UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SECRETARY

December 4, 2007

COMMISSION VOTING RECORD

DECISION ITEM: SECY-07-0114

TITLE: SECY-07-0114 – STAFF RECOMMENDATIONS FOR REVISIONS TO THE ADVERSARY CHARACTERISTICS SCREENING PROCESS

The Commission (with all Commissioners approving in part and disapproving in part) acted on the subject paper as recorded in the Staff Requirements Memorandum (SRM) of December 4, 2007.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

Annette L. Vietti-Cook
Secretary of the Commission

Attachments:
1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Klein
Commissioner Jaczko
Commissioner Lyons
OGC
EDO

VOTING SUMMARY - SECY-07-0114

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. KLEIN	X	X			X	9/12/07
COMR. JACZKO				X		9/14/07
	X	X			X	10/16/07
COMR. LYONS	X	X			X	8/1/07, 10/9/07 & 11/14/07

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved in part and disapproved in part. Subsequently, the Commission acted on this matter as reflected in the SRM issued on December 4, 2007.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: CHAIRMAN KLEIN

SUBJECT: **SECY-07-0114 - STAFF RECOMMENDATIONS FOR REVISIONS TO THE ADVERSARY CHARACTERISTICS SCREENING PROCESS**

Approved in part xx Disapproved in part xx Abstain _____

Not Participating _____

COMMENTS: Below xx Attached ___ None ___

I agree with Commissioner Lyons' vote to approve, in part, and disapprove, in part, the staff's proposal. The staff should add the NRC technical analysis step after Step 3 and analyze resource impacts in Step 4.

SIGNATURE

9/12/07

DATE

Entered on "STARS" Yes ✓ No ___

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: **COMMISSIONER JACZKO**

SUBJECT: **SECY-07-0014 - MEMORANDUM OF AGREEMENT BETWEEN THE NUCLEAR REGULATORY COMMISSION AND THE DEPARTMENT OF ENERGY FOR EMERGENCY AND NON-EMERGENCY HARBORING OF CONVOY VEHICLES**

Approved__X__ Disapproved__X__ Abstain _____

Not Participating _____

COMMENTS: Below___ Attached__X__ None__

SIGNATURE

10/16/07

DATE

Entered on "STARS" Yes _X_ No ___

Commissioner Jaczko's Supplemental Vote on SECY-07-0114
Staff Recommendations for Revisions to the Adversary Characteristics Screening Process

I am revising my vote to approve, in part, of the staff's recommendation of proceeding with option 2 regarding revisions to the Adversary Characteristics Screening Process.

Because the paper contains only a brief mention of classified information and details a public process by which the agency makes important security decisions, I believe it was important for the paper to be publicly available during the Commission's deliberations. For that reason, I originally did not participate in the vote on this item, requesting instead, that the staff send up a revised publicly available version of the paper for the Commission to consider. Although that has not occurred, I am appreciative that Commissioner Lyons supplemented his vote to request that the staff develop a publicly available version. I support that compromise and thus approve, in part.

While I approve of the staff's recommendation regarding where to add an additional step in this process, like Commissioner Lyons I have concerns about the consideration of costs in this process. Because the Commission determined that protecting against the design basis threat was necessary to provide reasonable assurance of adequate protection, resource impacts associated with this effort should not be considered.

10/16/07

Gregory B. Jaczko Date

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: **COMMISSIONER JACZKO**

SUBJECT: **SECY-07-0114 - STAFF RECOMMENDATIONS FOR REVISIONS TO THE ADVERSARY CHARACTERISTICS SCREENING PROCESS**

Approved _____ Disapproved _____ Abstain _____

Not Participating __X__

COMMENTS: Below__X__ Attached___ None ___

I have chosen not to participate in the decision on this paper which therefore means there is no Commission quorum to move forward at this time. I look forward to the staff providing a publicly available version of this paper and intend to participate and vote on the proposal at that time.

/SIGNATURE

9/14/07

DATE

Entered on "STARS" Yes __X__ No ___

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: **COMMISSIONER LYONS**

SUBJECT: **SECY-07-0114 - STAFF RECOMMENDATIONS FOR REVISIONS TO THE ADVERSARY CHARACTERISTICS SCREENING PROCESS**

Approved _X_ in part Disapproved _X_ in part Abstain _____

Not Participating _____

COMMENTS: Below___ Attached _X_ None _____

Peter Lyons
SIGNATURE

11/14/07
DATE

Entered on "STARS" Yes _X_ No ___

Commissioner Lyons' Supplemental Comments on SECY-07-0114

Further clarification appears needed and therefore warrants this additional vote supplementing my previous two votes. I do so with the hope of achieving a consensus that will address these issues and allow the Commission and staff to move forward.

When the Commission discusses whether to add a characteristic to the Adversary Characteristics Document (ACD), I strongly believe that such discussion must include, in a generic fashion, the integrated effectiveness of applicable national, state, and local measures. If these measures address the characteristic, then the characteristic need not be added to the ACD.

While the staff and Commission may legitimately consider resource impacts when multiple ways exist to adequately mitigate against an adversary characteristic, the basis for any Commission action that modifies the ACD should not include resource impacts. To more clearly demonstrate that such bases rest primarily on evaluations of threat assessment, consequence analysis, and existing protective capabilities and mitigation strategies, I am willing to eliminate resource assessments from the staff's normal process. In this one respect, I disapprove the staff's recommendation to include such assessments.

Following the Commission's determination to add a characteristic to the ACD, if multiple ways exist to mitigate against those characteristics, the Commission may direct staff to evaluate the associated resource impacts.

11/14/07

Peter B. Lyons Date

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: **COMMISSIONER LYONS**

SUBJECT: **SECY-07-0114 - STAFF RECOMMENDATIONS FOR REVISIONS TO THE ADVERSARY CHARACTERISTICS SCREENING PROCESS**

Approved _X_ Disapproved _X_ Abstain _____

Not Participating _____

COMMENTS: Below___ Attached _X_ None _____

SIGNATURE

10/9/07
DATE

Entered on "STARS" Yes ___ No ___

Commissioner Lyons' Comments on SECY-07-0114

In my original vote of August 1, 2007, I put forth my views on the subject paper. Those views have not changed and my vote remains in force. However, I am supplementing that vote in an effort to break an impasse on the Commission which has occurred due to lack of full participation, and therefore lack of a quorum, of the reduced member Commission. Specifically, I am supplementing my vote to direct the staff to develop a publically available version of the paper. My understanding is that my action will enable a quorum.

It is unfortunate that so much time has passed without Commission action, which has had a net effect of delaying public release of information on this subject. I believe this issue could have been handled much more appropriately and efficiently through the Staff Requirements Memorandum development process, as I previously indicated to my fellow Commissioners.

Peter B. Lyons 10/9/07
Date

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: **COMMISSIONER LYONS**

SUBJECT: **SECY-07-0114 - STAFF RECOMMENDATIONS FOR REVISIONS TO THE ADVERSARY CHARACTERISTICS SCREENING PROCESS**

Approved X Disapproved X Abstain _____

Not Participating _____

COMMENTS: Below___ Attached X None _____

SIGNATURE

8/1/07

DATE

Entered on "STARS" Yes X No ___

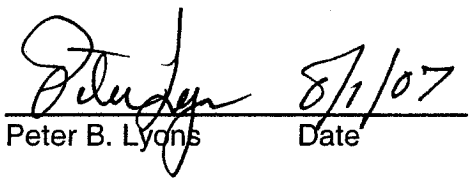
Commissioner Lyons' Comments on SECY-07-0114

I approve, in part, and disapprove, in part, the staff's recommendation to modify the Adversary Characteristics screening process. I approve adding an NRC technical analysis step after receiving Intelligence and Law Enforcement and Homeland Security Communities input in Step 3. I disapprove adding a step for staff to analyze industry resource impacts at this point, and prefer that such resource analysis remain as an element of Step 4 to be conducted under the Disposition and Communication Plan (D&CP) if approved by the Commission.

The staff's currently defined process involves a basic screening step (Step 1), a more detailed screening step (Step 2), an engagement with federal Intelligence, Law Enforcement, and Homeland Security Communities to obtain input on staff's evaluation to that point (Step 3), and a proposed D&CP submitted to the Commission that, if approved, would develop technical and resource analyses, with industry input (Step 4). Upon completion of Step 4, the Commission would make a decision regarding the characteristic under consideration, based on the information developed in Step 4. At each step of this process a characteristic may be screened in (to continue to the next step) or be screened out.

The staff's recommendation to add an initial in-house technical analysis step after receiving input from Intelligence, Law Enforcement, and Homeland Security Communities (tentatively Step 3.5) allows the staff to prepare an initial technical assessment that could potentially help determine whether or not to proceed to the next step. I find this reasoning to be persuasive.

However, I disagree with the staff recommendation to formulate resource impact estimates prior to seeking Commission approval to proceed to Step 4. I do not believe that such estimates should be involved at this stage of the screening process, and have far too much uncertainty at that point to be useful as a Commission decision input. If the Commission approves proceeding into Step 4, then industry and other appropriate stakeholders will have an opportunity to identify all possible mitigation strategies for the particular characteristic under consideration and the choice of strategies could significantly influence resource estimates. The Commission's final decision regarding the characteristic under consideration should be informed by the full range of mitigation strategies available.



Peter B. Lyons Date