why we are raising it to the
21 threshold of a significant management challenge and
22 reasonable assurance statements that we are providing to
23 the EDO. The Office of Nuclear Reactor information is an
24 area that does need to be tracked. And there is a

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1 commission meeting coming up in the short-term to discuss
2 the status of that.

3 Spent fuel pool safety, I think that has
4 been adequately addressed. There was an ongoing study at
5 the time of the 9/11 events, David, to look at and
6 recalibrate ourselves on some of those potential issues.
7 And of course, that has been altered. But clearly, that
8 issue is in front of us also. And spent fuel pools
9 licensees have been engaged at the direction of Mr. Kane.
10 We have sent out advisories to those licensees and
11 interim actions are appropriate.

12 MR. KANE: David, I wanted to add to what
13 Sam said. Certainly read very carefully what you
14 provided. And I think that is very important in terms of
15 giving us some insight that we took seriously. Certainly
16 the documentation issue you raised I think was a very
17 important one that we have looked at in terms of making
18 improvements there. And I will admit to to some surprise
19 the risk issue. And I think that is (inaudible) -- look
20 at our regulatory that is not quite (inaudible). I think
21 Sam has talked about the additional guidance that we put
22 out to the staff. But I think you have raised some
23 clearly important insights. And we appreciate that
24 contribution. You will see changes as we go forward.

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1 CHAIRMAN MESERVE: Let me say I would like
2 to move on, but I think it important that we have an open
3 discussion of these issues. And they are legitimate
4 questions that you have raised, Mr. Lochbaum. And we do
5 want to be able to address them in the open and address
6 them in a way that we can explain how we have reached the
7 decisions we have.

8 Let me turn now to the third question that
9 Commissioner Merrifield raised, which is the question of
10 how you balance the obligation dealing with security
11 between the private sector and the Government. I think
12 that the events of September 11 have really brought that
13 issue very much to the forefront, something that we are
14 going to have to address, not just at the NRC, but across
15 the Government as a result of activities that are
16 underway with regard to the response to that event. We
17 would appreciate your insights.

18 DR. LYMAN: Well, I have a very simple
19 answer to that given our ignorance about particular
20 details about security measures. But I think the bottom
21 line is there has to be an objective defense for nuclear
22 power plants that is determined based upon a credible
23 basis which fully takes into account the events of
24 September 11 with respect to attacks from ground, sea,
25 river or air. And it also has to address all potential

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1 operating modes of the plant. It has to address the
2 spent fuel pool vulnerabilities and has to involve a
3 credible means of performance testing to ensure that the
4 level of security is adequate. Given that, I think it is
5 possible for the organization that it may not be
6 reasonable for the industry to assume the full costs of
7 such a program. And therefore we are receptive to the
8 idea that the line defined by the state regulation would
9 allow for the Federal Government to provide resources
10 with financial and potential manpower, equipment to deal
11 with that threat adequately. But what we are not happy
12 about is any role of industry in using economic arguments
13 to determine what they think is the appropriate level of
14 defense of the plant. And in this view, I am pretty
15 troubled by the comment that Mr. Gipson said on September
16 11, "Industry and regulators together made the decision
17 to go to the highest state of alert," emphasizing the
18 fact that it is a voluntary recommendation. I don't
19 think it is appropriate for the industry to have any say.
20 And that makes me wonder if the mindset we are proposing,
21 the commission is ready to hear it.

22 COMMISSIONER MCGAFFIGAN: Mr. Chairman, I am
23 offended by what was said. That decision -- I was not
24 acting chairman that day. The chairman was. That
25 decision was made consistent without consultation with

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1 the industry, but consistent with the previous protocol.
2 I think what Mr. Gipson was probably trying to say, in
3 many cases, they beat us to the punch. We acted within
4 an hour. They acted even faster, making independent
5 decisions and decisions that were entirely consistent
6 with the guidance we had in place. We sent out an
7 information notice in 1998 that would describe -- not
8 this circumstance, but in general how we would upgrade
9 security at the sites. We acted consistent with the
10 protocol we had in place, which was the fastest way we
11 can act. If you want to draw up orders and get all the
12 lawyers involved and that makes you feel better, we would
13 act a lot slower. And so, you know, this sort of probing
14 at peoples' motives in trying to, you know, go at us all
15 the time, I don't appreciate at all.

16 DR. LYMAN: I am sorry if I offended you.
17 That wasn't the intention, but I guess my concern is
18 still there. Why doesn't the commission have the power to
19 issue an immediately enforceable order under the
20 circumstances that doesn't involve long negotiation or
21 involvement? And I don't know why that has to be the
22 case in a national crisis. But you know -- and I have to
23 say that even after September 11 -- and I don't want to
24 go into details, but we received some anecdotal reports
25 about inconsistencies about what the state of alert meant

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1 from security regulators. And maybe a lot of those
2 loopholes have been closed by now, especially since the
3 U.S. retaliatory strike started. But at least in the
4 first couple of weeks, we were not getting the message
5 that that order had led to a consistent response. And I
6 think the public needs the benefit of a consistent
7 response to compensate for what we don't know about a
8 situation.

9 CHAIRMAN MESERVE: Let me put this in a
10 somewhat different context. Of course, this is an
11 awkward area for us to discuss in an open forum because
12 a large measure of the activities that has taken place
13 and why and how it has happened and things that are
14 covered by safeguard issues and ones that are ensured to
15 ensure the adequacy of defenses, the legal framework we
16 work is one in you which our regulations design a -- with
17 the details of that design basis being defined on
18 safeguards basis. Licensees have to have the capacity to
19 be able to react to that. The information notice is not
20 one that augments that legal obligation. It reflects the
21 context in which if we become aware of a circumstance
22 where there is a prospect that the ordinary obligation
23 that they have at all times to assure adequate protection
24 is one that needs to be especially vigilant because of
25 information we know, we tell our licensees. And that

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1 they have, with that additional information, have the --
2 can take the steps to augment their -- the capacities
3 that they normally have. Our whole purpose of having
4 information notice in place was to enable the NRC to act
5 very quickly upon the time we get threat information and
6 that we can immediately notify our licensees. And we
7 have issued a whole series of threat advisories since
8 September 11 to reflect the somewhat changing
9 circumstances that have arisen, including actions that we
10 believe the licensees should take on all of that subject
11 to examination.

12 Let me say that although this is something
13 that goes out in order to do it quickly in the way of an
14 information type notice, licensees have all recognized
15 the enhanced threat environment. This has been a
16 cooperative activity in which since all the licensees
17 have significantly augmented the capacities they have at
18 the plants. And we have also, of course, been
19 cooperating with a variety of other federal agencies to
20 assure that there are other capabilities that would
21 become available or are available as the circumstances
22 warrant.

23 I would like to come back, though, to I
24 think the main thrust of the issue that was -- that you
25 raised, which I think is a very serious one -- is a

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1 question of what is the limits of the obligations that
2 should be imposed on the private sector with regard to
3 defense obligation. Design set a certain boundary that
4 was believed to be one, realistic. It was not set by us
5 alone, but in consultation with intelligence agencies and
6 others. The September 11 event raises the prospect that
7 we should reexamine that which we are going to do, but
8 there is still the fundamental question that underlies
9 all of this and that is how far should we go in imposing
10 obligations on a private -- basically what is a civilian
11 guard force. And that is a question that is independent
12 of the nature of the threat. And the threat could be at
13 such a level that it is just unrealistic or inappropriate
14 to rely on an appropriate guard force to defend.

15 COMMISSIONER MERRIFIELD: I think the
16 chairman does get to the heart of the question. And let
17 me add one background to that. One of the things I think
18 everyone around here tries to do is benchmarking.
19 Benchmarking is a good thing. And I and the other
20 commissioners have gone abroad and benchmarked with many
21 of our counterparts internationally. The requirements we
22 have for fencing, limited access, background checks,
23 passive detection systems, cameras, heavily armed guards,
24 including M16s and shotguns, defensive shooting positions
25 at the plant, these are not things that you are finding

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1 at plants around the world. In the 30 units in 13
2 countries that I have seen, there are only two exceptions
3 that I have seen that have requirements greater than what
4 we have. One of those is in South Korea. They do have
5 anti-aircraft facilities at those sites, principally
6 because they are in a cold war. They have a neighbor to
7 the north with lots and lots of jets. And they perceive
8 those nuclear power plants as a direct target. In the
9 United States here, obviously, we need to deal with
10 passenger jets and need to deal with that in the
11 cockpits. And having anti-aircrafts at our sites is not
12 the place to do it. We have to defend the skies and that
13 is partially through a partnership with the FAA.

14 The other place that I saw something
15 different was in Lithuania. They have an armored
16 personnel carrier sitting in the middle of their area.
17 It was cheaper for them to get a personnel carrier than
18 it was to build fortified structures around the plant.
19 And given the fact that the gross national income in
20 Lithuania is about \$2,500 per person, that is tremendous.
21 Those are the two exceptions.

22 Virtually every other case, the defenses at
23 these plants is significantly higher than that of our
24 counterparts. And many other countries, not having an
25 active defense system as we do, it is holding the

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1 intruders long enough for the local and state police to
2 get there and deal with it.

3 Getting to the heart of it as we move
4 forward -- and we are going to have to make decisions on
5 this and work with our federal and state counterparts --
6 but where do we draw that line? How much more do we
7 impose on our licensees and how much of that is
8 appropriately borne by local, state and Federal
9 Government?

10 MR. COLVIN: Mr. Chairman, let me try to
11 offer a couple comments. I think the comments made are
12 really appropriate and I think they are going to take a
13 lot more consideration and need to be given a lot more
14 consideration than we can do here today. But I think if
15 we look at what has been done in the United States today,
16 we spent a number of years leading up to the Y2K issue,
17 analyzing and evaluating the issues when we talk about
18 our critical infrastructure, not only power plants, dams,
19 chemical plants, so on and so forth, including our
20 information systems. And there are a lot of steps that
21 have been taken. And to do that, I think that with the
22 office -- the new Office of Homeland Security. And there
23 is a lot of discussion ongoing now to try to, in fact,
24 refine this and I guess try to look at what are the
25 assets available between the private sector, between the

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1 local, state and Federal Government that can be brought
2 to bear and what circumstances those would be brought to
3 bear to protect this critical infrastructure. I think
4 the issue that we really need to deal with on the more
5 immediate basis is how to ensure that we have a seamless
6 understanding of responsibilities in the near term on
7 these issues and not have an expectation that is either
8 unrealistic on behalf of what an individual company can
9 or cannot protect against or what the state, local and
10 Federal Government can or cannot protect against.
11 Certainly in this area, the responsibility for the safety
12 of these plants and for the investment in these plants
13 really rests with the licensee. And there needs to be a
14 clear cut -- in my view, a clear cut discussion and
15 relationship that exists between the Nuclear Regulatory
16 Commission that brings in, as Dr. Wilds has said, all the
17 state involvement in particular, because that is where a
18 lot of that response and support would come in the
19 immediate nature. I think this is an issue which our
20 Nation is going to have to grapple with that is much more
21 complex. And we need to incorporate -- I think as you
22 indicated in the commission's letter back to Chairman
23 Tauzin that needs to be done, needs to be done within the
24 context of what is done to protect the Nation's critical
25 infrastructure. I do think there are a lot of steps that

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1 have been taken. Your letters to the governors and state
2 and local agencies has worked very well to build a better
3 understanding and relationship about where the
4 responsibilities lie. We have seen a lot of that
5 activity result in very important steps being taken and
6 we think that is appropriate. We have had discussions
7 with the Department of Defense, with other intelligence
8 agencies. And I have a great deal of confidence that
9 these issues are being dealt with at the highest levels
10 of our Government. I think that the commission's
11 involvement in those issues in fitting the nuclear power
12 plant security issues within the context is very
13 important.

14 MR. GIPSON: Can I just put some focus
15 around a couple of comments that were made? The
16 decision-making that was made after the September --
17 unprecedented September 11 events were quick,
18 conscientious and deliberate. And reflecting back about
19 a quote that I keep in my mind, that managers and
20 supervisors do things right, but leaders do the right
21 thing. On that date, I feel the commission and the
22 regulators did the right thing. And with respect to
23 consistency in my region, Region 3, Jim Dyer (phonetic),
24 the regional administrator conducted two telephone calls
25 a day with all the licensing leadership to make sure

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1 everybody was consistent in their approach and to make
2 sure we had a continuous learning process going. All the
3 other regions were doing the same thing with the regional
4 administrator and they were feeding back to the staff.
5 And we were actually in a learning mode from each other
6 from different regions. And I will tell you that, you
7 know, too often, we inappropriately refer to bureaucracy
8 in our Government organizations. September 11, we had
9 leadership. And it was demonstrated not only here at
10 this organization staff level, but it was demonstrated in
11 the field as well. And I think the industry's response
12 was unprecedented and was appropriate as well.

13 So I would take issue with the way those
14 events were handled, especially in the light that there
15 was no specific -- that I know of no specific threats
16 against nuclear plants. The response that was made and
17 the decision-making that were made well can be
18 questioned. But for those of us who were on a real time
19 basis, I thought it was exceptionally well done.

20 CHAIRMAN MESERVE: Other comments on this
21 issue? Mr. Lochbaum.

22 MR. LOCHBAUM: I just got to support Dr.
23 Lyman not only because he's right, but because the fact
24 that the inconsistency -- he didn't want to go into a lot
25 of detail, but what the inconsistencies are for the

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1 reasons this is a public debate, but as of last Friday or
2 this weekend, this place had better protection than Maine
3 Yankee. It's absurd. I was interviewed by Fox Channel 61
4 out of Hartford, Connecticut, who drove their van passed
5 the gate at Connecticut Yankee last Friday looking for
6 somebody to interview and didn't find anybody. We have
7 heard accounts where a former worker on September 11
8 wanted to see how his plant was protected and went
9 through the gate and wasn't stopped by anybody. Research
10 reactors across the country are protected by the design
11 basis threat rule in theory but not in practice.

12 So, you know, I understand that a lot of
13 things were done and those are all commendable, but the
14 consistency issues that Dr. Lyman raises are exactly
15 right. And it took a long time after September 11. And
16 we still don't think that they are all at the level they
17 should be what the law requires -- not beyond that, just
18 up to where the law is; not going beyond that, just up to
19 where people should be protected today. And I don't
20 think we are there yet.

21 CHAIRMAN MESERVE: A lot of effort has been
22 made to ensure that all of the facilities mentioned, that
23 we have adequate protection. Dr. Marston.

24 DR. MARSTON: As a member of the public as
25 well and concerned equally about the health and safety of

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1 the public in general in my opening remarks, I mentioned
2 that I had done risk assessments for a number of
3 industries. And I think when we talk about protection
4 and health and safety of the public, you have to look at
5 a realistic perspective on how we should deploy assets in
6 protecting the health and safety of the public in
7 general. There are a number of industrial facilities,
8 not nuclear, that contain a number of hazardous and toxic
9 materials that we need to be concerned about those as
10 well. Security requirements of those are much, much
11 lower than what we see at our facilities. The
12 accessibility by the public is almost seamless.

13 So I think we have to be realistic on how --
14 if we are to look at it from a national perspective, how
15 we need to deploy the assets we have. So I would
16 caution, if we are really talking about risk assessment,
17 we need to look at it from a societal perspective and not
18 from a nuclear perspective assessment. And that is
19 spoken as a member of the public. Thank you.

20 CHAIRMAN MESERVE: Commissioner McGaffigan.

21 COMMISSIONER MCGAFFIGAN: I don't think Dr.
22 Lyman answered the question Commissioner Merrifield asked
23 about what belongs in the design basis threat. And he
24 rattled off a bunch of things. One of them was air. And
25 I'd be very interested in his view as to whether he

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1 believes -- design basis threat is what we expect the
2 licensees to be able to defend against. Does he he
3 believe we should be defending these plants from either
4 fighter aircraft or commercial airliners diving into
5 them? And does he believe these guys should have their
6 own private air missiles and air forces to deal with that?
7 If he does, I suggest he go talk to the Congress. But I
8 am just interested, just to follow up on one credible
9 DBT, including air attack. What do you have in mind of
10 an air attack these guys are supposed to defend against
11 in the way of private forces?

12 DR. LYMAN: I didn't say that that is a
13 responsibility that the licensees --

14 COMMISSIONER MCGAFFIGAN: The DBT is what
15 the licensees with high assurance is supposed to be
16 taking on. Enemy of the state is what the Government is
17 supposed -- beyond design basis threat is what the
18 Government is going to deal with. When we built Turkey
19 Point, there was concern about the Cuban Air Force. The
20 United States Air Force is going to protect Turkey Point
21 as it protects Miami. And presumably we went through
22 that in that licensing case. And we decided Turkey Point
23 did not need its own air force and Turkey Point could be
24 built. What is it you think belongs in a design basis
25 threat?

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1 DR. LYMAN: I'm sorry. It was a terminology
2 problem on my part. I was simply thinking of a
3 definition of the threat, whether or not it is a design
4 basis threat or not.

5 COMMISSIONER MCGAFFIGAN: That is a
6 tremendous point. If you think we have to defend these
7 plants from the air, then I think obviously Mr. Ridge,
8 the Pentagon and others are going to think about it and
9 they have been. And we have been working with them since
10 September 11. The whole heart of September 11 and
11 thereafter has been beyond design basis threats.
12 All these people have some capability, because they can
13 defend against the design basis threat. They have some
14 capability to defend against the -- beyond design basis
15 threat. We obviouslyly have to augment. Mr. Leventhal
16 (phonetic) is in the audience. You were calling for air
17 defense guns to be deployed around the plants. We don't
18 have air defense. We have Hawks, missiles, Stingers and
19 the Pentagon. We get our military advice from the joint
20 Chiefs of Staff. The Pentagon did not make that choice.
21 To this day, I don't think we have air defense guns
22 around any of the plants. And it was nonsensical, the
23 comment, in all honesty. It gets you a press release and
24 gets you in the public domain, but it is not something
25 that was very useful to the policy debate.

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1 CHAIRMAN MESERVE: Let me suggest -- I
2 understood the context or the comment.

3 VOICE: I would like the opportunity to
4 respond.

5 CHAIRMAN MESERVE: Let me suggest, we have
6 a number of invited guests that have had an opportunity
7 to interact with us. And this was not intended to be a
8 free-flowing exchange and focus on the security issues
9 which are awkward to discuss in this setting, in a public
10 setting in any event.

11 We have been going for about an hour and 45
12 minutes. Let me suggest we take a very short break and
13 give everyone a chance to stretch their legs and we'll
14 come back and resume.

15 (R E C E S S)

16 CHAIRMAN MESERVE: Why don't we get
17 underway. In order to take us off the security issue for
18 just a moment, I would like to turn to the question that
19 I raised with Dr. Wilds, which is he had made a point in
20 his opening comments that he has seen a lot of
21 interaction among the Federal Government, states and the
22 licensees in the context of responding to the September
23 11 event. NRC would like to be helpful in that in a
24 letter we sent out to the governors, to try to make sure
25 that there was a connection made between assets that the

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1 governors have the capacity to deploy and the individual
2 licensees. And that has worked very well. The point,
3 however, is that there may be lessons learned there as to
4 how the NRC might interact better with you with regard to
5 other issues. And we would like to get your suggestions.

6 DR. WILDS: With regard to the letter that
7 went out to the governors, they are still -- I mean, I
8 think the mechanism for contacting us is there and
9 keeping us in the loop is there. But after that letter
10 went out, other advisories were sent to licensees. As a
11 state liaison officer, I was notified that they went to
12 the licensees. But as far as what you were requesting
13 the licensees to look at and consider, that was not
14 transmitted to the state. So it makes it very difficult
15 for us in, you know, providing assistance; evaluating
16 what we can respond with; how we can respond without that
17 knowledge and that information, you know. One of my
18 specific questions when I was notified was, will these
19 recommendations involve any type of state response to
20 augment what is needed? The original response back to me
21 was no. This will not involve anything for the states.
22 And then the next -- oh, probably within an hour, I was
23 getting a phone call and we were having meetings with
24 regard to what the state needed to provide. And it
25 became very difficult for the state to evaluate this

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1 situation without the knowledge of what you had
2 transmitted to the licensees, because, you know, I know
3 people have talked about different security issues, you
4 know. We are looking at security, not just at nuclear
5 power plants. We are looking at our whole infrastructure
6 within the state. And we have to prioritize how we
7 deploy our resources. And we need to look at resources
8 in comparison to other facilities. And we have to take
9 into account the security capabilities of that power
10 plant. In saying that there is not a consistent response
11 across the states, I somewhat probably disagree with
12 that, because, you know, those considerations are taken
13 into our decisions.

14 I think one of the best ways that in the
15 present situation, the NRC could just partner with us is
16 as information is transmitted to the licensees, that it
17 also be transmitted to the states so we get a heads up
18 what you are telling the licensees; how, you know, we can
19 start evaluating, you know, our priorities and making
20 things move a little smoother. I think it would be good
21 to -- I know there are meetings with the regional
22 administrator and the licensees on a regular basis. I
23 think it would be good to include the states in those
24 conversations -- in those meetings, you know, because
25 whatever you decide -- a lot of situations, requirements

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1 that you give the licensees do impact state resources.
2 And the quicker that we can communicate back how that
3 impact affects both of us, I think the more effective we
4 will be in ensuring public health and safety.

5 COMMISSIONER MCGAFFIGAN: Mr. Chairman,
6 could I ask a question on this point? We have been
7 talking a lot internally about how to improve our ability
8 to talk to the sites about safeguards, law enforcement
9 and if necessary, classified information and rule
10 suggesting -- in doing that in real time as opposed to
11 ways we have been doing it recently. Is that something
12 that if we are thinking about spending money in the
13 future, do you all need to be able to have cleared people
14 who can deal with that information?

15 DR. WILDS: In Connecticut --

16 COMMISSIONER MCGAFFIGAN: And do it in real
17 time?

18 DR. WILDS: In Connecticut, we do have some
19 of those discussions with the Department of Defense. We
20 have a lot of Department of Defense facilities,
21 Department of Energy facilities. So from Connecticut --

22 CHAIRMAN MESERVE: Do you have resources?

23 DR. WILDS: We do not have at this point in
24 time.

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1 COMMISSIONER MCGAFFIGAN: Is that something
2 you are going to get in any case?

3 DR. WILDS: It's something I think we are
4 looking at with regard to what happened in recent events.

5 COMMISSIONER MCGAFFIGAN: It would be nice
6 for our budgetary purposes if Mr. Ridge -- if there is
7 need for real time communication with the governors and
8 their bureaucracies about information that includes
9 sensitive, you know, law enforcement or safeguards or
10 even classified information, that's a capability you all
11 need -- we need to think -- the Government needs to think
12 about.

13 DR. WILDS: Right. And we need to be in
14 that loop, because if you are going to be requesting
15 resources from the state, you know, we need to have some
16 knowledge that those resources are going to be requested
17 and how we can provide those resources as opposed to
18 going into a meeting -- I mean I was just at a meeting.
19 We went in. I did not have any information with regard
20 to what the NRC had transmitted to the licensees and they
21 were asking us for resources based upon that information.
22 And so, you know, we have to prioritize for the whole
23 infrastructure, response and knowing --

24 CHAIRMAN MESERVE: Let me say, Dr. Wilds, it
25 is possible that the ball got dropped.

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1 DR. WILDS: There was an advisory that was
2 sent.

3 CHAIRMAN MESERVE: But you were supposed to
4 get it as well.

5 DR. WILDS: And we didn't.

6 CHAIRMAN MESERVE: That was just the problem
7 with Connecticut, I hope. But I appreciate the comment.

8 MR. COLLINS: We will make sure that we are
9 linked. But clearly, the intent was three-fold. One was
10 to call the states initially and let them know what was
11 being issued and provide the option of receiving it over
12 the weekend or providing for delivery the first day after
13 the holiday. And we actually checked back through the
14 process to be sure that was taking place. So we need to
15 look specifically, Dr. Wilds, to find out what happened
16 in that case. Appreciate the comment.

17 Let me turn to one of the other subjects
18 that was -- several of you mentioned, which is this
19 difficult balance that particularly for an agency like
20 the NRC of achieving this balance between openness and
21 having as open a process as possible while simultaneously
22 ly meeting the security concern. And I think all of you
23 are aware that because of some security concerns, our web
24 was down for several days and has been down. We have
25 been trying to bring it up in a piecemeal basis and has

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1 gone up yesterday with portions of it. So we are trying
2 to bring back information that had previously been
3 available.

4 But there's a generic issue that we are
5 going to have to be dealing with more broadly in that
6 there is a lot of information that we have customarily
7 provided and have to consider whether we can provide it.
8 And this is an issue that is much much broader than the
9 NRC. I would -- several of you raised this as an issue.
10 And I'd be interested in comments as to how we can -- how
11 you think we should approach this issue. Mr. Lochbaum.

12 MR. LOCHBAUM: In our experience in dealing
13 with safeguards information prior to September 11, we
14 noted there seemed to be a problem between what the
15 criteria was for classifying safeguards and nonsafeguards
16 information. And it seemed to be more subjective and
17 contextual rather than, you know, a well-defined line, if
18 such a thing exists.

19 In, I think it was May of this year, I
20 downloaded a document from Adams that I felt I shouldn't
21 have been able to get that had to deal with some
22 information at Waterford that I don't think I should
23 have. Soon after that, I called up the NRC to question
24 whether I should have been able to do that. The NRC
25 looked at it for a week and determined that it didn't

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1 contain safeguards information and there was no problem.
2 When I asked if it was okay to put it on my web site,
3 then it became a safeguards information and it is not --
4 or shortly thereafter, it was reclassified as not
5 publicly available, which is what I thought it should
6 have been in the first place. So I think there is a
7 contextual issue.

8 Since September 11, I heard a lot of
9 discussions that that is part of the problem in
10 determining what is on or what isn't publicly available.
11 So I think it is important you develop an objective
12 standard as much as possible and make sure all the people
13 that are making the determination are trained and
14 familiar and have an understanding of what that criterion
15 is.

16 Related to that, you know, once the
17 determination of what's not and what is complete, we sent
18 a letter into the staff last week asking that once that's
19 done, any time a document or class of documents used to
20 be publicly available and is now not, we would like to
21 know about that, because until we hear that something is
22 no longer available, we are going to continue to assume
23 that it is. And we may have legitimately downloaded or
24 obtained documents prior to September 11 that the agency

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1 doesn't want distributed anymore. And unless we know
2 about that, we are not going to be able to comply.

3 So once this process is done, there needs to
4 be some way to communicate with people who obtained
5 documents so they can act responsibly as well. I know
6 it's a tough issue.

7 One of our concerns -- at least not in the
8 interim period, but once the interim period is over, is
9 that balance that's been discussed several times today.
10 We don't want to -- UCS has not undercomplained too much
11 about the web site being shut down and the problems going
12 on, because one of the ways to deal with that is no
13 longer allow public participation in the safeguards
14 meetings that we have been participating in the last year
15 or two with Mr. Tracey and his staff. We felt those have
16 been helpful to us to understand the issues and haven't
17 crossed the line and provided too much information. We
18 want that to continue. So although the interim period
19 makes our job a little harder, we understand the reason
20 for it and the need for it. So I guess that's our views
21 on the issue of public availability and particularly what
22 we need back once that determination is done. Thank you.

23 CHAIRMAN MESERVE: Comments? Mr. Hairston.

24 MR. HAIRSTON: Mr. Chairman, I intentionally
25 did not deal with this issue when I was talking about

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1 public confidence. I would like to make a couple of
2 comments really as a utility executive and then I would
3 like to close with a comment as just being a citizen.

4 If we don't learn from the past, we will be
5 doomed to the past. And you know, when we look back at
6 other events that have traumatized and changed our
7 industry, you look back and you look at Three Mile Island
8 square in the face. And certainly, many of the things
9 that we did have taken us to great levels of performance.
10 Some of what we did we have had to undo because the
11 benefit and the risk were not at all commensurate.
12 Matter of fact, today, we still try to undo things. I
13 think the message there is we go through these trying
14 times we're in. We need to be vigilant that what we do
15 adds value to what we are trying to accomplish. Openness
16 -- and from a nuclear executive point of view, I think
17 the success of the recent years has to do with the
18 openness that we have had in this process. It may not be
19 as open as everybody wants it, but it's certainly more
20 open than it was five years ago. And I think we are all
21 better off. Five years ago, this man sitting here on my
22 right was just somebody that was quoted in the paper.
23 And now I sit in meetings and hear what his issues are
24 and we can deal with them. And he hears what my issues
25 are and we can deal with them.

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1 So I would just encourage this process to
2 stay open in two ways. One, the process itself needs to
3 be understood. And two, what information is in the
4 process needs to be understood by the public. So I
5 support that.

6 Now let me take off my utility executive
7 hard hat and talk as a citizen. I don't think anybody in
8 this room believes that we are not at war with an enemy
9 of the state. We have troops in foreign nations this
10 morning at war and we don't know what this enemy looks
11 like. We don't know the uniform they may wear. We don't
12 know what kind of U-boats they may have or tanks or other
13 things, but we know there's an enemy out there that is
14 after us. It is declared. And so I, as a citizen, think
15 we need to go back to World War II when people walked out
16 of factories., do you remember the sign that was over the
17 door? Loose lips sink ships. Times are not normal. And
18 I as a citizen think when you come to security matters --
19 not security process, but security matters, we have to
20 put our trust in the Government. I mean, there are
21 things the NRC knows that we don't need to know that I
22 trust them to have as a utility executive. As a citizen,
23 somehow we have to build confidence, public confidence,
24 that our Government is going to do the right thing in
25 this narrow area, but very important area of security.

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1 And as I sat around here today, we were talking about
2 process. But occasionally, it would get into threat
3 versus what we're able to protect against. I am very
4 uncomfortable with that as a citizen. So I think as we
5 look at openness on this issue of security, let common
6 sense prevail. And if we are going to err, let's err on
7 being a little bit more closed on that area. Thank you,
8 Mr. Chairman.

9 CHAIRMAN MESERVE: Thank you. Other
10 comments? Commissioner Merrifield.

11 COMMISSIONER MERRIFIELD: Mr. Chairman, if
12 I could jump in. This is a sort of an interesting story.
13 I remember about six weeks ago, I had Mr. Lochbaum in my
14 office and we had Fran Goldberg (phonetic) and Stu Ryder
15 (phonetic) there. And we were going over the
16 demonstration of a new prototype of our web site. And a
17 common theme in that meeting was a concern by Mr.
18 Lochbaum. We have such a great volume of documents
19 available and we do such a good job to make sure that
20 whatever we do in this web site, we don't limit access to
21 that. And all the comments we heard prior to September
22 11 were regarding the quality of -- the quantity -- the
23 quantity and quality of information available on our web
24 site. And if you look at how we compare relative to

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1 other federal agencies, I think we are, if not more, open
2 than anybody else.

3 So with that, I think there's a recognition
4 that we are a victim of our success in this regard. We
5 have done a very good job in the past in providing this
6 information. There are other members of our federal
7 family who we have to deal with from a defense and
8 security standpoint who are not used to having such a
9 degree of openness. When they went to our web site, saw
10 things they are not typically used to seeing. And that
11 made us the decision to shut down our web site for the
12 time being.

13 I think Mr. Lochbaum makes a good point. We
14 need to have a disciplined process that we use to try to
15 make information available to the extent that we can
16 although it's difficult. Anytime -- and anyone who has
17 ever gotten a security clearance as I have, a lot of
18 these issues are judgment calls. And it's not always
19 easy to have a checklist of what you are going to keep in
20 and keep out. And no matter what we do, it is very clear
21 to me that there will be some documents that we may end
22 up releasing and down the road, may decide we didn't want
23 to or we may have some things to hold back that perhaps
24 people feel that we shouldn't.

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1 I think Mr. Hairston's comments are valid.
2 We do -- in this difficult time, we are going to have to
3 err on the side of caution and hopefully peel that back
4 the best we can to be as open as possible.

5 The one last thing I would like to say --
6 and Pat Norry is probably better to go into detail on
7 this because I know she had some folks looking at this --
8 given the breadth of our web site and the volume of
9 materials that we had available, determining what should
10 and shouldn't be released has a potential to be a
11 monumental effort on the part of this agency. It's got
12 to be done carefully. And it's going to take staff.
13 It's going to take time. Going to take money. And
14 despite -- and we received a flurry of letters from
15 people this week, you know, about -- making a lot of
16 disparaging comments about our having taken down the web
17 site. It is in the best interest of the American people
18 to do this carefully but do it in an expectation that we
19 remain open.

20 CHAIRMAN MESERVE: Pat, you may want to say
21 something about the process we have been following.

22 MS. NORRY: The process we are using is --
23 even before having been requested by the Defense
24 Department, which represented a group looking at all
25 agency web sites, we had already decided that some

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1 material in the light of the current environment that we
2 had out there was -- should be withdrawn. So we did
3 that. And then the decision was made to shut down the
4 entire site. What we're doing now is trying to focus
5 first on those areas where it is obvious that we need a
6 site back up in order to conduct business and it does not
7 represent any kind of a threat. That takes time. And
8 the process of getting material back on the web, it's not
9 as easy as getting it on in the first place. Once you've
10 shut down the operation, getting stuff back on is just
11 procedurally more difficult.

12 Yesterday we were able to get back the
13 public meeting site, press releases, employment
14 opportunities, those kinds of things, which obviously
15 present no difficulties. We are now working to get the
16 rule-making site back up as fast as we can, because that
17 is an area that needs priority. Electronic exchange,
18 which we are able to exchange information with the
19 industry, other sites, we have teams working very hard --
20 the focus is on, let's get as much back out there as
21 quickly as we can, but we have to do it in a way so we
22 end up with a category that we're not going to put back
23 up. We have to have a clearly defensible reason for that
24 and that's the objective.

25 CHAIRMAN MESERVE: Mr. Chairman.

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1 COMMISSIONER MERRIFIELD: Mr. Chairman, if
2 I may. There may be some necessity for engaging with our
3 stakeholders in identifying areas of our web site that
4 they have particular interest in using and focus our
5 limited resources that have the greater user need. And
6 there may be some areas which are going to take us a
7 little bit more time and effort. But if they are not as
8 in demand, they may go in the back of the key rather than
9 in the front.

10 MS. NORRY: I think we can do that.

11 CHAIRMAN MESERVE: Any comments?

12 DR. LYMAN: Just a general comment. I would
13 like to point out, of course, you have to assume that a
14 good deal of the information that you have already
15 provided over the last several years is out there and
16 can't really be brought back. So there's an analogy to
17 nuclear weapons information. It's commonly thought
18 there's enough information that if the weapon is designed
19 now that can't be effectively controlled -- and the focus
20 has to be on physical protection material. I think the
21 analogy holds here. I mean, your primary focus has to be
22 on physical protection at the plants. And doesn't give me
23 much confidence if you end up being afraid of providing
24 information to the public because it makes me wonder how
25 much confidence you have in those measures. So again, I

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1 would urge you to draw that line rather carefully,
2 Commissioner.

3 CHAIRMAN MESERVE: Let me just say I think
4 we do appreciate the importance of the physical
5 protection of the plants as the primary goal. The idea
6 of the web site is not to facilitate its capacity of
7 someone being able to make an attack on the basis that
8 they have information -- to make it an easier task than
9 it otherwise would be.

10 MR. LOCHBAUM: I hate to go for twofers
11 (sic). I don't know why access to Adams is being invited
12 back, because there's a lot more information in Adams of
13 a more sensitive nature than there was on the web site.
14 I stopped by the PDR and asked for guidance to get in.
15 I was told I would be e-mailed. And he sent an e-mail
16 and I still haven't gotten it. So I heard access to
17 Adams has been provided to some people at least.

18 But in context of this slow, deliberative
19 process for the stuff that's on the web site posted
20 versus stuff you can get through Adams, I guess I am
21 confused by that.

22 MS. NORRY: We made a decision to focus on
23 the web first. We have taken some things from Adams when
24 we realized obvious discrepancy. But we had to focus the
25 energies first on the web site and that's what we are

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1 doing. If you have any particular suggestions about
2 things we ought to get out of Adams, I'd appreciate it.

3 COMMISSIONER MCGAFFIGAN: Mr. Chairman, I
4 may have misperceived something. I think David just
5 endorsed Adams or something.

6 CHAIRMAN MESERVE: I was prepared to make a
7 flip comment. We didn't have to take Adams down. It was
8 so confusing that we didn't have to worry about it.
9 Other comments on this subject?

10 MR. TOLLISON: I have one, just on the
11 general subject of security. INPO is not involved in
12 security, which I view as a very good thing, not
13 necessarily for the reason you might expect. The reason
14 I think that is a good thing is it allows us to focus on
15 traditional safety and reliability as a result of
16 internal events or the possibility of internal events at
17 a station. So I know the NRC and many of the staff are
18 consumed with this right now, and that's well justified.
19 But at INPO, we are not. And as a matter of fact, we
20 didn't really miss a beat in our evaluation and
21 assistance activities on September 11. When the event
22 happened, we had 117 of our 200 technical employees in
23 the field, 101 nationally and 16 internationally. And
24 almost without exception, those employees stayed in the
25 field during that week and subsequent weeks and continued

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1 their work in evaluating safety and reliability and
2 providing assistance towards reaching excellence
3 throughout the period. We had some inconveniences as
4 everyone did.

5 For example, one evaluation team drove from
6 Atlanta to Davis Bessie (phonetic) for their evaluation,
7 but it took place. So I just wanted to say from INPO's
8 point of view, we are continuing to really look hard, as
9 we always do, at safety and reliability from the internal
10 issues at the plant. And we have the luxury of not being,
11 let's say, distracted from that by the events of the last
12 month. Thanks.

13 CHAIRMAN MESERVE: Thank you. Before
14 September 11, one of the issues that I and my colleagues
15 have spent a great deal of time worrying about that we've
16 touched on only in passing was the human capital issue
17 that I think all of you know we have a situation at the
18 NRC where we have many more people over 60 than under 30.
19 We have a large percentage of people who are eligible to
20 retire now. And there's a danger of a lot of skilled
21 people walking out the door at a time when there's a
22 whole flurry of very important activities that are in
23 front of us that we need to bring all the skills to bear
24 to address those issues. And -- this was really before
25 September 11. And it was a paramount concern to us and

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1 remains a paramount concern. And I'd be interested in
2 comments from those in the room on this issue. This is
3 a common problem for all of us. We all draw from a
4 pipeline of people from our educational system, that is,
5 diminished resources as time has gone on. And I'd be
6 interested in your sense of whether we are seeing a
7 turnaround in that issue and how all of you are
8 addressing that issue as ones that you confront in your
9 own businesses or your own organizations. Mr. Colvin.

10 MR. COLVIN: Mr. Chairman, let me start on
11 this. I think you have correctly identified an issue
12 which we have all given a lot of thinking to. And it is
13 something as a Nation and I think as Commissioner Dicus
14 indicated that is not only facing our country, but facing
15 other countries as well. From our standpoint, we are
16 trying to focus the initiatives within the industry
17 really in several areas. First is looking at the --
18 ensuring that we have the adequate numbers of
19 appropriately trained and qualified educated people to
20 fill the needs within the various companies. And when
21 you look at that, that becomes a huge issue just from the
22 standpoint of both looking at the technicians and worker
23 level as well as the people that we need that have
24 engineering and math and science and other types of
25 degrees. There's a lot of work that's ongoing between the

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1 universities and the individual companies. And many of
2 the companies and I would say most of the utility
3 companies have dedicated programs and resources and
4 cooperative programs with the various universities and
5 with colleges in their area. And they work very closely
6 with those. We held for the first time this year in
7 March a utility recruiter college advisory workshop. We
8 held it down in Florida in March. So it was fairly well
9 attended, but it was very well attended even without --
10 taking away the location. But for the first time, we
11 really got at a number of the key issues between what the
12 advisers at the colleges and universities were telling
13 the students what the opportunities were in our industry
14 and what the recruiters from the companies were telling
15 the students. In particular, we did a lot of work with
16 the recruiters to look at what the opportunities -- what
17 the companies are looking at it in a much broader sense.

18 Since that time, we have underway and nearly
19 completed a manpower survey of needs within the industry
20 that is broader than just the utility industry, but looks
21 to craft and technician positions and engineering
22 positions, operators and so on and so forth throughout
23 the country. And we are about completed with that and we
24 will -- we are going to analyze that and look at that
25 hopefully by the end of this month and that will lay a

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1 foundation of what our needs are now and what they are in
2 the next five years and base a lot of initiatives on.

3 I will tell you there is a lot of work going
4 on in the educational system and even down at primary
5 school level. We run 15 web sites. I know Patricia has
6 a lot larger job, but the -- we track where the web site
7 has come from and we have on an annual -- on a monthly
8 basis, some 20 plus thousand entries into the public web
9 site at NEI. And most of that comes from secondary
10 school and university level people. So we see that
11 growing.

12 And to answer your question where the trends
13 -- we actually have seen that grow as people look at the
14 importance of energy.

15 And I guess I would digress for a second.
16 The generation coming up has done a lot of work on the
17 generational -- what they call the new millenia
18 generation that is more interested in technology,
19 comfortable with it, and looks at these issues. So they
20 are more open, in fact, to considering these. Bob
21 Denton's comments on license renewal and the opportunity
22 to provide a future for many, many years have given us a
23 new opening into people in the job market that have a
24 degree of comfort. There is a lot of effort going on and
25 I am just scratching the surface on it.

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1 CHAIRMAN MESERVE: Mr. Denton.

2 MR. DENTON: Yes. In addition to the
3 professionals that Joe has personally discussed, we have
4 greater difficulty attracting young people to skilled
5 craft apprentice programs, specifically instrument
6 controlled technicians, welders and machinists. So the
7 industry -- opening of this window for license renewal,
8 we also have to renew our acquaintance with the secondary
9 schools and with the programs they provide to get that
10 kind of skilled craft started.

11 Recently, I guess the competition from the
12 computer industry has been very apparent, especially in
13 the instrument controls area where young people would
14 rather work in an air conditioned office than in a 100
15 degree boiler room. It is a difficult competition right
16 now.

17 CHAIRMAN MESERVE: Mr. Thadani.

18 MR. THADANI: Thank you, Mr. Chairman. I
19 was very pleased to hear what Mr. Colvin had to say about
20 some of the initiatives. Sort of looking ahead as you
21 indicated, Joe, the industry is still interested in your
22 designs and moving forward. And utilizing risk informed
23 thinking upfront was an important element in that. And
24 I think there are three -- couple issues, one having to
25 do with competent people. How do you get highly skilled

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1 scientists and engineers? A number of studies have been
2 done. IOCD or NEOT, Nuclear Regulatory Research to do a
3 study and so on, which pointed to a couple of areas that
4 one needs to pay attention to and that is access to
5 facilities -- experimental facilities and research
6 reactors at universities. The trend has been obviously
7 in linking in terms of availability of experimental
8 facilities and research reactors. And that is the
9 nuclear engineering programs have been declining in a
10 very significant way.

11 It seems to me that to really move forward
12 and have highly accomplished staff, one has to look at
13 all three aspects together. Looking at one without the
14 other two, I think, is going to lead to some incomplete
15 answers, I suspect. One needs key people. Highly
16 talented people would like to have the best analytical
17 tools they can get their hands on. How do you get those
18 analytical tools without appropriate facilities and
19 research reactors? So I would hope focus would be on all
20 three aspects which make up the infrastructure issue.

21 CHAIRMAN MESERVE: Dr. Marston.

22 DR. MARSTON: From our perspective, at EPR,
23 we did a current assessment of our current and future
24 needs. The perspective today is different than it was a
25 year-and-a-half ago. Job security has now become a very

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1 important thing for young people. I think also the
2 recognition that we do have an impending if not now an
3 electricity crisis in the west, has stimulated interest,
4 certainly, by new college graduates. We are also seeing
5 more women and minorities coming out, which is a very
6 encouraging sign.

7 So I don't want to paint too bright a
8 picture, but I think it is an effort that we as an
9 industry exploit the positive side of our business. And
10 I think we found if we introduce this to people who are
11 not familiar with our business, they are quite impressed
12 with the ideals, the standards and ethics and everything
13 else that is involved with that. We just have to
14 continue with that.

15 And I would like to close by saying I think
16 the interest in new plants has stimulated certainly
17 interest in the universities as well. I am encouraged by
18 that.

19 CHAIRMAN MESERVE: Mr. Hairston.

20 MR. HAIRSTON: Mr. Chairman, you might be
21 surprised and I think you may know this, but I spent
22 about half my time recruiting people or taken back by
23 that -- and I am taken back by the fact that they are
24 taken by that because I am working on the most important
25 thing in my company, the people.

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1 A couple of points. We are not having any
2 trouble getting the best people in the technical ranks.
3 This problem with the crafts is a real problem and it's
4 not getting any better. As an aside to what Ted said, we
5 actually go out and recruit the best people. And it's
6 really gratifying to me that well over half of them just
7 happen to be females. We don't recruit females, we
8 recruit the best people. And a large percentage are
9 females and minorities. So we don't have trouble getting
10 them.

11 But I want to raise another issue that's
12 right alongside that. Just because I get 3.8 chemmie, it
13 doesn't mean I am ready to replace a 50-year-old manager
14 that is going to walk out the door. I built Farley
15 (phonetic). I started Farley. Many of my managers were
16 there. We know where the leak off from valve 122 goes
17 into the floor. The same is going to be true in the NRC
18 here. When you take 30-year, 40-year career employees
19 and they walk out the door and you bring in the brightest
20 young person, it's not going to do it. And one of the
21 issues we're looking at is how do you fasttrack people
22 but don't shortchange them. And I think that's an issue
23 you all are going to have to deal with, because over the
24 years, there's a lot of institutional knowledge both up
25 here and at the plant -- the staff -- and I'm not sure we

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1 all have got our arms around it. My view is that may be
2 the biggest issue we've got. We are a very well educated
3 experienced industry today. That's where we need to end
4 up 10 years from now.

5 CHAIRMAN MESERVE: Pat, do you want to say
6 something about the things we are trying to do to deal
7 with that problem?

8 MS. NORRY: I would endorse everything that
9 has been said.

10 Mr. Colvin, we have been working with your
11 group and find out we share exactly the same problems and
12 challenges. We, too, are working closely with
13 universities. Our recruitment efforts have been quite
14 successful lately. We have a very active intern program.

15 And I agree with your comments, Mr.
16 Hairston, that we are looking at ways we can transfer
17 knowledge. We are bringing in some people at a stage
18 about a year before hopefully some of these people walk
19 out the door so we can have a better knowledge transfer.
20 We are engaged in a fairly major study of our workforce
21 and how we can make sure that all of our core
22 competencies are there when we need them. And that's
23 quite a challenge. It's very complicated, but we are
24 sharing with the industry those strategies that are
25 common to both of us. So it's a problem for all of us.

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1 CHAIRMAN MESERVE: Mr. Merrifield.

2 COMMISSIONER MERRIFIELD: Despite some
3 fiscal conservatism I exhibited earlier, I want to take
4 something the other way. One of the problems that we
5 have with our staff is wage compression. We have a band
6 of people at the very top who are leveled out in terms of
7 what they can make and this is in part because of
8 requirements imposed by us on Congress. What that
9 results in two things. One, we have people who are 14s
10 and 15s who are at the verge of going go up and could
11 become members of the senior executive service. The
12 amount of money they are going to make by making that
13 change is virtually nothing. Many of them make no
14 increase in salary despite a larger commensurate amount
15 of work put in their plate. We are finding people who
16 are very highly qualified, who seeing those factors say,
17 "Why should I take that added responsibility if I am not
18 going to get compensated any further?"

19 The second issue is changes made in the
20 federal pay requirements we used to have. Under the old
21 retirement system, we were able to lock our people up
22 with golden handcuffs. Once you stay here with a certain
23 amount of time, there is a disincentive to leave and we
24 take a huge cut. With the newer system that was
25 implemented in part 15 years ago, the first system, these

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1 retirement benefits are portable. And so down the line,
2 we are going to have people who are in their mid-40s or
3 early 50s who will have worked here a good amount of time
4 and walk away. And we are going to lose that level of
5 knowledge.

6 And so one of the things we need some help
7 on, I think -- and we have been trying to explain this to
8 folks in Congress -- and Senator Croinivich (phonetic)
9 and Senator Lieberman have been very responsive -- but
10 we've got some pay issues to deal with. We have to be
11 able to provide more compensation and incentives to our
12 employees across the board to make sure that that level
13 of quality that George Hairston talks about stays here.
14 And those are serious issues that we need to grapple
15 with.

16 MR. HAIRSTON: You know, just to tag on, I
17 am not exactly sure this is analogous, but the VA had a
18 very similar issue. And they have done some things
19 relative to their people that have not made the problem
20 go away, but made it a little easier. So you may just
21 want to talk with them and get some ideas, because they
22 are within the framework -- a little different, but still
23 within the framework. And I would think that may
24 resonate on the Hill a little bit.

25 CHAIRMAN MESERVE: Mr. Colvin.

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1 MR. COLVIN: Chairman, just to add another
2 dimension to this perhaps. Cal picks up on a number of
3 the comments. There is a lot ongoing, as you all know,
4 in the legislative arena to do that. You know, Mr.
5 Bingaman -- Senator Bingaman (phonetic) introduced a bill
6 that deals with the pipeline issue; provides moneys for
7 R and D; training for refueling of reactors for
8 scholarship fellowship programs. And that is a bipartisan
9 -- bipartisan support. It's in the House energy bill.
10 I mean, there's a lot of work that's been done in those
11 areanas.

12 I think that in the short-term -- and I know
13 you all are working on some of those issues -- and we
14 will be happy to support picking up on Commissioner
15 Merrifield's comments in these issues in the
16 congressional arena -- there are things which the NRC can
17 do to bring back that expertise on a temporary basis.
18 Other agencies have had exemptions and been allowed to do
19 that, to bring back some person who has retired from
20 Government service without penalty. And you know, so I
21 think those things are really important interim steps.
22 And they don't solve the larger longer term issue we have
23 to deal with, but I think some discussion of those types
24 of issues in making sure that we have that consistent
25 support within Congress is very important.

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1 COMMISSIONER MERRIFIELD: I think the
2 commission has sent up a package to the Congress. And
3 one of them is you mentioned where we would have an
4 allowance to bring some people back and not have their
5 retirements impacted, but allow us to give them some
6 additional moneys as contractors and consultants. And
7 hopefully, Congress will react favorably.

8 MR. COLVIN: That helps with the issue that
9 Pat talked about, about this transfer of knowledge.

10 CHAIRMAN MESERVE: We have limited authority
11 to do that now on an emergency basis, but it's restricted
12 in numbers and the nature in which we can do that. And
13 we would like to have a broader authority than we have to
14 be able to bring back former employees who have retired
15 with special skills when something arises that we need to
16 be able to call on them. And under the current scheme,
17 they have to work for us for free to do that. In an
18 emergency capacity to be able to respond to that, we do
19 have it as part of our legislative package. Other
20 comments on this? Sam.

21 MR. COLLINS: Chairman, I would like to
22 acknowledge the commission's support and Pat's staff
23 support for the efforts we have had in hiring,
24 specifically in the intern and entry level area. We have
25 been able to attract very high quality and very

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1 enthusiastic, very diverse workforce into the intern
2 program. And not only is that good for our future
3 acknowledging that there is effort involved in the
4 recruiting and the retention and the training, but to be
5 around these high quality, very energetic individuals
6 stimulates the staff. It forces new thinking into the
7 organization and it challenges the status quo in many
8 ways, as I think we all realize who have children perhaps
9 of a close age. So we are making progress in that area.
10 Clearly, there are challenges -- I think some of those
11 have been well articulated today.

12 But I would like to step off from this
13 discussion on a positive note, that we are achieving some
14 of those goals and we are seeing the impacts. And I
15 would want the interns who are currently with us have the
16 advantage of this type of forum to know that we have that
17 type of confidence in them and we are seeing their
18 performance at a very high level.

19 MR. KANE: Can I make another comment? That
20 I know if Hub was here today from Region 1, I know he'd
21 speak to this. But in the agency, one of the significant
22 challenges with bringing new people on board is with the
23 regions. And with that comes the training component and
24 it is very important. Obviously, as you all know, to
25 bring skilled people in, but without being trained in how

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1 to do the job from the standpoint of a regulator is very
2 important that you do that before they go out. So
3 there's a tremendous impact on being able to get skilled
4 people in and get them trained and moved out into to
5 positions.

6 Also, obviously, once you have done that
7 with the resident inspectors, for example, they become
8 very attractive within the rest of the agency. So
9 there's a through-put from the regions which makes this
10 an even more challenging job there.

11 CHAIRMAN MESERVE: Thank you. I promised
12 our guests that we would adjourn by noon because they
13 have many other obligations in town here. Before I bring
14 this to a close, let me give opportunity for anyone
15 around the table if they want to say some -- make some
16 closing remarks or raise some parting issues, we will
17 welcome that. Sam.

18 MR. COLLINS: Very quickly. I would have as
19 a take away from this meeting the need to engage in some
20 of these issues outside of this forum.

21 CHAIRMAN MESERVE: Definitely.

22 MR. COLLINS: Dr. Lyman has expressed an
23 interest in risk informed applications. I think we can
24 provide information on that. We do consider risk and
25 power operates as part of our standard review plan and we

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