

UNITED STATES OF AMERICA
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DEFENSE NUCLEAR FACILITIES SAFETY BOARD

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WEDNESDAY
MAY 12, 2010
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The Board met in the DNFSB Hearing Room at 625 Indiana Avenue, N.W., Suite 300, Washington, D.C., Peter S. Winokur, Chairman, presiding.

PRESENT:

PETER S. WINOKUR, Chairman
JOHN E. MANSFIELD, Vice Chairman
JOSEPH F. BADER, Board Member
LARRY W. BROWN, Board Member
JESSIE H. ROBERSON, Board Member

STAFF PRESENT:

RICHARD A. AZZARO, General Counsel

TIMOTHY J. DWYER, Technical Director
BRIAN GROSNER, General Manager

ALSO PRESENT:

THE HONORABLE THOMAS P.
D'AGOSTINO, Administrator,

National Nuclear Security Administration
RICHARD H. LAGDON, JR., Chief of Nuclear Safety, Office of the Under Secretary, Department of Energy
GLENN PODONSKY, Chief Health,

Safety and Security Officer,
Office of Health, Safety and Security

C-O-N-T-E-N-T-S

Chairman's Opening Remarks	4
Board Member Opening Remarks	14
Statement by NNSA	29
Board Questions for NNSA	54
Statement by Chief of Nuclear Safety on Behalf of the Under Secretary of Energy	105
Board Questions for Chief of Nuclear Safety on Behalf of the Under Secretary of Energy	121
Statement by DOE Office of Health, Safety, and Security (HSS)	145
Board Questions for HSS	165
Public Statements	226
Closing Statement	233
Adjourn	233

E-X-H-I-B-I-T-S

Exhibit	Document	Page
A	New York Times Articles	140
B	Current Oversight Process, Side 1	156
C	Current Oversight Process, Side 2	157
D	Checklist of Directives	159
E	HSS Safety Directives Project Plan, 12/20/07	183
F	Crosswalk	185

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2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
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P-R-O-C-E-E-D-I-N-G-S

8:59 a.m.

CHAIRMAN WINOKUR: Good morning.

My name is Peter Winokur and I am the Chairman of the Defense Nuclear Facilities Safety Board. I will preside over this public meeting and hearing.

I'd like to introduce the members of the Safety Board who are all present here today. To my immediate left is Dr. John Mansfield. And to his left is Mr. Joseph Bader. On my right is Mr. Larry Brown. And to his right is Ms. Jessie Roberson. We five constitute the Board.

The Board's General Counsel, Richard Azzaro is seated to my far left. And next to him is the Board's General Manager, Brian Grosner. The Board's Technical Director, Tim Dwyer, is seated to my far right.

Several members of our staff closely involved with the oversight of the

1 Department of Energy's Defense Nuclear
2 Facilities are also here.

3 Today's meeting and hearing were
4 publicly noticed in the Federal Register on
5 April 22nd, 2010. The meeting and hearing are
6 held open to the public in accordance with the
7 provisions of the Government and Sunshine Act.

8 To provide timely and accurate
9 information concerning the Board's public and
10 worker health and safety mission throughout
11 the Department of Energy's nuclear weapons
12 complex, the Board is recording this
13 proceeding through a verbatim transcript and
14 video recording.

15 As part the Board's E-Government
16 initiative, the meeting is also being made
17 available over the internet through video
18 streaming. The transcript, associated
19 documents, public notice, and video recording
20 will be available for viewing in our public
21 reading room on the seventh floor of this
22 building.

1 In addition, an archived copy of
2 the video recording will be available through
3 our website for at least 60 days.

4 In accordance with the Board's
5 practice and as stated in the Federal Register
6 notice, we will welcome comments from
7 interested members of the public at the
8 conclusion of testimony.

9 A list of those speakers who have
10 contacted the Board is posted at the entrance
11 to this auditorium. We have listed the people
12 in the order in which they have contacted us
13 or, if possible, when they wish to speak. I
14 will call the speakers in the order and ask
15 that speakers state their name and title at
16 the beginning of their presentation.

17 There is also a table at the
18 entrance to this room with a sign-up sheet for
19 members of the public who wish to make a
20 presentation but did not have the opportunity
21 to sign up previous to this time. They will
22 follow those that have already registered with

1 us in the order in which they have signed up.

2 In order to give everybody wishing
3 to speak an equal opportunity, we ask
4 presenters to limit their original statements
5 to five minutes. The Chair will then give
6 consideration to additional comments should
7 time permit.

8 Presentations should be limited to
9 comments, technical information, or data
10 concerning the subjects of this meeting and
11 hearing. The Board members may question
12 anyone making presentations to the extent
13 deemed appropriate.

14 The record of this proceeding will
15 remain open until June 12th, 2010.

16 I would like to reiterate that the
17 Board reserves the right to further schedule
18 and otherwise regulate the course of this
19 meeting and hearing to recess, reconvene,
20 postpone, or adjourn this meeting and hearing,
21 and to exercise its authority under the Atomic
22 Energy Act of 1954, as amended.

1 Today's meeting is the second in a
2 series during the Board will examine the
3 Department of Energy's and the National
4 Nuclear Security Administration's actions to
5 date in response to Board Recommendation 2004-
6 1, Oversight of Complex, High-Hazard Nuclear
7 Operations.

8 When the Board issued
9 Recommendation 2004-1, it was concerned about
10 DOE's [Department of Energy] and NNSA's
11 [National Nuclear Security Administration]
12 desire to shift responsibility for safety
13 oversight at defense nuclear facilities from
14 Headquarters and Field Offices to contractors'
15 self assurance programs.

16 What continues to concern the
17 Board is the following question: Will
18 modifications to the DOE and NNSA
19 organizational structure and practices, as
20 well as increased emphasis on productivity
21 improve or reduce safety and increase or
22 decrease the probability of a high-

1 consequence, low-probability accident?

2 The public meeting and hearing
3 focuses on the important topic of safety
4 oversight at defense nuclear facilities. Is
5 oversight going to continue to be an effective
6 component of conducting the vital work of the
7 Department of Energy?

8 It is the Board's view that
9 oversight responsibility cannot be diminished
10 or delegated from the Government to its
11 contractors. Today we hope to hear DOE's
12 views on this issue.

13 Just like in 2003, DOE is again
14 implementing significant changes to their
15 directives, oversight processes, and
16 governance models. The intent of this public
17 meeting is to understand what DOE's concerns
18 are with their current system of directives,
19 oversight, and governance, and how these
20 changes will address those concerns.

21 A strong system of safety
22 oversight plays a key role in managing high-

1 risk activities. One need only invoke the
2 names of Challenger, Columbia, Davis-Besse,
3 Chernobyl, Texas City, or Bhopal to remind us
4 of the consequences of failing to learn that
5 lesson.

6 But we, as a nation, continue to
7 learn that lesson the hard way. The loss of
8 life last month in the Upper Big Branch coal
9 mine is another stark example. In all
10 instances, the primary cause of these
11 accidents has been the failure of government
12 oversight that was preceded by delegation of
13 inherently governmental responsibility to the
14 private sector.

15 We are all committed to ensuring
16 public and worker safety in DOE's Defense
17 Nuclear Complex. And during the past 20
18 years, the Department has achieved significant
19 improvements in safety.

20 Actions take by DOE in
21 implementing elements of Recommendation 2004-
22 1, as well as the successful completion of

1 early related Board recommendations have led
2 to clear requirements for oversight, a
3 technically-capable workforce to conduct that
4 oversight, and processes like corrective
5 actions and lessons learned for ensuring the
6 issues identified during oversight are
7 properly addressed.

8 The current DOE Oversight Policy,
9 DOE Policy 226.1A, has a key role in DOE's
10 efforts for protecting the public, workers,
11 the environment, and national security assets.
12 Through that policy, DOE mandates that all DOE
13 organizations implement assurance systems to
14 ensure compliance with requirements. And that
15 all DOE organizations pursue excellence
16 through continuous improvement.

17 The Board supports the
18 strengthening of contractor assurance systems
19 that are vital to managing the risk inherent
20 in defense nuclear facilities. But it is
21 critical that the Government independently
22 verify and validate that safety controls at

1 its defense nuclear facilities are adequate,
2 implemented, and maintained.

3 The Government must use its line
4 management and independent oversight functions
5 to ensure that the appropriate balance between
6 mission and safety and help mitigate DOE's
7 inherent conflict of interest that arises from
8 its self-regulation.

9 DOE directives, in conjunction
10 with DOE's safety rules, provide the bedrock
11 upon which adequate protection of the public,
12 workers, and the environment is built. And
13 they provide the insurance that DOE
14 contractors will safely conduct operations at
15 defense nuclear facilities.

16 These directives embody over six
17 decades of experience in operating nuclear
18 facilities and are rooted in commercial
19 nuclear power, naval reactors, and defense
20 programs. The Board is concerned that
21 recently DOE established a goal to reduce the
22 number of directives by 50 percent.

1 The Board believes that any effort
2 to overhaul the directive system should be
3 undertaken with the objective of strengthening
4 and improving the directives while continuing
5 to ensure adequate levels of protection and
6 prevent accidents or incidents at defense
7 nuclear facilities.

8 Finally, the Board is concerned
9 that recent messages from DOE and NNSA
10 leadership have the potential to cause
11 misinterpretations of the vital role of
12 oversight and the importance of directives.

13 These messages include the Deputy
14 Secretary's March 16th, 2010 memorandum
15 entitled Department of Energy 2010 Safety and
16 Security Reform Plan, the NNSA Administrator's
17 memorandum dated December 18th, 2009 entitled
18 Six-Month Moratorium on NNSA-Initiated
19 Assessments, and the NNSA Administrator's
20 memorandum dated December 22nd, 2009 entitled
21 NNSA Enterprise Reengineering Reform
22 Initiative LOCAS [Line Oversight and

1 Contractor Assurance System].

2 Each memorandum suggests that
3 reform is needed to mission of the Department,
4 leaving at least the impression that safety is
5 a barrier and not an enabler to that mission.

6 So, once again, and in the
7 simplest terms, we are asking what is wrong
8 with the current DOE oversight systems and
9 directives at defense nuclear facilities and
10 how will the ongoing changes improve the
11 situation?

12 That concludes my opening remarks.

13 My fellow Board members will now
14 present their opening remarks. First the Vice
15 Chairman, Dr. John Mansfield.

16 VICE CHAIRMAN MANSFIELD: Thank
17 you, Mr. Chairman.

18 I'm John Mansfield. I was
19 originally named to this Board by President
20 Clinton. And before that I served on the
21 staff of the Senate Arms Services Committee
22 when the legislation establishing the Board

1 was first considered. And, in fact, that was
2 one of my duties, DOE activities and defense
3 nuclear activities were part of my duties.

4 At that time, there was a
5 widespread loss of public confidence in DOE,
6 in particular having to do with readiness to
7 restart reactors and resume plutonium
8 operations at Rocky Flats.

9 The DOE, itself, under Admiral
10 Watkins sent tiger teams to ascertain the
11 current state of safety at DOE facilities.
12 And that resulted in a series of about 20
13 articles in the New York Times over a month or
14 so about DOE's highest risk plants.

15 That series was a list of horror
16 stories. The only conclusion the public could
17 make was that the system was out of control
18 and DOE was not at the helm at that time. No
19 one at DOE Headquarters appears to remember
20 these stories. I haven't found anybody that
21 has a copy of them. And I've been handing
22 them out.

1 The DOE doesn't remember those
2 stories. They don't remember the public
3 outrage that they caused. But believe me,
4 Congress does remember.

5 The Board immediately addressed
6 the issues raised in those -- I think they
7 were 1988 articles. In the first three years,
8 the Board made 19 recommendations, fully a
9 third of the total we've ever made in the 20
10 years we've been around, nearly all directed
11 at deficient or non-existent standards and
12 very poor conduct of operations and training.

13 All 19 were accepted by the
14 Secretary. What came of this, under the
15 Secretaries' direction, Secretaries'
16 direction, was a body of technical standards,
17 a body of regulatory statements of one sort or
18 another, orders, directives, orders, manuals,
19 policies, et cetera, that have, in some cases,
20 not been changed until today.

21 There was also a body of federal
22 regulation, 10 CFR 830 and 835.

1 These were rapidly put together,
2 rapidly promulgated, and established as DOE's
3 operating rule. Furthermore, a rigid system
4 of operational readiness reviews was
5 established, which did not exist before.

6 These standards, regulations, and
7 readiness reviews were made mandatory by DOE
8 precisely to eliminate the horror stories of
9 the New York Times articles.

10 No one at DOE seems to remember
11 that that's where these regulations, et
12 cetera, came from. But Congress remembers.

13 Now -- so it's not surprising that
14 the first duty established in the Board's
15 enabling statute, the very first, is to review
16 DOE standards that underpin safety pertaining
17 to all cycles -- all the life cycle phases of
18 DOE operations. And then to make
19 recommendations -- and to make recommendations
20 to improve those standards.

21 These standards were meant to be
22 comparable to those that prevailed in the

1 commercial nuclear power industry but had not,
2 up to that time, been applied to DOE defense
3 nuclear facilities.

4 As the Board often pointed out,
5 unlike commercial plants, the risks are not,
6 at DOE's Defense Nuclear Facilities, are not
7 solely a function of the quantities of nuclear
8 material but more importantly, the material
9 processes involved and the physical states and
10 the potential for explosive disbursement of
11 radioactive materials or inadvertent nuclear
12 detonation even.

13 So DOE's standards and regulations
14 are necessarily different from those for the
15 commercial nuclear standards. And if you
16 hadn't written them in the early 1990s, there
17 would be none. There would be none.

18 So we've been at this for 20 years
19 now. And we've made great progress in many
20 areas together. But we can't take our eye off
21 the ball. And we can't afford to allow
22 someone else watch the ball in our stead.

1 Given the magnitude of the
2 accidents that can come out of DOE facilities,
3 the federal role in oversights must be
4 maintained rigorously at all times.

5 I now -- that concludes my
6 remarks, Mr. Chairman.

7 CHAIRMAN WINOKUR: Thank you, Dr.
8 Mansfield.

9 Mr. Bader?

10 MR. BADER: Thank you, Mr.
11 Chairman.

12 I'd like to offer some thoughts on
13 how a sound directive system is critical to
14 oversight. You need to state what your
15 requirements are and you need to be clear in
16 how these requirements will be competently
17 implemented and rigorously maintained.

18 The directive system does this for
19 you. Without a strong and well-considered
20 directive system, oversight degrades to an ad
21 hoc process. And I believe this will stymie
22 DOE's ability to effectively identify safety

1 issues and resolve them early.

2 Whether it's new design,
3 construction, or operations, the resolution of
4 issues will take more time and more energy
5 because you'll be reinventing the wheel to
6 solve problems. This would be a burdensome,
7 duplicative, and inefficient process.

8 Directives should be used as a
9 tool that facilitates clarity, efficiency, and
10 progress. As evidence of this, I point to the
11 good headway that has been made in both the
12 uranium processing facility at Y-12 as well as
13 the integrated waste treatment unit project at
14 DOE's Idaho site.

15 These are examples of how the
16 application of Standard 1189 integration of
17 safety into the design process, as called for
18 in DOE Order 420.1B, Facility Safety, works in
19 these matters to date.

20 One of our objectives has been
21 early identification and early resolution of
22 design issues and the directive system has

1 facilitated that to everybody's benefit.

2 The Deputy Secretary has called
3 for the revisions of the directive system
4 measuring near-term success by relief of
5 specific low-value, burdensome requirements
6 unquote. And with an arbitrary goal of 50
7 percent reduction in directives in eight
8 months' time.

9 There are directives which are
10 cumbersome, which are duplicative, and which
11 are unclear. No argument. There was a
12 directives review process in place since 2007
13 to address this issue. It has worked pretty
14 well. It benefitted from clear, specified
15 criteria and a thorough review process.

16 It has worked more slowly than it
17 should in part due to application of
18 insufficient resources to make it work as
19 quickly as it should have, at least in my
20 opinion.

21 Continuing this appropriate
22 process would benefit both us and DOE and is

1 highly worthwhile.

2 Let's consider the opposite, a
3 hurried directives review process. What will
4 this accomplish?

5 Let's consider the situation where
6 the DOE directives system with respect to
7 nuclear safety is changed such that a
8 reasonable degree of specificity is lacking or
9 it is incomplete with resulting gaps.

10 The Board will be required to
11 ensure the same level of public and workers'
12 safety in new and old operating facilities.
13 It will just take longer to get to the same
14 place, absorbing more of our time and DOE's
15 time. We will get there.

16 It will mean more letters, more
17 recommendations without the efficiencies of a
18 good, clear, comprehensive system of
19 directives. In some respects, it would be a
20 return to the situation at the beginning of
21 the Board's operation that Dr. Mansfield just
22 referred to. This is in nobody's interest and

1 should be avoided.

2 Mr. Chairman, I have no further
3 comments at this time.

4 CHAIRMAN WINOKUR: Thank you, Mr.
5 Bader.

6 Mr. Brown:

7 MR. BROWN: Thank you, Mr.
8 Chairman, and fellow Board members.

9 I am Larry Brown. And I look
10 forward to the testimony from DOE on recent
11 oversight initiatives, how those initiatives
12 are intended to improve public and worker
13 safety, and how they correspond with the
14 Board's 2004 Recommendation on Oversight of
15 Complex, High-Hazard Nuclear Operations.

16 One of the actions DOE has
17 completed in response to the Board's
18 recommendation was to issue an oversight
19 policy. This policy can be found in the
20 document titled DOE Policy 226.1A.

21 The first sentence says, and I
22 quote, "The purpose of this Policy is to

1 establish a Department-wide oversight process
2 to protect the public, workers, environment,
3 and national security assets through continuous
4 improvement."

5 It is my opinion, and I
6 acknowledge, that the dedicated technical
7 cadre of facility representatives and the
8 cadre of safety system oversight personnel
9 serving in DOE's Defense Nuclear Complex has
10 improved since 2004. The importance of their
11 daily presence in monitoring high-hazardous
12 operations conducted at defense nuclear
13 facilities cannot be overstated.

14 However, because this cadre of
15 safety system oversight personnel is
16 relatively small, high-hazard nuclear
17 activities commonly take place when technical
18 oversight cannot be present. That is to say
19 federal onsite oversight is just one part of
20 a larger program. The larger program includes
21 strong directives program, external oversight,
22 and technically competent federal leadership.

1 While preparing for this hearing,
2 I took the opportunity to reread a speech
3 given in 2004 by the Board's first Chairman,
4 John Conway. The public meetings which
5 preceded the 2004 recommendation had probed
6 into the causes of the space shuttle Columbia
7 accident.

8 One conclusion in the Columbia
9 accident investigation report that is relevant
10 to the discussion today was the change in
11 roles between NASA [National Aeronautics and
12 Space Administration] and its contractor.

13 And let me quote, "NASA's
14 structure changed as roles and
15 responsibilities were transferred to
16 contractors, which increased the dependence on
17 the private sector for safety functions and
18 risk assessment while simultaneously reducing
19 the in-house capability to spot safety
20 issues."

21 Chairman Conway went on to observe
22 that the conclusion reached in the accident

1 report was that over the years of budget
2 reductions and downsizing at NASA, the NASA
3 engineers and managers came to depend on its
4 contractors for interpretation and analysis of
5 technical data and did not have the training
6 necessary to evaluate the results.

7 We cannot and should not allow
8 this same sequence of events to affect DOE's
9 ability to technically manage and direct
10 contractors in the safe operation of hazardous
11 activities.

12 Chairman Conway also said that if
13 you are not moving ahead and improving, you
14 are falling behind. As I said at the
15 beginning of my statement, DOE has an
16 oversight policy that requires continuous
17 improvement.

18 I look forward to learning from
19 our speakers today how these recent
20 initiatives will affect DOE's ability to
21 technically manage and direct contractors in
22 the safe operation of hazardous activities.

1 Mr. Chairman, I have no further
2 comments.

3 CHAIRMAN WINOKUR: Thank you, Mr.
4 Brown.

5 Ms. Roberson?

6 MS. ROBERSON: Good morning.
7 Thank you, Mr. Chairman, and fellow Board
8 members.

9 It is an honor and a privilege to
10 serve on the Board again. I have worn many
11 hats in my career, as a contractor, federal
12 program manager, field office manager, and
13 program secretarial officer.

14 My experience has taught me that
15 the oversight model has been key in
16 identifying the right problems to solve and
17 where and how to deploy resources to solve
18 them. I can attest -- I can personally attest
19 to the commitment and expertise of the
20 oversight folks in the field and the
21 incredibly valuable role that they play.

22 However, they need to be backed up

1 by a rigorous framework. A key premise of
2 SEN-3591 [Secretary of Energy Notice] states,
3 and I quote, "DOE and contractor management
4 are responsible for continuously pursuing
5 enhancements to safety, not just complying
6 with the minimal set of requirements."

7 The Department further
8 demonstrates this value through Department-
9 wide goal setting. DOE's Policy 450.7, which
10 states, and I quote, "The DOE's ultimate ES&H
11 [Environment, Safety and Health] goal is zero
12 accidents, zero work-related injuries and
13 illnesses, zero regulatory enforcement
14 accidents and reportable environmental
15 releases. This goal is to be pursued through
16 a systematic and concerted process or
17 continuous performance improvements using
18 performance measurements."

19 Effective oversight requires that
20 we have a firm fix on baseline requirements
21 and the ability to capture and repeat good
22 practices while avoiding repeat mistakes. We

1 need to understand how you are embracing the
2 spirit of SEN-3591 to continuously pursue
3 enhancements to safety and what role oversight
4 has played and will make in the future.

5 Thank you, Mr. Chairman, I have no
6 further questions at this time.

7 CHAIRMAN WINOKUR: Thank you, Ms.
8 Roberson.

9 This concludes the Board's opening
10 remarks.

11 At this time, I'd like to welcome
12 the Honorable Thomas D'Agostino, Administrator
13 of the National Nuclear Security
14 Administration to present his testimony
15 followed by questions from the Board.

16 Administrator D'Agostino?

17 MR. D'AGOSTINO: Thank you.

18 Grab a little water.

19 Mr. Chairman, members of the
20 Board, thank you very much for this
21 opportunity to meet with you in this public
22 forum to discuss effective oversight of our

1 nuclear facilities.

2 You provided a written lines of
3 inquiry prior to the meeting and my formal
4 response is organized around those written
5 lines of inquiry. Of course I'll be happy to
6 answer questions that you may have.

7 Let me begin by describing our
8 overall oversight approach as it currently
9 exists. I'll discuss its effectiveness, point
10 out its strengths, its weaknesses, and use it
11 as a basis for describing the changes we are
12 considering.

13 I'll then discuss our approach to
14 Headquarters assessments, and will close with
15 a brief discussion of the Central Technical
16 Authority function and its staffing.

17 The National Nuclear Security
18 Administration oversight of our nuclear safety
19 responsibilities, as you pointed out, has
20 developed over many years and has proven
21 highly effective in preventing nuclear
22 accidents and significant radiological

1 exposures to the workers and the public.

2 The primary responsibility for
3 safety has always rested closest to the work
4 being performed, first with the workers, and
5 then oversight beginning with the first line
6 supervisors who are responsible for the work
7 that they are doing is performed in accordance
8 with our nuclear safety requirements.

9 The direct supervisory function
10 starts with the contractor line management
11 consistent with the nuclear safety
12 requirements that are imposed by regulation or
13 included in the contract.

14 Oversight at the contractor level
15 also includes contractor self-assessment
16 functions that vary somewhat from contractor
17 to contractor but they help provide line
18 managers with a comprehensive assurance that
19 key nuclear safety requirements are flowing
20 down from the contract and are effectively
21 implemented.

22 Contractor self-assessments

1 include systematic oversight as well as
2 targeted assessments such as design reviews
3 for construction projects, readiness reviews
4 for start up or restart of nuclear facilities,
5 verification of implementation of safety bases
6 requirements, and reviews within functional
7 areas such as those conducted by cognizant
8 systems engineers for vital safety systems.

9 In a number of situations our
10 contractors have relied on corporate reach
11 back to bring in oversight resources from
12 their parent work corporations to address
13 particular needs. In other cases, our
14 contractors have engaged in support
15 contractors and contractors from other sites
16 to provide the needed subject matter expertise
17 for their self-assessments.

18 On the federal side, the primary
19 responsibility for nuclear safety oversight is
20 again vested with the line managers who are
21 closest to the work being performed. These
22 are generally our Site Office personnel led by

1 our Site Office managers.

2 Site Offices conduct, as you know,
3 day-to-day oversight through a variety of
4 mechanisms. These include the use of facility
5 representatives who spend most of their time
6 in our nuclear facilities systematically
7 observing contractor performance, safety
8 system oversight personnel who are responsible
9 for ensuring that the contractors' treatment
10 of vital safety systems preserves their
11 functionality, and a variety of subject matter
12 experts who provide routine inspections within
13 their functional areas.

14 NNSA Site Offices generally
15 execute a systematic approach to oversight at
16 both the system level and a transactional
17 level. At the system level, Site Office
18 personnel review the implementation of the
19 nuclear safety requirements through a
20 combination of scheduled assessments that
21 address key nuclear safety disciplines.

22 Frequently Site Office personnel

1 observe or shadow contractor self-assessments
2 and they independently execute focused
3 oversight functions. Focused oversight
4 includes reviews of credited safety control
5 implementation, reviewing readiness of nuclear
6 facilities to begin operations, design
7 reviews, and review of vital safety systems.

8 These reviews provide direct
9 insight regarding the adequacy of the
10 contractors' implementation of the nuclear
11 safety requirements.

12 Additionally, Site Office
13 personnel also provide oversight through
14 review and approval of specific contractor
15 deliverables. They include but are not
16 limited to review and approval of contractor
17 training implementation matrices, nuclear
18 maintenance management programs, conduct of
19 operations implementation plans on reviewed
20 safety question documentation, documented
21 safety analysis, technical safety
22 requirements, justifications for continued

1 operations, and exemptions from or
2 equivalencies to nuclear safety requirements.

3 The review and approval of these
4 nuclear safety program documents provides a
5 direct awareness and measure of control over
6 how the contractor intends to implement
7 nuclear safety requirements and how unusual
8 situations or significant changes that could
9 affect safety are addressed.

10 Although our contractors and Site
11 Offices serves as our primary mechanisms for
12 conducting nuclear safety oversight, we also
13 rely upon a number of Headquarters' initiated
14 oversight functions to ensure that delegated
15 nuclear safety responsibilities are being
16 executed appropriately as well as to train and
17 equip personnel while ensuring uniform
18 understanding and application of the
19 requirements.

20 NNSA has assembled a network of
21 resources at Headquarters that provide this
22 additional level of oversight for our field

1 operations. Headquarters oversight functions
2 are executed through line manager
3 organizations such as the Defense Programs
4 Office of Safety as well as functional area
5 managers such as the Chief of Defense Nuclear
6 Safety and other support organization as
7 circumstances warrant.

8 Headquarters organizations
9 maintain regular contact with the field
10 through numerous mechanisms that provide an
11 opportunity for real-time oversight.
12 Headquarters personnel observe or participate
13 in Site Office level discussions of
14 significant operational events and also
15 conduct regularly scheduled teleconferences
16 with site personnel in group settings to
17 discuss emerging issues.

18 These provide an opportunity for
19 Headquarters personnel to become engaged on
20 specific issues when the need exists to do so.

21 Headquarters also provides
22 oversight through a number of periodic or

1 systematic assessments. The Office of Chief
2 of Defense Nuclear Safety leads a biennial
3 review of roughly 18 nuclear safety areas at
4 each of our Site Offices.

5 Other focused assessments
6 involving nuclear safety include technical
7 independence project reviews of design and
8 construction of nuclear facilities as well as
9 accident investigations. Headquarters
10 personnel observe or participate in field
11 reviews such as readiness reviews and design
12 reviews and reviews selected safety
13 documentation and reports to maintain
14 awareness of situations on the field.

15 Taken together, our contractor
16 oversight, corporation oversight, reach back
17 and assistance, Site Office and Headquarters
18 oversight functions provide multiple layers of
19 oversight to ensure that nuclear safety
20 requirements are being effectively
21 implemented.

22 NNSA receives additional oversight

1 and assistance by external organizations such
2 as the Office of Health, Safety, and Security,
3 and, of course, the Defense Nuclear Facility
4 Safety Board. The Government Accountability
5 Office and the Office of Inspector General, of
6 course, also evaluate and provide input on
7 nuclear safety matters as situations warrant.

8 The strength of the existing NNSA
9 oversight arrangement is that these
10 overlapping layers of oversight result in many
11 experts at many layers and levels, helping to
12 ensure that nuclear safety requirements are
13 being implemented effectively.

14 However, the strength is also
15 related to the weakness, in my view of the
16 existing approach. As an oversight approach
17 has evolved, the number of organizations
18 involved has resulted in some confusion
19 regarding appropriate oversight roles and
20 responsibilities.

21 It also appears that our approach
22 to oversight of non-nuclear safety areas --

1 and I'll repeat non-nuclear safety areas --
2 may have been generalized from an approach
3 which is more appropriately in the nuclear
4 areas, resulting in an inappropriate
5 concentration of oversight resources on less
6 important, non-safety requirements -- and non-
7 nuclear safety requirements.

8 At the contractor level, the need
9 to support oversight conducting by multiple
10 organizations has sometimes resulted in
11 unpredictable impacts on operations when
12 demands for contractor resources to support
13 non-contractor oversight and production
14 schedules have come into conflict.

15 Concerns over the lack of
16 coherence in the existing process and its
17 somewhat conflicting nature have led NNSA over
18 the past few years to seek a way of
19 streamlining our approach to oversight of our
20 contractors. This investigation of
21 alternatives led me to establish in January of
22 this year a limited six-month moratorium, or

1 pause, on certain low-risk Headquarters
2 assessments of our Site Offices and their
3 contractors.

4 This moratorium did not include
5 high-risk reviews and day-to-day facility
6 operational awareness activities, especially
7 in the nuclear facilities. The principle
8 purpose of suspending certain low-risk
9 assessments was to free up resources to
10 evaluate our governance model and associated
11 roles and responsibilities and come up with
12 more effective approaches to oversight,
13 ultimately in the end to improve safety, and
14 security, and mission performance, all of
15 which are entirely linked and the same.

16 Once complete, organizations that
17 are responsible for the suspended low-risk
18 assessments will review their assessment
19 schedules in accordance with the new
20 integrated assessment model that is currently
21 being developed. This will result in a
22 rebalancing of priorities to ensuring that the

1 appropriate degree of degrading is applied to
2 oversight with the higher consequence, higher
3 hazard activities receiving proportionately
4 more oversight than low consequence, low
5 hazard activities. And that's a very
6 important principle from my view is put the
7 resources on those higher consequences nuclear
8 security activities and move them in that
9 direction.

10 Some of the suspended activities,
11 such as the nuclear safety biennial reviews,
12 this is just a temporary suspension, will
13 resume following this moratorium although
14 there might be some modifications to
15 streamline the approach. The details I don't
16 have right now because it is still in
17 progress.

18 For the biennial reviews, the
19 assessment schedule will not be compressed.
20 It will simply slip six months. And the
21 reviews that would have been conducted in the
22 first half of this year are going to commence

1 in the second half. This started particularly
2 for Pantex and the Savannah River site.

3 Once the moratorium is over, full-
4 time resources employed to work on governance
5 matters will largely be released to their
6 normal duties. However, I anticipate there
7 will be some additional refinements needed to
8 governance changes arising from the
9 moratorium.

10 So I'll periodically ask the
11 personnel who are currently involved to assist
12 in evaluating feedback and modifying our
13 approach as necessary. Ultimately, as was
14 mentioned in your opening remarks, continuous
15 improvement, working to get better and better
16 in safety.

17 As the moratorium is not yet over,
18 I have not finished determining the specific
19 changes that we will make to the oversight of
20 non-nuclear safety. We have adopted a set of
21 operating principles that are designed to take
22 the maximum advantage of the expertise of our

1 contractors and of the consensus standards
2 that are available in industry.

3 We'll have also taken steps to
4 transition to more of a performance-based
5 contracting approach at our contractor sites
6 for oversight of non-nuclear operations. The
7 advantages of this approach are that the
8 contractors' parent organization plays a much
9 more active role in the management of the
10 contract while the federal offices define the
11 deliverables via a revised contract
12 performance and evaluation plan.

13 Federal oversight is increasingly
14 risk informed while contractors'
15 accountability and ability for delivering
16 mission results in the most cost effective and
17 efficient manner has increased.

18 This approach, this shift over
19 more towards performance-based contract models
20 will allow -- has allowed our contractor at
21 our non-nuclear site in Kansas City to use
22 industrial standards where appropriate and

1 transferred the responsibility for the design
2 and implementation of the standard operational
3 administrative processes from NNSA to the
4 contractor.

5 NNSA moved more towards
6 determining desired outcome and the contractor
7 was allowed more to determine the appropriate
8 method for achieving it. The key here is the
9 transparency that covers both.

10 NNSA increased its use of the
11 contractor assurance system, third-party and
12 our peer reviews, and for-cause type reviews
13 in place of additional line management
14 oversight reviews.

15 Prior to shifting to the
16 performance-based contracting model, the
17 Kansas City contractor had demonstrated strong
18 safety performance. Subsequent review of the
19 safety performance has shown continuing
20 improvement in its total reportable case rates
21 and in overall safety performance that exceeds
22 that of private industry.

1 Since the transition to the
2 current approach, which began in 2007, Kansas
3 City has achieved a 33 percent reduction in
4 TRC [Total Reportable Case] rates from 1.02 in
5 2007 to .068 thus far in 2010. For comparison
6 purposes, private industry TRC rates hover
7 been 2.7 and 2.9 whereas the Kansas City TRC
8 rate has been between .56 and 1.02.

9 The 2010 rate is approximately
10 four times lower than private industry's best
11 available statistics. In addition, the prime
12 contractor has worked approximately 4.1
13 million hours without a Day Away from Work
14 Case. The last case occurred in June of 2009.

15 Beyond sound safety performance,
16 the Kansas City Site Office currently projects
17 a cost savings or avoidance of roughly 40
18 million over the first five years under this
19 new approach. In a resource-constrained
20 environment, such savings on low value
21 activities makes more funding available for
22 high value activities such as upgrades to the

1 safety systems that are needed to make
2 Departmental safety expectations.

3 Currently NNSA has asked the
4 Sandia Site Office and the Sandia National
5 Laboratories (New Mexico) and the Nevada Site
6 Office and National Security Technologies,
7 LLC, to take steps for evaluating and possibly
8 implementing similar performance-based
9 principles at their respective sites for non-
10 nuclear operations.

11 Once we have demonstrated the
12 practicality of this approach, we will
13 evaluate extending to model to other non-
14 nuclear activities at other sites.

15 In parallel, roles,
16 responsibilities, and accountabilities of the
17 federal workforce at these sites and at
18 Headquarters would be more clearly aligned and
19 defined with regards to both mission
20 performance and oversight.

21 Upon final implementation, there
22 will be a significant distinction between NNSA

1 oversight of nuclear safety, which will be
2 essentially unchanged from our current
3 practices, hopefully improved, and NNSA
4 oversight of non-nuclear safety areas.

5 I anticipate that there will be
6 far less transactional oversight and far fewer
7 process-related requirements in a non-nuclear
8 safety area than there will be for the nuclear
9 safety area where it is more appropriate.

10 Application of this approach
11 requires an evaluation of requirements in the
12 contract and the consensus standards or other
13 provisions that could replace them. At this
14 point in the effort, we're still evaluating
15 potential changes that may be made so I cannot
16 tell you what the final requirement set will
17 look like.

18 As we work to implement this
19 approach, we are mindful that both the Sandia
20 and Nevada sites have nuclear facilities as
21 well as non-nuclear facilities. Our intent is
22 to apply this approach to non-nuclear

1 operations but not -- I'll repeat -- but not
2 to affect the safety of our nuclear
3 facilities.

4 Accordingly, we are carefully
5 evaluating any changes to the implementation
6 of the directives and regulations that NNSA
7 has defined as having an impact on nuclear
8 safety. Some directives, such as those
9 covering packaging and transportation, quality
10 assurance, and design and construction, apply
11 to both nuclear and non-nuclear facilities and
12 help ensure the safety of our nuclear
13 facilities.

14 Where possible, we intend to
15 simply retain the applicability of those
16 requirements to the nuclear facilities even if
17 alternative approaches are approved for the
18 non-nuclear facilities. Where that is not
19 feasible, we intend to carefully evaluate any
20 alternatives proposed to assure that a truly
21 equivalent level of performance and supporting
22 methodology is retained for our nuclear

1 facilities.

2 Evaluating alternatives to balance
3 requirements and resources, considering the
4 affect on safety as well as the level of
5 available resources and other drivers, is an
6 inherent task of line management. But
7 achieving a proper balance never requires a
8 decision that trades mission accomplishment
9 for adequate safety.

10 The nature of our enterprise
11 requires safety to be integrated into all of
12 the activities we conduct. Consequently,
13 safety impact generally carries the greatest
14 weight when establishing overall priorities
15 for competing proposed activities so that the
16 overall decision-making approach ensure
17 adequate safety.

18 For its ongoing operations, NNSA
19 uses a number of metrics to help gauge the
20 significance of needed safety enhancements.
21 With respect to occupational safety, we track
22 metrics similar to those tracked by

1 industries, including total reportable cases
2 and days away/restricted time. We also track
3 near misses, electrical incidents, and other
4 safety occurrences.

5 With respect to nuclear safety,
6 the principle metric I use to determine where
7 additional attention and resources are needed
8 is how well our sites perform in nuclear
9 safety assessments. For design and
10 construction projects and for age-related
11 matters of our aging infrastructure, this is
12 augmented by the results of safety analysis,
13 which help to determine where significant
14 expenditures to support both mission and
15 safety are needed to meet Departmental
16 expectations.

17 Let me close with a discussion of
18 NNSA's implementation of the NNSA's Central
19 Technical Authority, or CTA [Central Technical
20 Authority] function. When established by the
21 Secretary of Energy, the CTA was assigned
22 eight responsibilities associated with nuclear

1 safety requirements. These responsibilities
2 have not changed.

3 In brief, the CTA concurs on
4 nuclear safety requirements, applicability,
5 and inclusion in contracts and on exemptions,
6 works with the Department on revisions to
7 nuclear safety requirements, and concurs on
8 those revisions, and the CTA maintains
9 operational awareness on the implementation of
10 nuclear safety requirements.

11 The CTA reviews and assesses
12 nuclear safety staffing and provides input
13 into the selection of DOE and NNSA nuclear
14 safety research and development activities.

15 When the Secretary first
16 established the NNSA CTA, he assigned
17 principle staff support responsibility to the
18 Office of Chief of Defense Nuclear Safety.

19 When the NNSA declared the CTA function
20 implemented, CDNS [Office of the Chief of
21 Defense Nuclear Safety] had eight technical
22 personnel on its staff.

1 After some reorganization,
2 attrition, and hiring actions recently taken,
3 the Chief of Defense Nuclear Safety Office has
4 that same number of personnel. All of Chief
5 of Defense Nuclear Safety functions have the
6 same number. Technical personnel are required
7 to qualify as senior technical safety managers
8 and all are band five members of the accepted
9 service, very senior folks.

10 Additional support for the CTA
11 function comes from the Office of the Senior
12 Advisor for Environment, Safety, and Health
13 and from the Office of Safety within Defense
14 Programs itself, both of which work closely
15 with the Chief of Defense Nuclear Safety to
16 ensure adequate support to the CTA functions.

17 In addition, NNSA takes advantage
18 of field expertise to augment staff
19 capabilities while providing value
20 opportunities for field personnel to be
21 exposed to technical areas at other sites. An
22 example of this approach is the conduct of the

1 biennial reviews of nuclear safety
2 performance.

3 NNSA uses these reviews to assess
4 many areas of CTA responsibility. When we
5 review a site office, we staff the review team
6 with subject matter experts from other Site
7 Offices as well as from other Headquarters
8 organizations, including the Office of Health,
9 Safety, and Security.

10 Creating a blending team of
11 Headquarters and field personnel helps ensure
12 uniform understanding of the requirements
13 across the enterprise while enabling a vital
14 CTA function with minimum of full-time
15 assigned staff, though we still main eight
16 full-time assigned staff.

17 Similarly, the CTA has
18 responsibility to issue expectations and
19 guidance on technical matters affecting
20 nuclear safety. When such matters arise, CTA
21 staff leads the effort but depends upon
22 significant coordination and support from

1 subject matter experts throughout the NNSA
2 enterprise and from elsewhere within the
3 Department.

4 The approach that we have taken to
5 staffing the CTA function has resulted in a
6 small but effective organization that meets
7 the Department's goals with expectations and
8 expectations for the CTA function, I believe,
9 in a robust manner.

10 Again, thank you very much for the
11 opportunity to speak with you today and for
12 your attention. I'd be happy to answer any
13 questions that you may have.

14 CHAIRMAN WINOKUR: Well, thank you
15 very much for your testimony.

16 MR. D'AGOSTINO: Sure.

17 CHAIRMAN WINOKUR: And I want to
18 go back to my opening remarks where I asserted
19 that I felt the Department and NNSA had made
20 significant improvements in safety over the
21 last 20 years.

22 And I think that came from DOE and

1 line oversight, independent oversight, which
2 might be from the Health, Safety, and Security
3 organization or the Defense Nuclear Facility
4 Safety Board, and a very strong system of
5 directives.

6 So I thought we had a process and
7 a system, at least in the nuclear area, that
8 was working very well. And it is in that
9 light that I have been looking at a lot of
10 these safety reforms that are taking place.
11 And you are certainly aware of them.

12 MR. D'AGOSTINO: Right.

13 CHAIRMAN WINOKUR: You know that
14 the Deputy Secretary has set a goal of
15 reducing 50 percent of directives that are
16 under the purview of the Health, Safety, and
17 Security organization. About three-quarters
18 of those are orders of interest to the Board.

19 And you've also talked pretty
20 clearly about looking at -- we've seen other
21 oversight changes potentially going from
22 transactional to assist. And then you're

1 talking about new governance models.

2 And what I thought I heard you say
3 today is that you draw a very clear
4 distinction between non-nuclear and nuclear.
5 And that you, you know, believe that we're
6 going to maintain this kind of winning system
7 we have in the nuclear area because it served
8 you pretty well. And it is because it is so
9 important to a national security mission.
10 Wouldn't that be true?

11 MR. D'AGOSTINO: Yes. And I'd
12 like to amplify on that a bit.

13 You know what we've observed time
14 this is, in my view, one of the weaknesses
15 we've had. While robust in robustness as it
16 has developed throughout the 1990s and into
17 this decade has resulted in clarity directives
18 and the like in the nuclear area, as I
19 mentioned in my testimony, it has spilled over
20 into kind of everything the Department was
21 doing on the federal side and into the non-
22 nuclear safety.

1 Still important, I don't want to
2 discount non-nuclear safety. It is incredibly
3 important. But what we ended up doing then is
4 doing a couple of things in my view.

5 We -- because of the layers and
6 without defining the clear separation between
7 who is responsible for each one of the layers,
8 we can create an environment, and I've seen
9 have created environments which create
10 confusion on account of who is responsible for
11 what at each one of these different layers.
12 That's problem number one.

13 Problem number two, in my view,
14 and I want to say I describe it as a problem,
15 I think it is more of a weakness frankly,
16 weakness number two, in my view, is that what
17 we've done is we've applied the same level of
18 intensity in the non-nuclear area or in lower
19 risk activities that ultimately, as we did on
20 the nuclear side or the higher risk
21 activities, as a result we end up no
22 allocating our resources and resources are

1 fixed.

2 I don't know of any organization
3 that doesn't have fixed resources. And,
4 therefore, we are not having -- striking that
5 right balance. So the focus of our first
6 efforts here are to do, in the NNSA are to
7 drive some clarity, this governance clarity,
8 at the different layers. We have to count on
9 all of the layers to work. But we have to
10 drive -- make sure that there is clarity
11 between the layers.

12 And, step two, is making sure that
13 we apply the attention on the highest risk
14 activities, whether it's nuclear safety or
15 there is maybe some non-nuclear but chemical
16 activities that are happening, that's where we
17 want most of our oversight.

18 It doesn't mean we ignore the
19 oversight on the non-nuclear or lower risk
20 activities. But it's a matter of driving that
21 balance.

22 And so that's why when we started

1 looking at this at Kansas City, we said let's
2 take the site that has a long track record and
3 seeing if we can implement this in a
4 relatively low risk area and take a few years
5 before we look at the other areas. And then
6 take it across from there.

7 So that doesn't mean, if I could
8 add just one last thing --

9 CHAIRMAN WINOKUR: Sure.

10 MR. D'AGOSTINO: -- on your
11 question, sir, that doesn't mean that we don't
12 look at nuclear safety because we want to
13 continually improve how we do our nuclear
14 safety performance.

15 In the end, mission shouldn't be
16 separated from safety. Safety and mission are
17 the exact same thing. If you can't do it
18 safe, you're not going to get your product out
19 the door.

20 And these things are tied at the
21 hip. They're tied at the hip at the worker
22 level, the line manager contractor oversight,

1 the Site Office level, and throughout the
2 various levels as I've described within the
3 Department.

4 CHAIRMAN WINOKUR: I appreciate
5 your comments. I'm actually worried about the
6 converse of what you said. I sometimes get
7 the impression that especially at your design
8 labs, they may have a tendency to confuse the
9 fact that processes associated with non-
10 nuclear and things for even like travel of
11 scientists and the flow of information, that
12 that's confused with the nuclear operation.
13 And they might extend their thinking into that
14 area.

15 CHAIRMAN WINOKUR: And that's -- I
16 think -- I offered a few examples of where we
17 have directives that are -- kind of touch into
18 both types of operations, both nuclear and
19 non-nuclear operations. You know we're
20 clearly going to look at those because we want
21 to drive efficiency there.

22 But at the same time, I also

1 mentioned, you know, this is a phased process.
2 We're going to start with the stuff that we
3 know kind of on the non-nuclear side where we
4 know we can make improvements right off the
5 bat.

6 We are going to do additional
7 evaluation, particularly on these orders -- or
8 directives, I should say, the kind of, you
9 know, quality assurance, for example, that
10 applies to both and say, you know, is it
11 better just to leave what we have in place?
12 Or is there clarity that can be driven in
13 there?

14 And I appreciate your concern.
15 And it is my concern as well. And, you know,
16 the level of nuclear work that happens at
17 Sandia is different percentage-wise to the
18 level of total work -- well, work is different
19 than at the Nevada Test Site where you have a
20 significantly greater level of nuclear work.

21 So we're going to focus on the
22 non-nuclear safety area first. Then take a

1 look at the things that cross over both areas.
2 And then always look to improve our nuclear
3 safety performance.

4 Because in the end, that's what we
5 have to do. In the end, it is all about
6 improving safety performance oversight.

7 CHAIRMAN WINOKUR: Have you shared
8 your thoughts with the Deputy Secretary of
9 Energy and the Secretary -- I think you know
10 that the Deputy -- we know he wants the
11 highest levels of standard but he has set a
12 very aggressive goal of reducing orders and
13 directives. That is certainly going to move
14 into the areas that you and I are discussing
15 here which deal with nuclear safety and safety
16 at defense nuclear facilities.

17 Have you shared any cautions with
18 him and the Secretary about your feelings
19 about the need to maintain the integrity of
20 those directives that are important to your
21 safety at defense nuclear facilities?

22 MR. D'AGOSTINO: Yes, I have. And

1 I believe -- I know the Secretary -- the
2 Deputy Secretary and Secretary share concerns
3 about nuclear safety directives. In the end,
4 directives reductions shouldn't be what this
5 is about. This is about safety improvement.

6 And I think that what we have is a
7 situation where, you know, I have provided an
8 opportunity where messages can get mixed, that
9 this is all about directives reductions. This
10 is about safety improvement frankly. And the
11 Deputy Secretary would agree with that.

12 CHAIRMAN WINOKUR: I want to move
13 on to something a little different. I wasn't
14 planning on talking to you about it today but
15 I never miss my opportunity to do it.

16 And that is this extremely heavy
17 reliance upon DART [Days Away Recorded Total]
18 and TRC statistics, especially for folks who
19 are responsible for nuclear operations or
20 activities at defense nuclear facilities.

21 I have had an opportunity to speak
22 to your contractors and DOE folks many times

1 about this. I don't think it is a very good
2 measure of safety at defense nuclear
3 facilities. And it is typically the first
4 number they like to discuss. And I just
5 encourage you, as I encouraged them, to make
6 sure they have a very good set of metrics to
7 deal with that -- give them a better measure
8 of what you are most concerned about because
9 we both know that we want to prevent an
10 accident. And if an accident occurs, your
11 mission will be compromised.

12 MR. D'AGOSTINO: Thanks, Mr.
13 Chairman. I agree. I think this is not about
14 a number although in the cases in the non-
15 nuclear area, you know, we do have different -
16 - there is a systematic look to safety. You
17 have to look at your reportables because it is
18 information that we collect. And there is
19 value in information.

20 You don't want to be driving
21 performance. You don't want to be driving
22 people to push not report because they know

1 that the management cares about that.

2 You know Frank Russo and Don
3 Nichols and I have talked about this a lot,
4 that, you know, assigning dollar values and
5 fees to these things sends the exact wrong
6 message. That we have to look at kind of
7 overall safety.

8 We have to look at, you know,
9 there is a bit of subjectivity, frankly, to
10 some of this. And it requires the details,
11 the objective evidence and it requires the
12 subjective evidence before you can come up
13 with an overall picture.

14 CHAIRMAN WINOKUR: I have an
15 additional question but I think at this time,
16 I'll just move to Dr. Mansfield.

17 MR. D'AGOSTINO: Yes, sir.

18 VICE CHAIRMAN MANSFIELD: Thank
19 you. I'll be quick.

20 On this last issue of reportables
21 and what the good statistics are, we put a lot
22 of weight on the ORPS [Occurrence Reporting

1 and Processing System] reports. Not that you
2 can score them and count them.

3 MR. D'AGOSTINO: Right.

4 VICE CHAIRMAN MANSFIELD: The
5 numbers are irrelevant. But it is what they
6 reveal about changing personnel and worker
7 practices.

8 MR. D'AGOSTINO: Right.

9 VICE CHAIRMAN MANSFIELD: And,
10 therefore, we put -- we tend to worry a great
11 deal if there seems to be a predilection of
12 some organizations to make their ORPS reports
13 as uninformative as possible, concealing, in
14 fact, the actual possible dangers like
15 electrocution. And reporting words like had
16 the leads in the wrong place.

17 MR. D'AGOSTINO: Right.

18 VICE CHAIRMAN MANSFIELD: So I
19 would say that having a constant eye on the
20 utilities' ORPS process and training people to
21 use it right really would help.

22 The -- one or two other things.

1 MR. D'AGOSTINO: Yes?

2 VICE CHAIRMAN MANSFIELD: Your
3 postponement of reviews, many of the CDNS
4 reviews were on your list of -- are they
5 sliding forward six months?

6 MR. D'AGOSTINO: There were two,
7 sir. Could I comment on the ORPS report?

8 VICE CHAIRMAN MANSFIELD: Oh, yes.

9 MR. D'AGOSTINO: I'd like to just
10 reply to that because I think when I first
11 started in the Department of Energy in the
12 days of the SEN notices, Ms. Roberson, and I
13 recall those vividly. In fact, many of you
14 will remember the K reactor restart days in
15 the early '90s and the occurrence reporting
16 process, which was finally starting at that
17 point.

18 And I recall in my nuclear safety
19 and operations oversight role in Germantown
20 and the trips I've made down to the Savannah
21 River, we counted on the ORPS reports and we
22 had daily phone calls frankly when we were

1 involved in this operational readiness review
2 work and getting the reactor ready.

3 Part of what we still do is in
4 addition to looking at the -- reading the ORPS
5 report is the CDNS staffs, both for nuclear
6 safety and my Senior Safety Advisor, Frank
7 Russo, read those in great detail. I get a
8 daily email of the summary of those reports
9 and I always look for the electrical ones.

10 And they make the phone calls out
11 to the field. Hey, what happened with this
12 thing here? Tell me more about it. Not to
13 pick on that particular things but to find do
14 we have a systematic problem.

15 So I think that's a good approach.
16 Obviously the level of detail or the more that
17 you have in there, the better insight and
18 comfort level or discomfort level but the
19 better insight is the most important thing
20 that you can have.

21 So I'll take your point and Mr.
22 Nichols and Mr. Russo are here and we'll look

1 at how we can improve that.

2 I apologize. I think I forgot
3 your second question.

4 VICE CHAIRMAN MANSFIELD: No
5 that's fine. You got it.

6 MR. D'AGOSTINO: It was the --

7 VICE CHAIRMAN MANSFIELD: I had
8 asked the question about the CDNSes and
9 whether or not --

10 MR. D'AGOSTINO: Oh, yes, right.
11 Okay. Thank you. Excuse me.

12 During the first six months, we
13 had planned on what we would call -- what we
14 had been doing previously were the biennial
15 reviews at the sites. And both Pantex and
16 Savannah River were originally scheduled
17 during the six-month period.

18 We are going to continue to do
19 those. We are going to push it back into the
20 second six-month period of this year.

21 I recall distinctly talking to Don
22 Nichols about okay, why should we be

1 comfortable with that? I reviewed the list of
2 the 120-some-odd project reviews that we were
3 doing from Headquarters.

4 And looked back at the previous
5 scores and the performance of those two
6 particular sites. And recognizing that the
7 next review was actually going to be more
8 focused on assisting and particularly in
9 improving the areas where they had problems
10 with, which were minor problems in the past.

11 So I felt -- I took that decision
12 to say I'm comfortable with moving that back.
13 But we will get back on track with those
14 reviews. The Site Office managers find value
15 in those. And in the end, you know, I think
16 all of -- I would certainly espouse that
17 having the right level of technical people at
18 the Site Office where they are there day in
19 and day out watching the contractor in the
20 nuclear safety areas, the highest technical
21 level folks, is our best assurance from an
22 oversight perspective -- from the federal

1 oversight perspective.

2 Of course that doesn't mean we
3 don't do anything. We will certainly follow
4 up. But ours is more of taking a look at the
5 overall system versus the day-to-day here from
6 Washington.

7 VICE CHAIRMAN MANSFIELD: Another
8 question about standards, consensus industrial
9 standards and things like that.

10 Is it your opinion that proper
11 adherence to industrial standards, not DOE
12 safety standards, would have prevented the
13 Zuni rocket accident at Sandia?

14 MR. D'AGOSTINO: I'll have to get
15 back to you on that. I think I'd like to take
16 that for the record. I haven't looked at it
17 from that perspective. I mean that is
18 something that I know we're going to -- I
19 haven't received the input from the six-month
20 group that had been looking at how do we
21 improve our safety.

22 VICE CHAIRMAN MANSFIELD: Okay.

1 MR. D'AGOSTINO: There are a
2 number of pieces to that particular incident
3 at Sandia that covered the contractor level
4 but also at the local Site Office level and
5 our level. So I think it requires a more
6 considered response.

7 VICE CHAIRMAN MANSFIELD: I'd just
8 like to make one comment --

9 MR. D'AGOSTINO: And would like to
10 put that for the record.

11 VICE CHAIRMAN MANSFIELD: -- about
12 the standards at Sandia. Nuclear operations
13 are not common or frequent at Sandia but they
14 do occur. We have found a less than
15 questioning attitude -- an insufficiently
16 questioning attitude on the part of Sandia
17 people as to whether their approach is
18 sufficiently conservative.

19 And having to do, for instance,
20 with the ventilation system for the hot cell
21 or the proper accident analysis for the z-
22 machine plutonium shots, things like that. I

1 worry that that lack of precision might be
2 something that rose from not having the burden
3 of nuclear standards. And I wonder what will
4 happen under Kansas City standards for cases
5 like that.

6 That's just an observation and I
7 don't expect an answer --

8 MR. D'AGOSTINO: Okay.

9 VICE CHAIRMAN MANSFIELD: -- from
10 that.

11 MR. D'AGOSTINO: Point taken.

12 VICE CHAIRMAN MANSFIELD: But my
13 last question is Kansas City has an excellent
14 occurrence record, as you pointed out. How
15 about their quality record? Is their quality
16 record of delivered product as good now as it
17 was before consensus standards were applied?

18 MR. D'AGOSTINO: The Kansas City
19 quality record is extremely high.

20 VICE CHAIRMAN MANSFIELD: Okay.

21 MR. D'AGOSTINO: It's -- I don't
22 know to how many 99 point -- but it's very

1 high. You know we occasionally have had
2 problems in the past. And, you know, one
3 screw, for example, is so important.

4 But most recently, it's been -- I
5 mean it's been very high. It's always -- you
6 know obviously it's got to be -- in my view,
7 it's got to be perfect, you know, because
8 these are components that go into various
9 devices and support a variety of national
10 security missions.

11 But we're very satisfied. And I
12 think that our DoD [Department of Defense]
13 customers are very satisfied that. And the
14 same with the other agencies.

15 VICE CHAIRMAN MANSFIELD: Thank
16 you, Mr. Chairman.

17 CHAIRMAN WINOKUR: Thank you.

18 Mr. Bader?

19 MR. BADER: Mr. Administrator,
20 good morning.

21 MR. D'AGOSTINO: Sir, good
22 morning, sir.

1 MR. BADER: Do you consider
2 federal oversight to be an inherently
3 governmental function on nuclear safety?

4 MR. D'AGOSTINO: Federal
5 oversight, yes. I mean it means -- maybe I
6 don't -- of course, federal oversight is
7 inherently governmental. That doesn't mean
8 federal oversight can't be supplemented or
9 supported by other activities.

10 We want -- the federal oversight
11 should involve looking at all of the data
12 that's available. Certainly all the data that
13 our M&O [management and operating] contractor
14 has. As well as own independent checks.

15 MR. BADER: But the enforcement is
16 inherently governmentally.

17 MR. D'AGOSTINO: Well, enforcement
18 belongs to my colleague, Mr. Podonsky. So I
19 think he would agree with that.

20 MR. BADER: Let me go from that
21 sort of philosophical question to a very
22 specific question.

1 If I understood one of your
2 earlier statements, you referred to mixed
3 signals being sent as a result of some of the
4 communications that have been made by yourself
5 and the Deputy Secretary. Did I understand
6 that correctly?

7 MR. D'AGOSTINO: We have to watch
8 out for mixed signals. People have taken what
9 we have said in a way that, in my view, I
10 hadn't expected. You know when I've talked to
11 the Deputy Secretary, he has reiterated to me
12 the importance of safety, the integration of
13 safety with mission, safety as mission. And
14 try not to -- and not separating those two.

15 And the focus ultimately in the
16 end for all of this activity is to enhancing
17 or improving or advancing safety on those
18 activities that should be enhanced and
19 relying, where we can and where appropriate,
20 on the appropriate level of safety oversight
21 on activities that don't merit the degree of
22 safety oversight that it has been having.

1 And there are differences. And
2 there is an evolution in the Department, I
3 think as we've talked about, the great push to
4 define directives in the Department throughout
5 the 1990s and then not only defining them but
6 then implementing them and then having a
7 system of governance that applies to them.

8 And it shouldn't be applied
9 equally to a high hazard facility -- or
10 activity as to a low hazard facility --
11 activity. There needs to be set a
12 proportionality. And ultimately that's
13 management's job.

14 MR. BADER: Are you -- or are you
15 aware of any attempt to make clear what was
16 meant and clear up any mixed messages?

17 MR. D'AGOSTINO: Well, this is an
18 attempt to do that right now, sir.

19 (Laughter.)

20 MR. D'AGOSTINO: But if you're --
21 I mean other than continued communication with
22 people in the organization -- I had -- the

1 answer is yes. Let me just answer your
2 question. Yes. I had a two-day offsite with
3 every senior executive in the NNSA about a
4 week and a half ago.

5 The two-day offsite was to
6 accomplish a couple of things. First get all
7 the senior executives, all the senior leaders
8 in the NNSA in one spot at one time. It's
9 never been done before, okay. And that's very
10 important for these senior managers that run
11 these organizations and facilities and provide
12 technical advice to know who each other are.
13 I mean frankly, I'll admit this, I didn't know
14 ever senior technical manager in the whole
15 NNSA. But we had them all there, 140-or-so
16 folks.

17 The other purpose was to talk to
18 them about the importance of mission
19 accomplishment. And I was very clear in that
20 session that safety is a mission area for the
21 NNSA. It is a mission area that doesn't get
22 separated out. People tend to -- and same

1 with security, by the way -- people tend to
2 say well, safety and security, those are
3 functional actions that, you know, I've got
4 this group of people there. They're doing
5 that. Hey, I'm in charge of the pointy end.
6 Let me go do my business.

7 And, you know, we made it very
8 clear. We had a great discussion amongst the
9 senior executives that were in that two-day
10 session on the integration of safety and
11 security and work on the stockpile, not
12 proliferation work, work enable the reactors
13 and the like.

14 And I had the opportunity also to
15 talk about these activities -- you know, this
16 idea of defining governance meaning sharp and
17 layers. And we had breakout sessions on this
18 topic.

19 And what I got out of the breakout
20 sessions -- I'd say it didn't surprise me. I
21 was a little disappointed that we still kind
22 of have this understanding. So what it tells

1 me is I have to continue to communicate to the
2 senior executives that, you know, how we are
3 moving forward in this area.

4 I also talked about the increasing
5 workload. You're very familiar with this.
6 We've talked about it before. That we
7 anticipate, depending on Congressional
8 authorization and appropriation, additional
9 workload across a variety of fronts.

10 I won't go into the details here
11 but that in this increasing workload
12 environment, I'm going to be holding them
13 responsible for, you know, delivering not just
14 the -- what I would call the numbers of
15 systems per year out the door but delivering
16 them safely and securely.

17 So it was a great session. And
18 that was my significant attempt frankly to get
19 that message out directly to the folks that
20 then communicate down in their organizations
21 because I told them I expected, you know --
22 and frankly, it was my view, my assessment is

1 that it was very well received.

2 But -- and they asked frankly for
3 much more communication from me on these
4 items.

5 MR. BADER: Do you feel, given --
6 I mean I think the verbal communication is
7 extremely important. But given that the mixed
8 message came from written documents, do you
9 feel that it would be helpful to correct that
10 or let's say not correct but make clear what
11 the message was meant to be in the written
12 document?

13 MR. D'AGOSTINO: At this point,
14 since I don't have the -- I haven't -- it's
15 probably been a couple of months since I've
16 taken a look at that particular document, I
17 think there is always value in clarifying
18 things. And something that Glenn Podonsky and
19 I can talk about as we look at it and talk to
20 our bosses. So --

21 MR. BADER: I'd like, instead of
22 asking another question, I would like to make

1 a comment that I did appreciate your off-the-
2 cuff remark at the 10th anniversary on the
3 relationship of the Board and NNSA.

4 MR. D'AGOSTINO: Thank you, sir.

5 MR. BADER: That was a nice
6 comment.

7 MR. D'AGOSTINO: Thank you. Well,
8 if I could respond, I do think -- I believe
9 the Board has a -- provides me and my managers
10 an independent -- there is an independent
11 group of folks that are concerned, you know,
12 what we -- and we've talked about this in a
13 variety of discussions that we've had kind of
14 informally, that it is good for my managers to
15 have input.

16 Those line managers, he or she,
17 whoever is in charge has to ultimately make a
18 decision about how do I balance risk. But
19 it's very hard to do that if you don't have
20 input. So the Board provides a set of inputs
21 that I value.

22 MR. BADER: I'd like to make one

1 other observation. Your statements on taking
2 some of the savings from industrial safety
3 oversight by going to a so-called Kansas City
4 model, we have made comments that there has
5 been a shortage of federal people in the
6 integrated project teams in major projects
7 like UPF [Uranium Processing Facility] and
8 CMRR [Chemical & Metallurgy Research
9 Replacement].

10 And I'd sure like to see some of
11 those savings show up in strengthened
12 integrated project teams from the federal
13 perspective at those places and some of the
14 other projects.

15 MR. D'AGOSTINO: Okay.

16 MR. BADER: The other thing I'd
17 say is we have some very old and decrepit
18 facilities like 9212 and PF-4 [Plutonium
19 Facility] -- not PF-4, not quite so bad, but
20 that would clearly benefit from some of the
21 savings being directed to risk reduction in
22 those facilities.

1 MR. D'AGOSTINO: Right.

2 MR. BADER: So unless you'd care
3 to comment back on that --

4 MR. D'AGOSTINO: It sounded, sir,
5 like you were in my budget meeting yesterday.
6 We did talk about that quite a bit,
7 particularly -- I'll call it the making sure
8 the right -- from a project management
9 standpoint, particularly as we embark on a
10 pretty robust set of activities over the next
11 ten years, that we figure out a way to have
12 not only right number but also qualified folks
13 looking at these projects.

14 I think it is going to require an
15 increase in number. Again, we're evaluating
16 different ways to figure out how many that
17 should be. Everyone has a different way of
18 calculating what that should be.

19 But also evaluating how to get the
20 quality of the people that are doing the
21 oversight as well. We do really want to
22 learn, you know, we heard about a lot of

1 lessons learned. And we do really want to
2 learn from the past and not repeat those
3 mistakes.

4 And the Deputy Secretary has put a
5 really increased focus in this project
6 management area. And I think one of the items
7 that will really help us is this idea of not
8 proceeding on to critical decisions,
9 particularly to establish performance
10 baselines until the design work is, you know,
11 almost significantly completed.

12 That way was can get input from
13 the Board, we can get input from others. We
14 can do independent checks. And then we
15 proceed on into the baselines with sound
16 understanding of how we move forward. I think
17 that will help a lot.

18 MR. BADER: Well, you know my
19 thought on that, that there is another --
20 that's another area where, perhaps, your
21 directive in that respect has created some,
22 shall we say, unclarity that needs to be

1 fixed. But that's another subject for another
2 time.

3 MR. D'AGOSTINO: Yes, sir.

4 CHAIRMAN WINOKUR: Okay. Thank
5 you. I think we need to move on.

6 MR. BADER: Mr. Chairman.

7 CHAIRMAN WINOKUR: Mr. Brown?

8 MR. BROWN: Well, thank you, Mr.
9 Chairman.

10 I'd like to repeat what Mr. Bader
11 said about your comments last week at your
12 10th anniversary.

13 MR. D'AGOSTINO: Thank you.

14 MR. BROWN: I was there. I really
15 appreciated you pointing out to your staff,
16 the folks there, the role that we play over
17 here and how we try and support.

18 Let me just ask four questions if
19 I can. You talked about redundancy, duplicity
20 of oversight, and trying to reduce that.
21 Could you give us some specific examples that
22 would help understand what needs to be

1 synthesized here to improve oversight?

2 MR. D'AGOSTINO: Okay. There are
3 a number of procurement management reviews
4 that we do kind of from Washington and also
5 procurement reviews that are done kind of out
6 in the field. And then the contractor does
7 its own procurement reviews.

8 And, you know, there is a cost to
9 kind of multiple levels of reviews on what I
10 would call -- I mean I'm not saying
11 procurement reviews aren't important but at
12 some point they begin to lose their efficacy
13 in the overall operation.

14 You know a Headquarters team that
15 shows up at a, you know, particular site
16 requires support by both the Site Office group
17 that's there as well as the contractor. And
18 if it is reviewing something that has already
19 been reviewed twice, then you've got to ask
20 yourself, you know, how much better am I going
21 to get as a result of that?

22 I can provide you more of a list -

1 - the duplicative nature of some of these
2 reviews, I think kind of in the procurement
3 area -- and that's one of -- in the list of,
4 you know, dozens and dozens of what I would
5 call Headquarters-level assessments that we
6 did, that was one that showed up quite a bit.

7 I don't know how -- you know, I
8 have a separate team. I'm trying not to
9 influence the team as they go off and look at
10 how do we improve the areas of oversight in
11 these areas. But we'll be getting reports
12 pretty soon I imagine or maybe not an official
13 report but a briefing on where the group is
14 ending up, taking a look at these non-nuclear
15 types of activities.

16 But it's not just kind of reviews.
17 I think the thing -- what I want to do is when
18 I think about duplicative, it goes into
19 governance a little bit. To make sure that we
20 don't have the people at all the layers
21 thinking that they are in charge of the exact
22 same thing because what that ends up doing is,

1 you know, the old adage if everyone is
2 responsible, no one is responsible.

3 And that is bad for the
4 procurement reviews. But it is even kind of
5 worse for safety because now you're talking
6 about, you know, wanting to make sure
7 everybody goes home in the evening with the
8 same number of fingers and toes that they
9 started off the day with. I mean ultimately
10 that's the particular goal of that.

11 So there's two levels of things.
12 It's the reviews -- certain reviews themselves
13 but it's the duplicity that can kind of happen
14 at the governance level.

15 So our focus ultimately is to try
16 to sharpen those lines at the different levels
17 and to, again, I don't have the briefing yet -
18 - and to eliminate or to refine the oversight
19 process.

20 MR. BROWN: Thank you.

21 MR. D'AGOSTINO: Yes.

22 MR. BROWN: You mentioned that

1 you've, in the non-nuclear safety area, you've
2 adopted a set of operating principles. I'd be
3 interested if you can elaborate a little bit
4 on how the operating principles for non-
5 nuclear will differ from the operating
6 principles for nuclear.

7 MR. D'AGOSTINO: Well, I don't
8 break them out separately, saying well, this
9 is what you do for nuclear and this what you
10 do for non-nuclear. I think the operating
11 principles focus on -- and, you know, this is
12 a tee off from the Deputy Secretary's
13 operating principles -- you know, that we'll
14 pursue our mission in a manner that is safe,
15 secure, legally and ethically sound, and
16 fiscally and environmentally responsible.

17 And my focus is to ensure that the
18 mission, that safety is an element of part of
19 the mission. You can't separate out those
20 two.

21 I don't call out and say well, you
22 are going to do less oversight on low risk

1 stuff and higher oversight on high risk stuff
2 inside the operating principles themselves.

3 I think that gets -- and when we
4 start laying out our governance documents and
5 the like, that should be communicated as an
6 element of that.

7 MR. BROWN: It sounds like the
8 principles would be pretty much the same
9 between non-nuclear and nuclear. I mean --

10 MR. D'AGOSTINO: Yes, sir. I mean
11 pursuing safety --

12 MR. BROWN: -- at that level.

13 MR. D'AGOSTINO: -- at that level
14 because the principles are a high level set of
15 words. I think it is how do you translate
16 those high level set of words. So pursuing
17 things in a safe, secure, legally sound, and
18 physically responsible manner means that it is
19 more important to things that can cause
20 greater risk than things that can cause fewer
21 risks.

22 And there are going to be

1 judgments that get applied to what is in what
2 category. I think, as a general view, nuclear
3 safety is at a different level of judgment
4 than non-nuclear safety.

5 The danger here, again, this is
6 part of the problem is to say non-nuclear
7 safety is not important. Absolutely. It's
8 very important.

9 But since we have, and I've
10 described the multiple levels of assurance,
11 both the workforce -- it starts with the
12 worker but that has to be communicated and
13 constantly reinforced.

14 Then it goes to the worker's
15 manager. Then the contractor's corporate --
16 you know the corporate family, that corporate
17 reach back.

18 And then it continues to Site
19 Office, we have facilities reps, folks that
20 are out there on the field, Site Office
21 manager, program line organization, which has
22 a safety organization that's within it,

1 defense programs, an independent check by my
2 senior safety advisor, as well as another
3 independent check by a health, human safety
4 organization. And those are very robust
5 levels of that.

6 But the key is is you don't want
7 to apply the same the level of kind of
8 oversight press on the lower risk activities
9 than you do on the higher risk. You want that
10 press frankly to be even better on the higher
11 risk activities.

12 MR. BROWN: Thank you.

13 You mentioned that federal
14 oversight is increasingly risk informed. How
15 do you -- what metric do you use to evaluate
16 risk of nuclear -- high hazard nuclear
17 activities? Hopefully it's not how many
18 accidents you have.

19 MR. D'AGOSTINO: Right. The
20 metric I would use is more focused on the
21 independent assessments that come in. And the
22 reviews that come in from the biennial reviews

1 that I receive, typically let out of the CDNS
2 organization, from the reviews that I receive
3 from Mr. Podonsky from HSS [Health, Safety and
4 Security], from the -- I mean those are the
5 two primary what I would call within DOE
6 approaches.

7 I have been informed by the
8 Board's letters plus the -- I know that your
9 folks out in the field send regular updates.
10 Don Nichols -- I don't get a chance to read
11 those every week. I just can't to it. But I
12 do have somebody that does that for me, Don
13 Nichols and Frank Russo take a look at those
14 closely and they update me periodically. And
15 I get quarterly safety reviews on those
16 particular items.

17 The final thing I get is about
18 every two to four weeks, depending on how we
19 can get it into my schedule, I sit down with
20 Frank Russo and Don Nichols and we go over a -
21 - we have a matrix list of activities that,
22 you know, whether it is responses to the

1 Board, whether it is what's happening out in
2 the field, whether it is hey, Defense Programs
3 is looking at doing the following thing, this
4 is going to come up to the CTA for action.

5 How do we look at this particular activity?

6 Do we look to, you know, make sure that we're
7 watching the Defense Programs organization,
8 the Nonproliferation organization as
9 appropriate and the like.

10 So -- and it is independent. And
11 I'm very comfortable with that approach.
12 That's kind of how I judge it. It's not a
13 TRC/ -- it's not a number that -- well, my
14 number is -- falls in the band, therefore I
15 can feel good.

16 MR. BROWN: Right, right. So you
17 don't have a number like DART or those other -
18 -

19 MR. D'AGOSTINO: No, sir.

20 MR. BROWN: I guess the last
21 question that I will ask, in the beginning of
22 the CTA function, you had a deputy and in NNSA

1 he became the CTA on the other side of the
2 fence -- was retained by the Under Secretary
3 and I guess that's still true today.

4 You haven't got a Deputy. You're
5 a very busy guy. How do you effectively
6 function as CTA in NNSA?

7 MR. D'AGOSTINO: I won't kid you,
8 you know, I miss Bill Ostendorff. It was good
9 to have somebody with his experience doing it
10 then. And he and I consulted quite a bit.

11 The way -- the approach I use is I
12 rely -- and this is one of the reasons why we
13 had to put a single focus on restaffing the
14 CDNS office, which had dipped down in staff
15 numbers to a point that I was very
16 uncomfortable, particularly without Mr.
17 Ostendorff there helping me, so Don and I made
18 a very concerted effort to get the staff
19 levels up.

20 And this kind of regular reporting
21 to on this kind of two to three, two to four
22 week basis -- in fact I think we have one

1 scheduled this week -- to go over the matrix
2 of all the CTA -- all of the CDNS activities,
3 which ones are going to have CTA implications
4 and all the open ones. And obviously there
5 are more open ones than I'd like but we're
6 working down that particular list.

7 So I rely on the CDNS and the CDNS
8 staff for that primarily as my direct report.
9 And then we dip down to the Defense programs
10 where we think we need to.

11 MR. BROWN: Thank you very much.

12 Mr. Chairman.

13 CHAIRMAN WINOKUR: Ms. Roberson?

14 MS. ROBERSON: Thank you, Mr.

15 Chairman.

16 CHAIRMAN WINOKUR: Thank you.

17 MS. ROBERSON: And thank you, Mr.

18 Administrator, for your testimony today.

19 MR. D'AGOSTINO: Thank you.

20 MS. ROBERSON: In your testimony,
21 you emphasize that the Kansas City contractor
22 had a strong safety culture and safety

1 performance history when you began
2 implementation of this new model.

3 What is your assessment of the
4 state of safety culture and performance at
5 your other facilities? You know clearly
6 Nevada and Sandia, as you are piloting those,
7 are in one state. And then you have
8 everything else.

9 And combined with that, what do
10 you need to see that makes you comfortable as
11 the owner that they can sustain -- obviously
12 anybody can implement but they can sustain the
13 level of safety you desire as they implement
14 these new models?

15 MR. D'AGOSTINO: Okay. We started
16 off with Kansas City a few years ago because
17 they had a strong track record.
18 Interestingly, and Mr. Podonsky and I will
19 remember this, when we looked at an approach
20 to improving the efficacy of our overall
21 safety, you know, we thought well, best in
22 class. But we said no, we want the Honeywell

1 corporate sponsor to come in and independently
2 check, which they do periodically before we
3 kind of say -- I don't to use the word turn
4 over the reins but before we started
5 proceeding down the path we rely more on the
6 management approach and corporate reach back.

7 And what Honeywell corporate said
8 is they're not quite ready just yet. We need
9 to see some improvements in some areas. So we
10 waited because that was -- and Honeywell has
11 a very strong reputation. And I believe
12 deservedly so.

13 The -- what we end up with is a --
14 what we ended up with is kind of stepping at
15 it -- going back to your second question, what
16 do I need to see, and I need to see the kind
17 of commitment from a corporate reach back
18 standpoint that there has been an independent
19 verification that the contractor assurance
20 system, not done by the Site Office or not
21 done by the local contractor -- independent,
22 outside verification that there is a

1 contractor assurance system that is sound,
2 that's integrated, that's independently
3 checked, that has people in place, that has
4 training, and that can be -- and sustainment
5 is important. You're absolutely -- this is
6 not just a one-time okay, now you can go,
7 that's maintained over time.

8 You know I can't tell you whether
9 or not these two sites have that but I need to
10 see that. We need to see that.

11 We, the Department, needs to see
12 that before anything happens on the non-
13 nuclear side on moving down this path,
14 particular, Mr. Chairman, as it relates to
15 your all's concerns, I think, about how this,
16 you know, kind of the bleeding over question,
17 making sure that we actually do this
18 appropriate shift, focus on high hazard
19 activities, and nuclear activities, without --
20 don't let what some might term as downgrading,
21 because it's not downgrading, it's kind of --
22 it's a more efficient approach impacting the

1 other activities.

2 So I think the answer -- the
3 straight answer to your question is this
4 independent group of folks that come in and
5 say whether they are ready or not. Then we
6 will review that as well. That is what Patty
7 Wagner would like to see. That's what I would
8 like to see. That's what we'd like to see.

9 MS. ROBERSON: Okay.

10 Mr. Chairman, I don't have any
11 other questions at this time.

12 CHAIRMAN WINOKUR: A couple of
13 things stand up. I think we would benefit as
14 a Board to understand a little bit more about
15 the Kansas City initiative. We've spoken to
16 your contractors and at times there seems to
17 be a little bit of confusion about the
18 application of it and what it really is or is
19 not.

20 And then, of course, we always
21 have the challenges associated with defense
22 nuclear facilities that have nuclear and non-

1 nuclear work in them. So at least from our
2 perspective, we see a certain amount of
3 uncertainty about this model and its
4 application. And I think we'd benefit from a
5 little bit more feedback.

6 MR. D'AGOSTINO: Yes, sir.

7 CHAIRMAN WINOKUR: And the other
8 thing that I'll take the opportunity to do --
9 and let me say at the start that I understand
10 your personal commitment to safety and I think
11 it is extremely important, we talked today
12 about communication with your direct reports,
13 communication with the workforce.

14 And I've always personally felt
15 that your statement getting the job done is
16 something that could create some confusion
17 about the important role of safety because,
18 you know, you and I both know the workers are
19 out there, they're making split second
20 decisions all the time.

21 We know how exciting it is to get
22 the work done and how important it is.

1 MR. D'AGOSTINO: Right.

2 CHAIRMAN WINOKUR: And I'm just
3 asking you, I guess, to, as much as you can,
4 balance that thought as frequently as you can.
5 I'd like you to add the word, you know,
6 getting the job done safely. I don't know if
7 you'll go there with me but at least balance
8 that thought when you get occasion to do that.

9 MR. D'AGOSTINO: I'll do that, Mr.
10 Chairman. And I'll note, at least in Defense
11 -- we had a banner on the bottom on safety.
12 But we have to make sure that that isn't just
13 written there but it's communicated verbally
14 as well.

15 CHAIRMAN WINOKUR: Great.

16 MR. D'AGOSTINO: So I'll have to
17 figure out -- making sure we get that message
18 out.

19 CHAIRMAN WINOKUR: Okay. All
20 right.

21 Well, I think we want to thank you
22 very much for your testimony.

1 MR. D'AGOSTINO: Okay. Thank you,
2 sir.

3 CHAIRMAN WINOKUR: And the answers
4 to the Board questions. We know you are
5 extremely busy and we appreciate your time.

6 MR. D'AGOSTINO: Thank you, sir.

7 CHAIRMAN WINOKUR: And thank you
8 for being with us this morning.

9 MR. D'AGOSTINO: I certainly
10 appreciate that. And unfortunately I'm going
11 to have to leave if that's okay.

12 CHAIRMAN WINOKUR: I think we
13 understand that. Thank you.

14 MR. D'AGOSTINO: Thank you.

15 CHAIRMAN WINOKUR: Well, the Board
16 notes for the record that the Under Secretary
17 of Energy Johnson was unable to attend today's
18 meeting and delegated her responsibilities to
19 Mr. Richard Chip Lagdon, who is the Chief of
20 Nuclear Safety.

21 And I'd like to suggest -- I hope
22 you're prepared that you could perhaps keep

1 your oral comments to about five minutes to
2 leave us a little more time for questions.
3 And we want to welcome you here this morning
4 to present your testimony.

5 MR. LAGDON: Okay. Thank you, Mr.
6 Chairman, members of the Board. It's a
7 pleasure to be here and certainly an honor to
8 represent the Under Secretary as the central
9 technical authority and in my capacity as the
10 Chief of Nuclear Safety.

11 Since I was assigned as the Chief
12 of Nuclear Safety in 2006, my focus has been
13 on strengthening internally, working within
14 the organizations I'm responsible for,
15 strengthening the safety culture and
16 strengthening safety oversight.

17 I'd like to talk a few minutes
18 about how we did that, keeping my remarks to
19 five minutes or so. First let me state that
20 there's about 130 nuclear facilities under my
21 purview. And these range in level of
22 complexity from Hazard Category 1 to Hazard

1 Category 3.

2 First and foremost, my staff of
3 eight individuals are each assigned sites.
4 They are liaised with the field offices.
5 And they provide technical support to those
6 line organizations responsible for conducting
7 oversight both at the field level and at the
8 Headquarters level.

9 Coupled with my charter as the
10 Chief of Nuclear Safety and my original
11 tasking from my predecessor that has continued
12 with the current Under Secretary is
13 strengthening project performance. So we are
14 also deeply involved in resolving technical
15 issues involving major projects, leading and
16 conducting construction project reviews.

17 One of my primary concerns in
18 nuclear safety is criticality safety
19 oversight. We worked with EM [Environmental
20 Management] to establish the Criticality
21 Safety Oversight Program and have executed
22 that over the past three years to ensure that

1 criticality safety is maintained throughout
2 the complex.

3 Areas subject to review with
4 regard to criticality safety include safety
5 evaluations, recent incidents, nonconformance
6 reports, controls implementation, corrective
7 actions, and management processes.

8 We've also been engaged in a
9 number of nuclear facility startups,
10 particularly the DUF6 [Depleted Uranium
11 Hexafluoride] facilities at Portsmouth and
12 Paducah, operational readiness reviews at
13 Hanford K West Basin, Remote-Handled
14 Transuranic Waste Processing and other DOE
15 facilities.

16 We provided extensive oversights
17 to waste treatment and resolving issues with
18 respect to black cell piping and quality
19 assurance, assigning more QA [quality
20 assurance] resources to integrated project
21 team and working other areas such as
22 deposition velocity and other technical

1 issues.

2 Along with those functional
3 oversight programs, we've also been
4 responsible, my staff is responsible for
5 programs with regard to improving the way the
6 Department does business. One thing that
7 remains a goal is technical authority. Right
8 now it has manifested itself in our support of
9 the Technical Advisory Board being held by EM.

10 We've also sponsored training to
11 increase and improve technical capability.
12 The first training session was general safety
13 basis. We followed that up with a three-day
14 course on environmental restoration,
15 deactivation, and decommissioning, safety
16 basis training.

17 And later this year, we'll be
18 conducting design of nuclear facility
19 components and seismic design courses, which
20 your staff has also been invited to attend.

21 One of the major initiatives under
22 Secretary Chu has been construction project

1 reviews. We started last year with the first
2 round of reviews. This is under the direction
3 of Secretary Chu to improve oversight of these
4 projects.

5 And I believe you are going to see
6 great improvement in the construction project
7 performance to rapid resolution of technical
8 issues and bringing the right technical
9 capability to bear on the projects.

10 Another program responsibility we
11 took responsibility for was the code of record
12 for EM facilities. A code of record is a body
13 of requirements, including federal and state
14 laws as defined in contracts and the standards
15 and requirements identification documents or
16 their equivalent, that are in effect at the
17 time that a facility or item or equipment was
18 designed and accepted by DOE.

19 The code of record includes those
20 requirements invoked during the design phase
21 and later used to initiate operations to
22 ensure they are available to all responsible

1 parties during each phase of the life cycle of
2 the facility.

3 As part of our lessons learned
4 process in studying the issues, the technical
5 issues primarily with the construction
6 projects, we embarked on an ambitious plan to
7 develop a standard review plan for EM,
8 capital, and major operating projects.

9 This was started about two-and-a-
10 half, three years ago. We recently issued
11 rev. 2 and are using that to strengthen the
12 degree of rigor in our construction project
13 reviews.

14 The third area we focused on was
15 sponsoring crosscutting nuclear safety
16 initiatives involving -- the first one is
17 natural phenomenon hazard assessment and
18 design. I've established a lessons learned
19 panel. We met yesterday for the sixth time to
20 provide feedback and comments on our
21 performance and seismic design of our nuclear
22 facilities and strengthen our approaches to

1 future facilities.

2 We've also been involved in
3 strengthening the seismic hazard
4 characterization at Paducah, Hanford
5 probabilistic seismic hazard assessment, and
6 supporting the central and eastern United
7 States Seismic Source Characterization
8 Project.

9 We have conducted quality
10 assurance and software quality assurance
11 training to over 150 federal and contractor
12 staff over the last two years. We've
13 established an energy and science software
14 quality assurance work group that is supported
15 by the Offices of Science, Nuclear Energy, and
16 Science.

17 I participate on the Director's
18 Review Board for the Under Secretary in
19 maintaining awareness of directives
20 activities. And as you know, I am the
21 responsible manager for the Defense Board
22 Recommendation 2007-1, Safety-Related In Situ

1 Nondestructive Assay Radioactive Materials.

2 Our plate is full. We continue to
3 work and continue to learn and try to apply
4 process improvements where we can and
5 improving our safety oversight of our nuclear
6 facilities.

7 With that, I'd like to address
8 your specific questions in the testimony if
9 that's appropriate. The first question
10 involves provide your assessment of the
11 effectiveness of your oversight programs.

12 The oversight programs have been
13 established at three organizational levels for
14 the Under Secretary for Energy, including Site
15 Offices, Headquarters, program secretarial
16 offices, and the central technical authority
17 or the Chief of Nuclear Safety and my small
18 staff.

19 For the purposes of this meeting,
20 I'm focusing my comments on oversight at
21 defense nuclear facilities under the control
22 of the Under Secretary's Office of

1 Environmental Management.

2 The oversight program is
3 established, maturing, and effective as
4 evidenced by the contributions described
5 above. The first and most important level of
6 our oversight program is our Site Offices.

7 Site Offices provide comprehensive
8 and direct oversight of the contractor
9 activities affecting safety and mission. The
10 Site Office manager and federal project
11 directors evaluate contractors' current and
12 near-term activities and associated hazards,
13 complexity, recent DOE contractor assessments,
14 past performance, and external events issues
15 affecting other nuclear facilities.

16 Using that information, a plan is
17 prepared which identifies targeted activities
18 to be assessed and the relative priority of
19 each assessment. A schedule is developed from
20 the planning phase that details assessment
21 topics, dates, duration, and responsible
22 staff.

1 Planning and scheduling efforts
2 also identify resources needed to accomplish
3 the assessments. While each Site Office has
4 dedicated staff to manage and implement
5 assessments, they also supplement their
6 assessment teams with federal staff from other
7 Site Offices and Headquarters, including my
8 staff, consultants, national labs, and
9 occasionally from external organizations such
10 as the U.S. Army Corps of Engineers.

11 In addition, these field offices
12 are also supported, as we discussed earlier,
13 the Fac Reps [Facility Representatives] and
14 the safety system oversight personnel. I
15 should mention that it is the responsibility
16 of each of my site liaisons to walk down their
17 safety system oversight responsibilities with
18 the associated representatives and participate
19 in Fac Rep walk-downs.

20 The next level of our oversight
21 program is at EM Headquarters. Headquarters
22 oversight includes the evaluation of the

1 implementation of programmatic initiatives,
2 including quality assurance, project
3 management, and operations. For these
4 initiatives, EM Headquarters, through the
5 efforts of the Safety and Security Program and
6 their offices of safety operations assurance
7 and standards and quality assurance, take an
8 approach similar to the sites in planning,
9 scheduling, and execution of their
10 programmatic and site-specific assessments.

11 In these instances, the schedule
12 and scope are tailored to the needs as
13 determined by a variety of means. These
14 include daily site safety performance, as
15 reported through existing Departmental
16 mechanisms, period Headquarters project
17 reviews, corrective actions, and corrective
18 action effectiveness reviews from prior
19 assessments, and most recently the increase in
20 activity associated with the American Recovery
21 and Reinvestment Act being undertaken at EM
22 sites.

1 Second question involves identify
2 what you believe to be the strengths and
3 weaknesses of oversight processes in your area
4 of responsibility.

5 The CTA's program's greatest
6 strength is maintaining the focus on site
7 oversight programs where they have the daily
8 pulse of activities. By overseeing the
9 activities of the site programs and assisting
10 where necessary on a priority basis, we are
11 able to keep the onus for day-to-day oversight
12 on the field. The expertise of my staff has
13 proved to be a valuable resource in this
14 regard.

15 Strengths of the oversight program
16 also include the variety of assessment types
17 we perform, the assessment protocols,
18 qualified assessment staff, and the
19 improvements that have been yielded.

20 We need to improve the technical
21 performance on some of our major construction
22 projects. The Secretary and Deputy Secretary

1 of Energy are committed to the process of
2 these projects, the success of these projects,
3 and resources are being aligned to provide
4 more support.

5 As the construction process review
6 process matures, better technical support will
7 be provided. The Secretary was personally
8 briefed on the outcome of last week's review
9 at the Waste Treatment Plant. So he remains
10 very proactively engaged.

11 Third question for proposed
12 changes to current oversight programs,
13 identify the specific issues driving the
14 perceived need for change. The only changes
15 to nuclear safety-related oversight under my
16 purview pertain to minimizing redundancy and
17 maximizes the effectiveness of the oversight.

18 As Technical Advisor, I am
19 responsible to be aware of any significant
20 weaknesses in oversight of our nuclear
21 facilities and provide assistance to Site and
22 other Headquarters activities under a priority

1 basis.

2 Quite frankly, I think the
3 Secretary is asking us to intelligently apply
4 what we have in place and do it with prudence
5 and what I would call intelligence -- he's
6 looking for intelligent execution.

7 Priorities are based on a life
8 cycle status. With regard to the fourth
9 question, excuse me, describe what metrics are
10 applied as a tool for balancing priorities
11 between mission and safety. Fundamentally I
12 do not look at metrics. Priorities are set
13 based on a life cycle status of the facility
14 and the critical functional areas necessary
15 for maintaining proper nuclear safety such as
16 quality assurance, design engineering,
17 construction, procurement, testing, and
18 operations.

19 When it comes to safety, I and the
20 Under Secretary are in complete agreement.
21 Safety is not compromised. As you know, the
22 body of regulations and directives has been

1 developed over the years, which codify
2 expectations for safety.

3 Unfortunately, many were developed
4 through lessons learned the hard way, through
5 sometime interpretations of this body may
6 differ, my standing rule is to ensure adequate
7 safety which is reasonably conservative to the
8 public and the workers at all times.

9 Question number five, provide your
10 assessment on the adequacy of the CTA support
11 staffing to ensure a robust execution of the
12 CTA function. My support staffing is
13 appropriate for the current scope of
14 activities under my purview.

15 I believe we are performing
16 effectively and maintain high standards. If
17 additional resources are needed, they belong
18 with the project teams, as previously
19 identified.

20 Provide your assessment of the
21 differences of oversight approach for nuclear
22 and non-nuclear activities. In my view, the

1 same overall integrated and graded approach is
2 applied to nuclear and non-nuclear activities.
3 Again, we're looking for what I would call
4 intelligent execution.

5 Differences can be found in the
6 areas of assessment, frequency, depth,
7 planning, significance of the impacts,
8 formality of reporting, and improvement
9 processes and assessor training and
10 qualifications. This integrated and graded
11 approach is driven by the Department's primary
12 requirements related to oversight and
13 assessment.

14 DOE Order 414.1C, Quality
15 Assurance, DOE Order 226.1A, Implementation of
16 Department of Energy Oversight Policy, and DOE
17 Manual 450.4-1, Integrated Safety Management
18 System Manual, and associated guidance
19 describe the types of assessments and
20 responsibilities for them.

21 Topics to be assessed: planning
22 and conduct, reporting and follow up of

1 results, and qualification.

2 The CTA's focus, however, and mind
3 remains on apply rigorous oversight on a
4 frequency to ensure that Headquarters and
5 field offices are conducting their oversight
6 duties and that nuclear safety is preserved.

7 I'm now ready to entertain
8 questions, Mr. Chairman.

9 CHAIRMAN WINOKUR: Well, thank you
10 very much for your testimony. It's very
11 appreciated.

12 Let me see if I understand what
13 you're saying. It appears to me, and I could
14 get this wrong, but the Under Secretary of
15 Energy doesn't really see any need for a
16 significant safety reform in the Department of
17 Energy because there are a lot of major safety
18 reform initiatives taking place right now in
19 terms of directives, oversight models, more
20 heavy reliance on contractor assurance
21 systems. Did I get that right?

22 MR. LAGDON: They are looking for

1 execution, okay, execution in all facets of
2 our operation. They're looking for
3 improvement in our project performance.
4 They're looking for improved safety.

5 And they have set the bar a notch
6 higher, in my view, with regard to improving
7 our operations.

8 CHAIRMAN WINOKUR: Does the Under
9 Secretary see a need for a major revision of
10 the directives dealing with operations at
11 defense nuclear facilities?

12 MR. LAGDON: I do not believe so.

13 CHAIRMAN WINOKUR: Thank you.

14 We have new oversight models that
15 are being proposed. In the past, for example,
16 Mr. Podonsky's organization held safety and
17 security, has done transactional oversight.
18 There's now an option to deal with assist type
19 of oversight. And that is sometimes initiated
20 by a program secretarial office inviting
21 somebody in. Is that an initiative that the
22 Under Secretary of Energy welcomes or finds

1 beneficial?

2 MR. LAGDON: We have not, on our
3 side, under the Under Secretary of Energy,
4 taken on any of those initiatives particular
5 to any of the EM sites at this time.

6 CHAIRMAN WINOKUR: Thank you. And
7 there's a desire also, I think, to rely a
8 little more heavily on the contractor
9 assurance systems and do you have any thought
10 on that? Any thought basically in terms of
11 how you well these contractor assurance
12 systems are performing and whether you want to
13 reply upon them more heavily?

14 MR. LAGDON: I think it is
15 fundamentally our responsibility to look at
16 contractor assurance systems and continuously
17 try to improve them. I base that on my
18 knowledge of the Institute of Nuclear Power
19 Operations.

20 When they look at nuclear plants
21 across the complex, they developed a set of
22 six criteria relating to nuclear performance.

1 And effective plants exhibit six
2 characteristics involving excellence in
3 operations, maintenance, focus on mission,
4 using assessments, and the final one is using
5 assessments in contractor assurance systems to
6 continuously learn and improve operations.

7 So I think it is a fundamental
8 responsibility we have to put the emphasis and
9 pressure on contractor assurance systems to
10 improve.

11 CHAIRMAN WINOKUR: And finally,
12 the Administrator talked about wanting to kind
13 of redirect his resources to provide more
14 focus on the high-hazard nuclear types of
15 operations and a little bit emphasis on the
16 lower-value non-nuclear perhaps related work.
17 Not that it wasn't important.

18 But there was a need to kind of
19 shift resources. And is that something that
20 you -- you think the Under Secretary supports,
21 that generic need to ship resources under her
22 purview to do that?

1 MR. LAGDON: Again, we're looking
2 at some intelligent execution. Ensuring
3 safety with regard to high consequence, low
4 probability is an utmost priority for all
5 involved.

6 At the same time, doing
7 unnecessary oversight in the lower risk
8 activities is not necessarily productive
9 either and can have a negative or what I would
10 be concerned about in terms of ambivalent
11 compliance with nuclear safety requirements
12 and directives.

13 CHAIRMAN WINOKUR: Well, I guess I
14 do have one final question. Has the Under
15 Secretary of Energy communicated her beliefs
16 about these safety reform issues to the
17 Secretary and the Deputy Secretary of Energy?
18 Because basically what I'm hearing you say is
19 that you are pretty confident in the systems
20 you have right now, that you are able to use
21 those if you execute them effectively to
22 provide the safety and perform your mission.

1 MR. LAGDON: I can't answer that
2 question at this time. I cannot speak -- if
3 she's had private conversations, I'm not aware
4 of them.

5 CHAIRMAN WINOKUR: Okay. That's
6 all I have.

7 Dr. Mansfield?

8 VICE CHAIRMAN MANSFIELD: Thank
9 you. Thank you, Mr. Chairman.

10 That was a useful presentation.
11 And I thank you for it.

12 I just wish to note that more than
13 the many briefers or speakers that we've
14 talked to, you've continually relied on the
15 orders and standards, 413.3, 425.1, 422.X, the
16 whole list of them.

17 I sincerely hope that none of
18 these are on the shopping block since you've
19 indicated how important they were to you
20 carrying out your responsibilities.

21 That's all I have, Mr. Chairman.

22 CHAIRMAN WINOKUR: Mr. Bader?

1 MR. BADER: Thank you, Mr.
2 Chairman.

3 Mr. Lagdon, a specific question on
4 directives. My understanding is that EM is
5 the office of primary interest on 15
6 directives. And three of those directives
7 were the subject of suggestions by HSS that
8 they should be reviewed and EM has said that
9 they didn't see any reason to review them,
10 leaving all 15 to stand.

11 MR. LAGDON: Yes.

12 MR. BADER: Given that situation,
13 do you see either the Under Secretary or
14 yourself having any further involvement in the
15 directives review process?

16 MR. LAGDON: Yes. I sit on the
17 Directives Review Board so I see all the
18 reviews that are going on and the proposed
19 changes to directives. And that Board meets
20 every two weeks.

21 But with respect to those 15, I
22 don't see any future changes to those in

1 particular.

2 MR. BADER: In terms of other
3 reviews, and I'm thinking primarily now of the
4 HSS directives, are you, as a member of that
5 Board, are you looking for implications of
6 other directives that might be reviewed
7 impacting your commitments to the Board under
8 various requirements or letters?

9 MR. LAGDON: No, absolutely. I
10 have members of my staff participating in the
11 reviews of each of those directives that are
12 designated by 410 -- DOE Order 410 as
13 important to nuclear safety. And if they do
14 impact, I will provide that feedback to the
15 Directives Review Board.

16 MR. BADER: Do you have any other
17 thoughts on the process of the directives
18 review that you would like to share with us?

19 MR. LAGDON: I think with respect
20 to nuclear right now, it's still in the
21 defining stages. Not everything has been
22 defined in terms of what outcomes we are

1 trying to achieve by some of the reviews. And
2 it will materialize over the next few months.

3 MR. BADER: Do you feel that the
4 process is clear, precise, and unambiguous?

5 MR. LAGDON: No. But we'll get
6 there.

7 MR. BADER: I have one other --
8 no, I think I'll pass.

9 Mr. Chairman, thank you.

10 CHAIRMAN WINOKUR: Mr. Brown?

11 MR. BROWN: Thank you, Mr.
12 Chairman.

13 Thank you, Mr. Lagdon, for your
14 testimony this morning.

15 You mentioned the importance of
16 minimizing redundancy and maximizing
17 effectiveness of oversight. Do you have any
18 specific proposals or suggestions on how you
19 do that? So give me an idea of what direction
20 or what we would see out of that initiative.

21 MR. LAGDON: What are your risks?
22 What are your consequences? And how do you

1 apply resources to mitigate those risks?

2 And it is built on various layers
3 between the facility reps, the safety system
4 oversight representatives, the field offices,
5 and then, again, Headquarters. And we have
6 tried to take a systematic approach to doing
7 that within the EM organization in supporting
8 their oversight activities and rather than
9 adding layers.

10 There is some overlap there. And
11 sometimes the overlap is sufficient to ensure
12 safety. And it's part of the strength that we
13 do have. So any further initiatives regarding
14 that would take a careful look at that
15 hierarchy of priorities and be smartly
16 applied.

17 VICE CHAIRMAN MANSFIELD: Thank
18 you.

19 You also mentioned an absolute
20 metric, safety is not compromised and to
21 ensure adequate safety, it must be reasonably
22 conservative. What guides you in defining

1 reasonably? Where is that -- how do you
2 define that bright line when you cross over
3 it, it's no longer reasonable?

4 MR. LAGDON: That's a good
5 question. And it's one we have debated over
6 the last few months in terms of some other
7 particular technical details.

8 Reasonably conservative means you
9 do not bound the outliers. But then you have
10 sufficient defense in depth so that you are
11 not relying on single parameters to protect
12 the health and safety of the public.

13 MR. BROWN: Okay. Thank you.

14 The Administrator talked about
15 safety -- nuclear safety being risk informed.
16 The Board issued a recommendation last year on
17 Risk Assessment 2009-1. What role do you see
18 today for quantitative risk assessment in your
19 work? And what role do you think it might
20 have in the future?

21 MR. LAGDON: I think it can help
22 us further define the levels and degree of

1 rigor necessary within the hazard category 2
2 realm. My experience with probabilistic risk
3 assessment at commercial nuclear plants is
4 quite different than how we apply risk
5 approaches to Departmental nuclear facilities.

6 There's a wide range of facilities
7 within the hazard category 2 realm. And I
8 think the more significant consequence types
9 of hazard category nuclear 2 facilities, it
10 can help us better define approaches to
11 oversight and safety analysis.

12 MR. BROWN: I mean it sounds like
13 from what the Administrator said and what
14 you've said that this is about risk informed
15 is a subjective assessment as opposed to an
16 objective assessment that gives you some feel
17 that you are comfortable. Whatever that
18 means.

19 And I'm wondering if there isn't
20 some better metric, that some more rigorous
21 assessment that couldn't help you define risk
22 informed to give you -- maybe not a bright

1 line but at least a pencil line that would
2 support, you know, decisions.

3 MR. LAGDON: Well, there's the
4 process of expert elicitation in which you
5 take the judgment and you try to assign risk
6 profiles to that expert elicitation to develop
7 quantitative methods based on subjective
8 expert opinion. And I think we can use some
9 of that to help us better define risk informed
10 decisions.

11 MR. BROWN: Thank you. One final
12 question. The Administrator went to some
13 length to talk about how he, as CTA, interacts
14 with the CDNS.

15 I wonder if you could just balance
16 that by giving a description assessment of
17 your relationship with the CTA, the Under
18 Secretary of Energy.

19 MR. LAGDON: The Under Secretary
20 and I work very closely together. I have
21 daily meetings with her, 8:30 staff meetings.
22 Her door is open to me. Any time I have an

1 issue, I can bring it to her. I can get on
2 her calendar almost any time to talk about
3 issues and exchange information with her
4 almost daily.

5 MR. BROWN: Thank you very much,
6 Mr. Chairman.

7 CHAIRMAN WINOKUR: Ms. Roberson?

8 MS. ROBERSON: Thank you, Mr.
9 Chairman.

10 And thank you, Mr. Lagdon, for
11 your testimony.

12 Accepting the approach that the
13 Under Secretary is taking and implementing
14 that's reform, oversight reform, nonetheless
15 there is a reform in progress. What guidance
16 or direction has the Under Secretary provided
17 to frame this effort for the programs under
18 her purview?

19 MR. LAGDON: We're using the
20 Deputy Secretary's guidance.

21 MS. ROBERSON: Okay. And then one
22 question I had -- I'm probably the only one in

1 the room that doesn't understand -- there is
2 some difference, and I understand independent
3 oversight from line oversight. In some cases
4 we talk about category one and two nuclear
5 facilities. In some cases we talk about
6 nuclear facilities or nuclear activities.

7 MR. LAGDON: Yes.

8 MS. ROBERSON: Of the 130 nuclear
9 facilities, is there any categorization of how
10 the Under Secretary is looking at reform in
11 oversight?

12 MR. LAGDON: We haven't gotten to
13 that level of detail yet.

14 MS. ROBERSON: Okay. Then the
15 next question I had is the Administrator went
16 through great detail in explaining why reform
17 is necessary, i.e., oversight activities to
18 some degree have been normalized between high
19 hazard facilities and lower hazard, non-
20 nuclear facilities.

21 Has the Under Secretary not
22 detected that as a problem? Why or why not

1 within these operations?

2 MR. LAGDON: I don't think it is
3 as significant a problem with the EM side
4 simply because of the way their oversight
5 programs are structured.

6 MS. ROBERSON: Okay. Do you want
7 to elaborate a little bit more? Simply in
8 what way is it structured so that it avoids --

9 MR. LAGDON: It's the way they
10 have approached the Headquarters oversight in
11 terms of trying to focus on what are the
12 critical issues and what are the priorities
13 with the EM clean-up mission.

14 They're more aligned, I think,
15 with the mission and trying to resolve some of
16 the issues that confronted EM with respect to
17 quality assurance and balancing that with
18 routine conduct of operations type of reviews
19 that are periodically done at some of the
20 other sites.

21 MS. ROBERSON: Okay. So let me
22 just see if I can restate. What I thought you

1 said is in the formulation of your oversight
2 plan, you take into consideration that issue
3 and the way you apply it is appropriate.

4 MR. LAGDON: Yes.

5 MS. ROBERSON: So you don't --
6 it's not -- it wouldn't be normalized
7 necessarily?

8 MR. LAGDON: Not necessarily.

9 MS. ROBERSON: Okay. And then the
10 last question I had is just to provide the
11 opportunity for a clarification.

12 In your testimony you talked --
13 you really talked about the CTA's role and
14 relevance in operational awareness.

15 MR. LAGDON: Yes.

16 MS. ROBERSON: But then you talk
17 about the different levels of oversight. And
18 what I was going to say is the CTA, your
19 office CTA, Under Secretary's operation,
20 appears really to be integrated with the line.
21 And is really not an independent oversight
22 function.

1 And I wanted to give you the
2 opportunity if I misunderstood that to clarify
3 and to identify what makes it distinct in the
4 layers of oversight.

5 MR. LAGDON: The way I set up the
6 office when it was established was to
7 integrate with the line organizations because
8 the line organizations all have organizations
9 within themselves responsible for oversight of
10 their activities.

11 MS. ROBERSON: Yes.

12 MR. LAGDON: So we weren't looking
13 at another layer. But I do reserve the right
14 to conduct independent oversight if I deem
15 necessary. And this is modeled after NUREG-
16 0660 [Nuclear Regulation] and the lessons
17 learned from Three Mile Island when the
18 commercial utility established independent
19 safety engineering groups, which is where I
20 got my start in commercial power, at their
21 respect plants to conduct the independent
22 safety engineering function.

1 And there's oversight
2 responsibilities. But there's also technical
3 support and root cause analysis and evaluation
4 of programs that goes on within those
5 functions to continuously improve operations.

6 MS. ROBERSON: Okay. Thank you.

7 MR. LAGDON: So it's a --

8 MS. ROBERSON: I got it. Thank
9 you.

10 CHAIRMAN WINOKUR: At this time,
11 Mr. Bader has an additional question. And Dr.
12 Mansfield will have a comment.

13 MR. BADER: Mr. Lagdon, there was
14 a comment by the Administrator that there were
15 mixed messages being communicated with the
16 Deputy Secretary's reform plan letter and some
17 of the Administrator's communications.

18 Do you have that same concern?

19 MR. LAGDON: No. And the simple
20 fact is our contractors, their requirements
21 are established in their contracts. And those
22 contracts have not been changed. So their

1 expectations are that they continue to carry
2 out their mission in accordance with the
3 requirements as they are laid out.

4 Now while the Department evaluates
5 some of those activities and some of those
6 directives, they do not have the license to
7 change whatever it is that they are doing at
8 that present time.

9 MR. BROWN: Thank you.

10 CHAIRMAN WINOKUR: Dr. Mansfield?

11 VICE CHAIRMAN MANSFIELD: Mr.

12 Chairman, I ask permission to include in the
13 record copies of the New York Times articles
14 to which I referred during my questioning of
15 Mr. D'Agostino.

16 CHAIRMAN WINOKUR: Agreed.

17 (Whereupon, the above-referred to
18 document was marked as Exhibit A
19 for identification.)

20 CHAIRMAN WINOKUR: We're going to
21 take a -- thank you. First of all, thank you
22 very much for your testimony, Mr. Lagdon.

1 MR. DWYER: Mr. Chairman, before
2 you --

3 CHAIRMAN WINOKUR: Yes, do you
4 have a question?

5 MR. DWYER: Yes.

6 CHAIRMAN WINOKUR: Okay.

7 MR. DWYER: Just to follow up on
8 what Ms. Roberson said, so the oversight model
9 you've described is -- you are actually
10 integrated with the line but reserve the right
11 to conduct oversight at need?

12 MR. LAGDON: Yes.

13 MR. DWYER: So have you ever?

14 MR. LAGDON: Yes, on several
15 occasions.

16 MR. DWYER: Can you give us one or
17 two?

18 MR. LAGDON: Deposition velocity,
19 for example, conducted independent review.
20 The measurements of the plutonium facility
21 down at Savannah River Site, that was an
22 independent look by the technical support

1 group.

2 MR. DWYER: Is that oversight or
3 is that invoking your technical authority
4 side?

5 MR. LAGDON: Well, you're
6 splitting hairs, I think, but it is part of
7 the same function.

8 MR. DWYER: Okay. So oversight as
9 in checking on the effectiveness of a Site
10 Office. I'm thinking along the lines of, for
11 example, the biennial reviews that the CDNS
12 conducts.

13 MR. LAGDON: We have done
14 quarterly site visits to oversee the process
15 which the field officers are using to do
16 oversight. So those, in effect, are
17 independent oversight activities.

18 MR. DWYER: Okay. So you are
19 currently conducting a schedule of quarterly
20 site visits?

21 MR. LAGDON: It's not really -- we
22 try to get there quarterly. We don't always

1 make it because of other demands.

2 MR. DWYER: Okay. So to go back
3 then to the picture. So you are integrated
4 with the line.

5 MR. LAGDON: Yes.

6 MR. DWYER: Reserve the right to
7 conduct oversight at need. And as a part of
8 that oversight, you are conducting quarterly
9 site visits, nominally quarterly site visits.

10 MR. LAGDON: Right. And what
11 happens -- for example, if something happens,
12 if an event happens, we will follow up with
13 the site and the Headquarters. And if they
14 don't look into it, we will.

15 And typically if it is severe
16 enough, and if do our homework and they will
17 follow up. And we will participate with their
18 reviews. So the need for redundant or
19 duplicative oversight is not necessary.

20 MR. DWYER: Okay. And also if I
21 can offer a slight correction in your -- the
22 written testimony, which will go on the

1 record, when you discussed the seismic lessons
2 learned panel, the written testimony says that
3 Defense Nuclear Safety Board staff are members
4 of the panel. Actually, I need to correct
5 that. They observe the panel meetings but are
6 not members of the panel. We are oversight.

7 MR. LAGDON: Okay. They
8 participate quite heavily so I'll make that
9 correction.

10 CHAIRMAN WINOKUR: Okay. Once
11 again, thank you very much for your testimony
12 and answering our questions.

13 We're going to need to take a ten-
14 minute break before our final witness of the
15 day. So we're going to reconvene this public
16 meeting and hearing at approximately 11:30.

17 (Whereupon, the foregoing matter
18 went off the record at 11:18 a.m.
19 and went back on the record at
20 11:27 a.m.)

21 CHAIRMAN WINOKUR: Okay. I can
22 still say good morning. I'd like to welcome

1 our final witness of the day, Mr. Glenn
2 Podonsky, DOE's Chief Health, Safety and
3 Security Officer.

4 I'd like to make the same request
5 that you keep your comments to five to seven
6 minutes if possible. The Board will accept
7 your written testimony for the record.

8 Welcome, Mr. Podonsky.

9 MR. PODONSKY: Thank you, Mr.
10 Chairman. And I would have a special request
11 of the Board that recognizing that my
12 colleagues spoke for 25 minutes and 15 minutes
13 respectfully, the brevity of my comments are
14 not to be reflected in the same way that the
15 50 percent reduction in directives was taken.

16 (Laughter.)

17 CHAIRMAN WINOKUR: We'll agree to
18 ask you more questions.

19 MR. PODONSKY: I look forward to
20 that.

21 Again, I appreciate being able to
22 provide my views in the role of the Office of

1 Health, Safety and Security as a key player in
2 the DOE overall efforts to safety accomplish
3 its missions.

4 I've submitted the written
5 testimony, Mr. Chairman, as you mentioned,
6 which provides details about our approach to
7 implement independent oversight of defense
8 nuclear facilities.

9 Your express concerns about how
10 the evolving approach towards oversight might
11 affect DOE's efforts to ensure that our
12 contractors operate defense nuclear facilities
13 with the highest regard for safety has our
14 attention.

15 From the HSS perspective,
16 enforcement and oversight of nuclear safety
17 remains robust and will continue to improve.
18 And that the changes in process do not
19 represent a step back from our commitment to
20 nuclear safety.

21 These changes are being driven by
22 three factors. First, DOE's implementing

1 management reforms initiated by the Secretary
2 to fundamentally change how DOE prioritizes
3 its efforts. The Secretary's safety and
4 security reforms are necessary to enhance
5 productivity and achieve the DOE's vital and
6 urgent mission goals while maintaining the
7 highest standards of safe and secure
8 operations.

9 The reforms recognize that certain
10 activities, such as nuclear facilities safety,
11 must be subject to a rigorous oversight and
12 enforcement program. The outcome of this
13 reform initiative is the safety and security
14 directives reform effort.

15 Although directives from reform is
16 not a specific part of this public meeting, it
17 is the subject of your May 5th letter to the
18 Secretary. So I think it would be important
19 to describe HSS' ongoing effort in this area.

20 First, we understand and recognize
21 the cautions you have warned us about, and,
22 therefore, I think it is appropriate to

1 reaffirm that HSS will perform disciplined
2 reviews that carefully examine the content and
3 value of each directive, regulation, or
4 requirement and the potential consequences of
5 any change, with particular focus on the
6 impacts to nuclear safety.

7 The reduction in quantity or
8 volume of directives was and is intended
9 solely to improve the clarity and the
10 usability of requirements, not to reduce
11 requirements or the DOE's expectations for
12 high standards of safety and security.

13 The process we will use includes
14 multiple points of consideration of expert and
15 stakeholder input as well as review by an
16 executive steering committee.

17 Decisions will be guided by
18 criteria that will be considered, such as
19 whether changes to a directive add an
20 unintended or indirect impact on protection of
21 the environment, public, or the workers that
22 needs to be evaluated. And, most importantly,

1 whether changes impact a previous DOE
2 commitment to an external organization such as
3 the Board that needs to be considered and
4 discussed with that external organization.

5 In accordance with your charter,
6 these reviews will seek your input at multiple
7 points in the process, more aligned with our
8 2007 plan.

9 Second, the GAO [Government
10 Accountability Office] issued reports in 2008
11 and 2010 that recommended that the independent
12 oversight program be given additional
13 resources and authority to improve oversight
14 of nuclear safety through a review, a safety
15 basis, and more frequent onsite inspections.

16 DOE committed to strengthening
17 independent oversight through better
18 integration of enforcement and independent
19 oversight functions and to provide for more
20 frequent onsite independent inspection reviews
21 for nuclear safety.

22 Third, DOE has made commitments

1 based on recommendations and other input from
2 the Board that have driven many of the past
3 reforms of DOE and the independent oversight
4 program.

5 HSS does not plan to back away
6 from these commitments but will maintain an
7 independent oversight program that is
8 effective and meets critical needs of safety
9 and security. We have received substantial
10 input from many other sources, including DOE
11 line management, DOE contractors through the
12 EFCOG [Energy Facilities Contractor Group] and
13 other organizations like labor unions and
14 advocacy groups as the project on government
15 oversight.

16 Some of these groups think that we
17 are doing too much oversight. Some thing
18 we're doing too little. Our job is not to
19 measure how much but to measure efficacy.

20 We firmly believe that DOE
21 management, the Board, GAO, and all the other
22 organizations I just mentioned share the

1 common goal of safe nuclear operations.

2 It's clear, however, that they all
3 have different perspectives on how best to
4 achieve that goal. And much like the charter
5 of the DNFSB that marries many different
6 constructs of safety oversight, so much DOE to
7 achieve an effective model with enduring
8 results.

9 Starting with the management
10 reforms, particularly the DOE end state vision
11 for safety reform and in order to ensure that
12 our design for future independent oversight of
13 nuclear safety is sufficiently rigorous and
14 comprehensive, we carefully considered
15 everything we have learned from the Board's
16 recommendations over 22 years, GAO reviews,
17 and our stakeholders, as well as operating
18 data and extensive experience we have gained
19 in over 25 years of oversight activities, to
20 develop an improved program that will optimize
21 nuclear safety oversight with a priority on
22 higher hazard activities.

1 We have developed a draft program
2 plan for enhancing independent oversight of
3 nuclear safety that identifies three elements
4 that will guide our efforts.

5 First, we will establish a site
6 lead program that will provide a mechanism for
7 improving operational awareness, increasing
8 the frequency of communication, and partnering
9 with Program Officers, Site Officers, and
10 sites, and better targeting and focusing
11 independent oversight activities. And this
12 will be married with the ongoing Fac Rec
13 program.

14 Second, we will effectively
15 implement refined oversight processes intended
16 to be more efficient, better coordinated,
17 better targeted on higher risk facilities and
18 activities and DOE priorities. These
19 processes typically involve smaller teams,
20 shorter visits, allowing us to perform more
21 reviews that in the past.

22 Independent oversight will still

1 perform inspections. But will also perform
2 other onsite reviews through a wider variety
3 of mechanisms than we have in the past.

4 Additionally, enhanced
5 coordination between the HSS enforcement
6 functions and the HSS oversight functions will
7 be implemented through closer organizational
8 or management linkages.

9 Third, we will perform targeted
10 reviews based on risk and other priorities
11 determined by analysis of trends and other
12 performance data. Areas of emphasis will
13 include reviews of corrective actions, their
14 effectiveness, design activities, and
15 implementation of new requirements.

16 We have begun to implement the
17 above steps, including conducting a
18 significant number of site assistance visits.
19 We will continue to refine our methods as we
20 gain experience.

21 We believe this approach, when
22 fully developed and implemented, will provide

1 an overall benefit to DOE by continuing to
2 perform the critical role of regulatory
3 oversight and enforcement of nuclear safety
4 requirements at high hazard nuclear
5 facilities.

6 In the interest of time, I will
7 skip the questions that you asked for because
8 I'm sure you'll have some more. But I would
9 like to summarize by saying that we are
10 looking to improve independent oversight with
11 a particular emphasis on nuclear safety.

12 We believe that the proposed
13 changes will result in an independent
14 oversight program that is more effective and
15 more focused on nuclear safety than it has
16 been in the past.

17 We understand and accept our
18 responsibility to be an advocate for rigorous
19 nuclear safety programs and requirements and
20 effective DOE oversight. As the Department's
21 office responsible for independent oversight,
22 we will continue to monitor ongoing changes

1 and evaluate their impact on safety.

2 We will continuously seriously
3 consider inputs from all of our stakeholders
4 and will plan to work closely with Board on
5 issues of concern. We look forward to
6 providing you more information on our
7 directives reform approach in the report and
8 briefing requested in your May 5th letter.

9 We passionately believe that an
10 open constructive dialogue among all
11 interested parties will assist us in
12 implementing our oversight processes.

13 In closing, I would like to show
14 the Board the change in our directives process
15 as a result of your express concerns. The
16 process that we were --

17 MR. AZZARO: Excuse me, Mr.
18 Chairman, could we have that for the record
19 marked as Exhibit A -- or B rather. We
20 already have A. So B so that we can include
21 this in the record and it can be referred to
22 as he describes it so that people following

1 the record can understand what it is that we
2 are referring to.

3 CHAIRMAN WINOKUR: Approved.

4 Fine.

5 (Whereupon, the above-referred to
6 document was marked as Exhibit B
7 for identification.)

8 MR. PODONSKY: And may we ask that
9 the next one would be Exhibit C.

10 MR. AZZARO: I didn't know there
11 was a next one. So that's great. We didn't
12 practice this either.

13 MR. PODONSKY: What we have
14 displayed here is the basic current process
15 that reflects the latest plan that the Board
16 received from the independent Office of HSS.
17 And if you notice, this plan does not reflect
18 the level of checks and balances that we
19 previously had in our `07 operation.

20 We listened to your comments. We
21 heard your statements to the Deputy Secretary.
22 And we have decided that it is prudent advice

1 and counsel that you have given to the
2 Department in accordance with your charter of
3 providing recommendations in the decision-
4 making process for the Secretary and the
5 Deputy Secretary.

6 So I will show you our revised
7 process, which takes into consideration all of
8 your comments. And this is going to --

9 MR. AZZARO: This is B?

10 MR. PODONSKY: This is Exhibit B.

11 CHAIRMAN WINOKUR: This will be
12 Exhibit C.

13 MR. PODONSKY: Exhibit C. Thank
14 you.

15 (Whereupon, the above-referred to
16 document was marked as Exhibit C
17 for identification.)

18 MR. PODONSKY: and what you will
19 see here is a number of points at which both
20 external and internal reviewers will examine
21 the process. In the process, they will
22 examine the documents so that we make sure,

1 unlike the first 24 that we put into the
2 process, where we found after your express
3 concerns and the express concerns of your
4 staff, we found errors that were made that
5 were principally due to expediency as opposed
6 to quality.

7 So I realize that you all have
8 questions. But if you'll indulge me on this
9 just for one moment, I think this is very
10 important because the other part of it is that
11 in the beginning, we have discussed what kind
12 of specific criteria that we have.

13 And in exploring -- and I have to
14 do a mea culpa here, Mr. Chairman, because
15 when we started down this process, I made the
16 assumption as the head of HSS, that we
17 following many of the successes that we had
18 with the `07/`08 processes with, like we did
19 with conduct of ops, maintenance management,
20 contractor training, ORR [Operational
21 Readiness Review] order, unbeknownst to me is
22 that because, as the head of the organization,

1 I encourage them to meet a deadline of the end
2 of this calendar year, the expediency dropped
3 out very vital checks and balances. Those are
4 back into the process.

5 The other part that is into the
6 process that even my immediate staff are
7 unaware of is we have a checklist of
8 directives reform, Exhibit D, that I would
9 like to submit so that you can see what the
10 reviewers will be going through, all of them.

11 (Whereupon, the above-referred to
12 document was marked as Exhibit D
13 for identification.)

14 MR. PODONSKY: It's a 12 list
15 check that we make sure that we have
16 consistency in the reviews. And that if any
17 point in the checklist for the directives
18 there becomes a question, then it doesn't go
19 into the full process. And this is to make up
20 for the lack of rigor that you called to our
21 attention that we recognize now -- I
22 recognize.

1 It was not my staff's fault. We
2 were running to a time clock because every
3 administration I've served under, and I've
4 been under nine, everyone has realized in
5 their four years, it goes very quickly. Their
6 first year is they are figuring out what they
7 need to do. Their second year, they're doing
8 it. Their third year, they are worried about
9 their fourth year going away.

10 And as a result, there is a sense
11 of urgency. And we're slowing that down.

12 And to answer the question you
13 didn't ask yet is have I discussed this with
14 the Deputy? Yes, I have. And I've informed
15 the Deputy that we are not going to make the
16 deadlines that I put into the letter that you
17 saw on March 16th.

18 We are going to go according to
19 making sure that the purpose of the exercise
20 is like we do every four years, which was the
21 previous witness talked about and answered
22 Board Member Bader's question about the 15

1 directives that EM was looking at. We did not
2 ask them to look at that. That is MA. That's
3 part of their normal four-year cycle to have
4 the Department look at all of its directives.

5 In this case, the directives that
6 we're responsible for, 107 of them, we are
7 going to be very focused on making sure that
8 we do not create a vulnerability unintendedly.
9 We are looking at to do consolidation where it
10 makes sense, clarification where it makes
11 sense so that we don't have this tremendous
12 kaleidoscope of directives, policies, orders,
13 manuals, guides. Our focus is to consolidate,
14 clarify, or make no change.

15 Thank you.

16 CHAIRMAN WINOKUR: Let me say that
17 Exhibit D will be accepted into the record.
18 Thank you very much for your comments.

19 And I think the Board's concerns
20 about criteria you have touched on here is
21 that we knew what a rigorous process it took
22 to go through each directive. We had worked

1 with your organization successfully in the
2 past to put together some outstanding,
3 improved, strengthened directives.

4 And so I think when the Board saw
5 the Deputy Secretary's memorandum, which
6 suggested that in an eight-month period a
7 great deal would be accomplished, we became
8 concerned that we couldn't apply the same type
9 of formality and rigor we had in the past.

10 So I appreciate your input on
11 that. I think it is valuable.

12 MR. PODONSKY: May I comment on
13 your statement?

14 CHAIRMAN WINOKUR: Please.

15 MR. PODONSKY: Okay. I want to
16 take full responsible for the Deputy
17 Secretary's March 16th memo. As we were going
18 through the reform process, I asked my subject
19 matter experts in policy, when you take a
20 cursory review of the directives that we are
21 responsible for, how many of those do you
22 think might be changed, revised, eliminated,

1 consolidated? And they told me 50 percent.

2 And that's what I put into the
3 letter. It was never intended to be a
4 demonstration of less safety, less rigorous
5 focus on nuclear safety oversight. It was
6 intended for a reduction of confusion if there
7 was confusion that we were hearing.

8 And as I mentioned, I've worked
9 for nine Secretaries -- under nine Secretaries
10 of Energy. This is not the first Secretary of
11 Energy that brings the stack of requirements
12 to the table that the contractors have
13 complained about. What do you want us to do?
14 What are the requirements you want us to
15 follow?

16 CHAIRMAN WINOKUR: And I think
17 you'll understand that the Board's involvement
18 in this is that of the orders of interest are
19 that you are the primary purview of that of
20 those 107, 73 orders of interest to the Board,
21 and I think we've heard in testimony this
22 morning pretty uniform agreement that those

1 types of orders that deal with safety at
2 defense nuclear facilities are those that we
3 really want to pay the most attention to,
4 strengthen, and improve. But that decision
5 will have to be made very carefully whether or
6 not they should be cancelled or consolidated
7 or in any way weakened to not support those
8 activities.

9 And I think I've heard that
10 consistent message this morning. Would you
11 agree with that?

12 MR. PODONSKY: Yes. I not only
13 agree with that but I'll point again to
14 Exhibit B that the new process that we are
15 putting in place not only mirrors the '07
16 process that we had but it amplifies it
17 greatly.

18 CHAIRMAN WINOKUR: Thank you very
19 much.

20 MR. AZZARO: Did you mean Exhibit
21 C, Mr. Podonsky?

22 MR. PODONSKY: Yes, Counselor.

1 MR. AZZARO: Okay. Just for the
2 record so that everybody follows -- when
3 they're reading it, they can follow it.

4 CHAIRMAN WINOKUR: I have a couple
5 of questions to begin with and then perhaps a
6 few later. But there was a March 11th letter
7 that Tom D'Agostino, the NNSA Administrator,
8 wrote to Senator Russell Feingold.

9 And it states that your
10 organization, HSS, will refocus its efforts to
11 provide greater oversight of higher risk
12 operations like nuclear safety while reducing
13 resources committed to lower risk operations.
14 We've heard that theme this morning several
15 times.

16 And the letter also states that
17 Health, Safety and Security will conduct ten
18 nuclear safety inspections, which is twice the
19 number of inspections traditionally conducted
20 this year.

21 So I guess my first question is at
22 this point in the year, how many of these --

1 and I assume they would be independent
2 transactional oversight types of inspections
3 as opposed to assist inspections, have you
4 performed so far this year?

5 MR. PODONSKY: We have six that
6 have been ongoing. And in the spirit of
7 openness, the GAO had recommended and the
8 Department accepted that we would do ten of
9 these type of inspections.

10 And so what we have done is we,
11 along with the reform, while my Deputy was
12 responsible for collating the reform for the
13 Department on safety and security, we were
14 examining how can we do this number of
15 inspections with the number of resources we
16 have.

17 And when you look back over time,
18 all the inspections that we have done over the
19 25 years that we have been doing this, and we
20 decided that the best thing to do is do
21 focused inspections on critical areas at the
22 defense sites.

1 And so my Office of Oversight has
2 laid out a plan in which -- and we've already
3 started -- for example, we've already been --
4 we've been to Los Alamos on five different
5 occasions now this year alone. And when I say
6 in complete candor how we count those, we're
7 not going to say well, that's five of them.

8 We're not exactly sure how the GAO
9 or Congress or anybody else is going to accept
10 the counting of them, but what we are doing
11 instead of dispatching teams of 40 or 50
12 people at a time, we're not dispatching teams
13 of five to seven, much more focused on the
14 issues.

15 And it was through our analysis of
16 our past activities that we saw the reform
17 that was needed, which also complies with what
18 Senator Feingold's letter has stated or the
19 Administrator's to Feingold and what our
20 testimony on the Capitol Hill was that we have
21 gone out and completed inspections where we
22 determined the number of topics to be looked

1 at.

2 And sometimes that didn't always
3 match with what the Site Managers or the
4 contractors really needed help in. We were
5 going down this path of making a determination
6 on what we've done previously.

7 Now we're much more focused and
8 analytical about it, looking at what are the
9 high hazards. We're looking at the reports
10 that the Board has come out with. We're
11 looking at the reports that are coming in from
12 self-assessments. And we're making a much
13 more focused determination, utilizing our
14 finite resources in a much more focused way.

15 The other thing that the GAO has
16 talked about is that we didn't have enough
17 resources. So we are in the process of hiring
18 five new nuclear safety engineers.

19 CHAIRMAN WINOKUR: Well, I'll get
20 to that a little later. But these are what
21 you would refer to as the small team
22 inspections, is that true?

1 MR. PODONSKY: Yes, sir. That is
2 correct.

3 CHAIRMAN WINOKUR: And how would
4 you compare the inspections you are doing this
5 calendar year, for example, to what you might
6 have been doing two years ago before we had
7 any reform initiatives?

8 MR. PODONSKY: We are doing three
9 times as much safety reviews and inspections
10 in the field and twice as many security
11 inspections and reviews than we have in
12 previous years because we're actually
13 utilizing our resources in a much smarter way.

14 One of the things, even before
15 Secretary Chu came, we were asking ourselves
16 the number of times we've gone to different
17 sites to do our inspections, the reports we've
18 issued, the findings that we've left, often
19 times we waited for corrective action plans.
20 Often times we saw what I would call sometimes
21 malicious compliance. People were compliant
22 and we were not sustaining the changes.

1 What we're finding now both with
2 our approach to oversight, be it assistance
3 and oversight, we're finding that we are
4 sustaining changes, which we had not seen
5 before. And so we're very excited about the
6 reforms that we're doing in terms of
7 oversight.

8 CHAIRMAN WINOKUR: I want to ask
9 you one more question now and then a couple
10 later after the other Board members ask their
11 questions but I want to start getting into a
12 few of the things the Secretary of Energy has
13 been saying.

14 I understand the Secretary's deep
15 commitment to safety as well as the Deputy
16 Secretary's. And I'm asking you this because
17 you are the Chief Safety Officer of the
18 Department of Energy. So obviously you have
19 a role in advising them.

20 And here is a quote from the
21 Secretary of Energy. The veterans at the
22 laboratory tell me that 20 to 30 years ago,

1 there used to be a different relationship
2 between DOE and its contractors. It was a
3 healthier relationship and I want to go back
4 to that relationship.

5 Now my concern about that as the
6 Chairman of the Board is that that was a
7 period of time in which there were a fair
8 number of safety-related concerns in the
9 Department. We had serious accidents,
10 problems. Things at Savannah River got so bad
11 at one point that they couldn't reliably
12 perform their mission.

13 And I think if you go back to the
14 period of time that the Secretary is talking
15 about, 20 to 30 years ago, you begin to see
16 the events that led to the creation of this
17 Board, which basically arose because there
18 wasn't public confidence that the Department
19 could perform its mission in a reliable and
20 safe manner.

21 So my first question to you, I
22 guess, is have you advised the Secretary of

1 Energy on the safety record of the Department
2 during the Cold War? And provided any
3 insights or focused him on this statement
4 because as I said, it does give me a little
5 bit of concern about the message.

6 And he is the Secretary of Energy
7 so what he says is, of course, terribly
8 important.

9 MR. PODONSKY: The short answer is
10 no, I have not advised him on the safety
11 posture of the Department during the Cold War.

12 What I have advised the Secretary
13 on as recently as two weeks ago is the
14 importance of clearly defining the roles and
15 responsibilities that exist in the Department,
16 all the way back to 1983 was the last time we
17 had clear, defined roles and responsibilities
18 emanating out of the Secretary's office.

19 The Secretary told me that he was
20 going to personally take that on as an
21 assignment because he saw that that was
22 important to do.

1 I have also talked to him about
2 some of the statements that have been made in
3 speeches about the impact that that has. I
4 believe that the spirit of what the Secretary
5 was talking about was a spirit of
6 collaboration and cooperation.

7 In no way do I believe that the
8 Secretary was implying to denigrate safety to
9 go back to time that we were expert-based
10 safety instead of following requirements.

11 I further believe that what the
12 Secretary has learned from his previous life
13 as a lab director is that often times we in
14 the Department have a Byzantine approach that
15 we sometimes drive the wrong behavior. I
16 believe that independent oversight is part of
17 that, both good and bad.

18 Often times -- and one of you
19 Board members might recall this -- we would go
20 out to do an inspection and often times the
21 site contractor would want to get ready for
22 that inspection, whether it be safety or

1 security -- get ready for that inspection.

2 The Site Office would want to make
3 sure that they are ready. The Program Office
4 would want to make sure that they're ready all
5 because inspectors were coming.

6 That drives the wrong behavior.
7 It doesn't drive what I call the sustainable
8 model where people do safety because it is the
9 right thing to do. As we've heard the
10 Administrator and I think Mr. Lagdon talked
11 about it, you know, safety has to be a core
12 part of the mission in order for the operation
13 to function.

14 I believe that independent
15 oversight, and the advice that I've given the
16 Secretary and the Deputy Secretary, I think
17 we're moving towards a much more robust model
18 in where the sites are actually utilizing our
19 expertise and not just being maliciously
20 compliant.

21 And so at the end, just as I've
22 told Congress and I tell this Board, at the

1 end, isn't it so that we want to fix the
2 problems so that they are sustained and not
3 just waiting for the next inspection.

4 CHAIRMAN WINOKUR: Well, will you
5 take the opportunity to speak to the Secretary
6 about this and some other quotes I want to
7 talk to you about because I know his
8 commitment is to safety and I do get concerned
9 that the workforce and elements of the
10 contractor workforce might misinterpret some
11 of the things he's saying.

12 And he is the leader of the
13 Department. And I think we would all benefit
14 if that opportunity arose if you would take
15 that opportunity to do that.

16 MR. PODONSKY: Sure.

17 CHAIRMAN WINOKUR: I'll pass to
18 Dr. Mansfield now.

19 VICE CHAIRMAN MANSFIELD: Thanks.
20 Mr. Chairman, I have eight questions, but I'll
21 split them into two groups of four.

22 I'll start with an observation

1 that just for the record, I'd like to clarify
2 the nomenclature. By directives, we do not
3 mean anything in the Code of Federal
4 Regulations. That is not subject to DOE's
5 revision. There is another process for that.

6 What we do mean are the policies,
7 orders, manuals, guides, and standards. Is
8 that list inclusive?

9 MR. PODONSKY: Yes.

10 VICE CHAIRMAN MANSFIELD: Okay.

11 Fine. And it could be directives, or orders,
12 or manuals, et cetera, it can refer to all of
13 those.

14 MR. PODONSKY: Correct.

15 VICE CHAIRMAN MANSFIELD: Okay.

16 My first question is Chairman Winokur related
17 some of the horror stories from the 1990s
18 where public confidence was lost at Savannah
19 River. And those are included in the New York
20 Times articles that I have put into the
21 record.

22 Has the Secretary ever seen those?

1 MR. PODONSKY: I know I gave
2 copies to the Deputy Secretary.

3 VICE CHAIRMAN MANSFIELD: Has he
4 read them?

5 MR. PODONSKY: He has.

6 VICE CHAIRMAN MANSFIELD: Okay.

7 MR. PODONSKY: He has, I can
8 confirm that because he discussed it with me
9 on a Saturday afternoon.

10 VICE CHAIRMAN MANSFIELD: Okay.
11 Good. Well, that's progress.

12 My second question is that I'm
13 puzzled that -- I don't see the multiplication
14 factor. I'm puzzled that duplicative
15 directives necessarily cause inefficiency.

16 For instance we have four records
17 -- four directives that I can think of off the
18 top of my head that are involved with training
19 and qualification. And it doesn't mean that
20 you have to do training or qualification four
21 times. It just means you have to look at four
22 directives to make sure you've got it all.

1 So I'm not sure there is a lot of
2 savings in taking those away or reducing them
3 to one. And certainly not if you don't
4 include all the good stuff from all four of
5 them.

6 MR. PODONSKY: On that point, and
7 I think some of stakeholders are going to be
8 somewhat disappointed and they've already
9 expressed that, especially the contract lab
10 directors have expressed the disappointment
11 that they don't see a lot of savings coming
12 out of our exercise, we're not looking -- our
13 goal is not primarily for the savings. If
14 there are savings, that would be great for all
15 of us as taxpayers.

16 Our goal is for clarify. We see a
17 lot -- and my staff especially with boots on
18 the ground -- they see a lot of confusion in
19 terms of what to follow in various operations.
20 That's where we think that this is an
21 important exercise.

22 As I might -- if you will allow me

1 to go on, I mentioned in my quasi opening
2 statement, you know, as the Board knows, we
3 put 24 directives into the process for
4 cancellation.

5 We know that there are 11 of those
6 24 that the Defense Board and we need to come
7 to grips with as to whether they should stay
8 or not, whether we pull those back. Of those,
9 five are due principally because of a process
10 issue and six of them are technical.

11 And one in particular, and I want
12 to call this to Board Member Bader because he
13 said in our April 12th meeting, the concern
14 about any de facto going away from a Board
15 recommendation, and we actually -- the Board
16 staff actually found one that we put into the
17 system that actually was linked back to a
18 recommendation. And we're pulling that back.
19 We're going to reset the clock on what we're
20 doing. I figuratively say that. We're not on
21 a clock.

22 But we're going back to take a

1 look clearly as to make sure that we're not
2 rushing this process because we think you all
3 were correct with the concern about the
4 expediency in which we were moving.

5 VICE CHAIRMAN MANSFIELD: Okay.

6 On page four of your written testimony, which
7 I thank you for getting over here early
8 yesterday so that unlike some other witnesses
9 who delivered theirs this morning and
10 therefore required 25 minutes, the -- on page
11 four, and I quote, "takes a strong position
12 that nuclear safety is a special case and that
13 even though significant reductions in
14 directives for non-nuclear activities may be
15 acceptable, the Department's nuclear safety
16 requirements need to remain rigorous in
17 detail."

18 That's your strong position. Are
19 there any other positions?

20 MR. PODONSKY: Within the
21 Department?

22 VICE CHAIRMAN MANSFIELD: Yes.

1 Well, on that.

2 MR. PODONSKY: On that? I can say
3 as of the day before yesterday, the Deputy
4 Secretary has that same view.

5 VICE CHAIRMAN MANSFIELD: Okay.
6 Good.

7 MR. PODONSKY: And understanding
8 principally because he also read those
9 articles.

10 MR. AZZARO: Those articles being
11 which articles?

12 MR. PODONSKY: Thank you,
13 Counselor, the article is the 1988 New York
14 Times.

15 MR. AZZARO: The one in Exhibit A.
16 Please proceed. Thank you, sir.

17 MR. PODONSKY: Thank you,
18 Counselor.

19 VICE CHAIRMAN MANSFIELD: My
20 fourth question has to do with your written
21 testimony on page six, in the future, line
22 management will continue to develop,

1 improvement, implement, and track corrective
2 actions but will not have to routinely provide
3 those for independent oversight. Does that
4 include providing them to the Board?

5 MR. PODONSKY: No. We are
6 referring to ourselves.

7 VICE CHAIRMAN MANSFIELD: Okay.

8 MR. PODONSKY: Because --

9 VICE CHAIRMAN MANSFIELD:
10 Independent oversight within DOE?

11 MR. PODONSKY: For within the
12 Department.

13 VICE CHAIRMAN MANSFIELD: Okay,
14 fine. All right.

15 MR. PODONSKY: If I can elaborate
16 -- because the one thing that the Secretary is
17 doing, which we applaud, he's doing many
18 things we applaud but this, in particular, is
19 pushing the responsibility to the line, to the
20 Under Secretaries.

21 VICE CHAIRMAN MANSFIELD: That's
22 my fourth question. Mr. Chairman?

1 CHAIRMAN WINOKUR: Mr. Bader?

2 MR. BADER: Mr. Podonsky.

3 MR. PODONSKY: Yes, sir.

4 MR. BADER: Good morning.

5 MR. PODONSKY: Good morning.

6 MR. BADER: With half a minute to
7 spare, the first thing that I wanted to do and
8 I think our good general counselor has given
9 me the appropriate designation is to enter
10 your review of the HSS Safety Directives
11 Project Plan, December 20th, 2007 version into
12 the record as Exhibit --

13 MR. AZZARO: Exhibit E.

14 MR. BADER: E.

15 MR. AZZARO: Right.

16 (Whereupon, the above-referred to
17 document was marked as Exhibit E
18 identification.)

19 MR. BADER: And that leads me to
20 my first question which is, I believe, the
21 statement you said -- too many notes at this
22 point -- was that the process you are going to

1 use is more aligned with the 2007 plan.

2 MR. PODONSKY: Yes, sir, that's
3 correct.

4 MR. BADER: Would you send us, for
5 the record, a crosswalk between what you are
6 planning to do and the 2007 plan? And the
7 implication of your statement was that it
8 would be more precise, more clear, more
9 definitive. Is that --

10 MR. PODONSKY: That is correct.

11 MR. BADER: Could you indicate in
12 that crosswalk where you think the
13 improvements are please?

14 MR. PODONSKY: Yes. We will do
15 that.

16 MR. BADER: Okay.

17 MR. PODONSKY: It's also depicted
18 on the Chart Exhibit C.

19 MR. BADER: I'd rather see a
20 crosswalk of the document please.

21 MR. PODONSKY: Counselor, would
22 that be Exhibit F.

1 MR. AZZARO: We can so designate
2 that. You've described it adequately. And we
3 can mark it and everyone will know what we are
4 referring to.

5 (Whereupon, the above-referred to
6 document was marked as Exhibit F
7 identification.)

8 MR. BADER: A couple of specific
9 questions. There were a number of directives
10 that were described variously as quick wins or
11 low-hanging fruit. Does this new process mean
12 that that sort of approach to do something in
13 a hurry is now gone?

14 MR. PODONSKY: It was -- the short
15 answer is we're not going to rush to make
16 judgments. The more detailed answer is the
17 quick wins, 12, for example, 12 of the 24
18 directives were things like safeguard and
19 security nomenclature. And what those
20 cancellations are is to take them out of the
21 Director's piece and put them on to our
22 website so the security community, for

1 example, still has access to the information
2 but it is not in directive space.

3 So our process is not going to
4 result in quick wins any longer. Our process
5 is going to be much more precise and much more
6 exact. What we want to make sure is that we
7 don't have unintended consequences that we
8 didn't see.

9 Now of those 12, we have
10 concurrences from the entire Department. The
11 Board has also had no issues with those 12.
12 But we're past the easy piece. Now we're
13 going to the much more exacting piece that the
14 process will make sure that there are not more
15 errors that were made like in the one that I
16 quoted about the guide that was related back
17 to a previous Board recommendation.

18 MR. BADER: Yes. My information
19 from the staff was that there were four of
20 those, not just one.

21 The other thing I wanted to ask in
22 terms of a specific question is under the

1 prior -- prior being the 2010 plan -- you were
2 looking at, I believe, a cancellation review
3 of 21 days. Are you going to take that back
4 to the original 30 days?

5 MR. PODONSKY: Thirty days or
6 longer. And you mentioned it in one of the
7 statements to the previous witnesses.

8 We need to put the appropriate
9 amount of resources on this.

10 MR. BADER: Yes.

11 MR. PODONSKY: And that has not
12 happened. We need to make sure that the
13 reviews are, in fact, complete. And, again,
14 I did my mea culpa, I'll do it again.

15 My staff was being very diligent
16 in following the deadlines that I set. That
17 was based on conversations with Departmental
18 leadership. And those deadlines that we set,
19 as the Board noted, were clearly unrealistic
20 to be able to do a thorough job. Our intent
21 is to do a thorough job.

22 MR. BADER: The last question I

1 have is if I looked at the 2007 versus the
2 2010 documents, the 2007 plan gave us seven
3 clear criteria.

4 There was an eighth criteria that
5 was missing but which my understanding from
6 our staff was honored basically even though it
7 wasn't written down, which was a specific
8 review against Board commitments.

9 And I was told that was
10 accomplished even though it wasn't in the
11 written criteria. Will you specifically write
12 that down as one of your criteria this time?

13 MR. PODONSKY: That's criteria
14 number ten in the new criteria.

15 MR. BADER: Okay. All right.

16 MR. PODONSKY: Very specific.

17 MR. BADER: I have no further
18 questions, Mr. Chairman. Thank you.

19 CHAIRMAN WINOKUR: Mr. Brown?

20 MR. BROWN: Thank you, Mr.

21 Chairman.

22 And good morning, Mr. Podonsky.

1 MR. PODONSKY: Good morning.

2 MR. BROWN: Let me just ask two
3 questions and then I'll pass it on to my
4 colleague, Ms. Roberson.

5 We've talked a bit this morning
6 about the process that was in place in 2007
7 and how detailed that was and methodical. And
8 in my opening statement, I talked about
9 continuous improvement. And I was speaking
10 for myself.

11 But I would expect many of the
12 other Board members would agree that
13 continuous improvement in the directive system
14 is a good thing. And a regular rigorous
15 review of those directives is not only
16 appropriate but an effective process for
17 continuous improvement.

18 But in your testimony, you talk
19 about the drivers for change and improvement.
20 And fortunately you gave it to us in advance
21 and I went through it and I'm looking for the
22 smoking gun, if you will, that says we're

1 going to accelerate an effective process and
2 more this quickly to conclusion.

3 And while I understand the GAO and
4 the Board are part of that process that are
5 mentioned in your testimony, I don't think we
6 were driving for quicker, more rapid
7 directives review. And then I read that
8 missions, requirements, organizational
9 structures, situations, facilities,
10 technology, tools, and our knowledge of the
11 directives but I don't see any of those as
12 having changed so much that they would require
13 this accelerated review.

14 So I'm wondering what it is that
15 drove us to jump through these hoops so
16 quickly and frankly what it is we can do to
17 avoid this in the future.

18 MR. PODONSKY: As you know, Board
19 Member Brown, with each Administration, as I
20 mentioned, there is a sense of urgency as the
21 second year passes and the third year is
22 coming up.

1 And that sense of urgency is to
2 get things done. And we recognize that that
3 sense of urgency has to be tempered by those
4 of us who are career.

5 We looked at it -- I looked at it
6 and I made the commitment to the Deputy that
7 with 2010 being a very important year for the
8 Administration to achieve some of things they
9 want to achieve for science and for global
10 warming and other larger-ticket items for all
11 of us, I looked at it and I said to my staff
12 if we put enough resources on it, can we do
13 this effectively?

14 What I said in my opening
15 statement is that I take full responsibility
16 for the rapidity in which we were moving
17 because I made the assumption, as the head of
18 the organization, that the same rigor was
19 being applied, just at a faster pace.

20 And when I got thorough briefings
21 since our April 12th meeting with the Board
22 and when you expressed your concerns about

1 this rapidity, I discovered that I made a
2 judgment error in the process by expecting my
3 folks to produce in eight months what will
4 probably take perhaps twice as long to do it
5 right.

6 And so you are looking at the
7 cause of the expedited review. And it was my
8 judgment, as the head of the organization, to
9 help deliver for the Department a smarter way,
10 a more efficient way, and a clearer way in
11 which we are following requirements.

12 MR. BROWN: Well, as I look at the
13 new Administration and when they came in, they
14 had a lot on their plate, you mentioned all
15 the new initiatives in energy from nuclear to
16 renewables, for them to take on a wholesale
17 directives review process suggests to me that
18 they had some reason for taking that on, for
19 finding the system was not effectively being
20 renewed, reviewed rigorously.

21 And you mentioned in your spoken
22 testimony, and this will be my second

1 question, you mentioned in your spoken
2 testimony that some groups think there is too
3 much oversight. You said that again in the
4 written testimony.

5 Can you -- I'm trying to figure
6 out why people feel that the directives are a
7 soft target. I mean I really believe that
8 maybe there is something here that we need to
9 be addressing. And I'm searching for it.

10 MR. PODONSKY: I wouldn't say that
11 people thought -- this is my assumption --
12 that people thought the directives were a soft
13 target. I believe that what the Secretary saw
14 when he came in as the Secretary as an
15 opportunity to improve what he thought of as
16 a lab director and that is how do you have
17 more efficient yet safe operations with a
18 streamlined directive system and perhaps a
19 more focused, less cumbersome oversight.

20 I would tell you -- I mentioned,
21 Board Member Brown, that all the way back to
22 Paul Hodel, who was my first Secretary that I

1 worked under, every Secretary has looked at
2 the Byzantine structure that we have had in
3 the Department and always looked to see
4 whether or not there was a way to improve the
5 management of the Department.

6 And what the Secretary asked for
7 is is there a better way to do oversight? And
8 is there a better way of looking at the
9 directives?

10 And so we took that on as a
11 challenge while they have been focused on
12 Recovery Act and grants and loans and global
13 warming and new battery technology, et cetera.
14 We took that on because we feel, as part of
15 the main infrastructure, Safety, Security and
16 Health of the Department, that we wanted to
17 look hard at that and make our recommendations
18 as opposed to having somebody else do it who
19 doesn't have to live with the results after
20 this Administration leaves.

21 MR. BROWN: I think my time is up
22 so I'll pass on to Ms. Roberson.

1 MS. ROBERSON: Thank you, Mr.
2 Brown.

3 Thank you, Mr. Podonsky.

4 A couple questions. One general,
5 one fairly specific.

6 A couple of times in your
7 testimony, you -- and I'm not going to quote
8 it but basically say these reforms, this
9 reform initiative, one of the goals is to
10 subject certain nuclear activities to a
11 regulatory oversight and enforcement program
12 comparable to that of the Nuclear Regulatory
13 Commission.

14 And while it is truly a worthy
15 goal and it's not a new goal, it has been one
16 of the objects of the way the Department is
17 structured is regulatory oversight and
18 enforcement program.

19 The commercial nuclear model is
20 quite different. One, it involves an array of
21 truly independent oversight elements. The
22 owner is not the operator -- I mean the owner

1 is the operator. The owner motivation cannot
2 be mimicked in DOE. And the NRC [Nuclear
3 Regulatory Commission] is truly independent
4 and does not represent the owners' interest.

5 But with that in mind, what
6 specific elements of NRC's regulatory regime
7 does DOE seek to replicate in this reform
8 initiative?

9 MR. PODONSKY: I'll -- there's
10 more specific data that I would want to
11 provide you from my nuclear safety experts but
12 I will tell you this. We want to make sure
13 that we have the same rigor that the NRC does
14 when they go out to inspect a licensee.

15 And I would offer to you that in
16 the past, our comprehensive ES&H inspections
17 had a great deal of that rigor. The problem
18 is, however, we were only going on once every
19 three years or two years to some of these
20 sites. NRC is out there, with their regional
21 offices, on a much more frequent basis.

22 That's one of the things we're

1 moving towards, a more constant vigilance out
2 there and not just waiting for the reports to
3 come in.

4 And I mentioned earlier an example
5 in Los Alamos. We've been there five times
6 this year alone on different topical areas.
7 So we want to make sure that the one thing
8 that we'll replicate with the NRC is the
9 constant presence that we haven't currently
10 had.

11 The other partner to that is
12 having a site lead. That's very important for
13 both communication with the sites, the
14 contractors, and for our understanding, on a
15 regular basis, on what is going on out there.

16 We once had a Site Resident
17 Program, you may recall in one of your
18 previous incarnations, and that worked partly.
19 It wasn't fully integrated with the oversight.
20 And this now will emanate from the oversight.

21 The sites that we already have on
22 site leads, we have identified overseers that

1 will have specific responsibilities at
2 specific sites. And that, too, is beginning
3 to replicate some of what the NRC has learned
4 over the years.

5 MS. ROBERSON: Well, you hit
6 exactly where I was going with the second
7 question.

8 In your testimony, you stated that
9 you have draft protocols for those site leads.

10 MR. PODONSKY: Yes.

11 MS. ROBERSON: And I was going to
12 ask you to elaborate a little bit more on
13 that. Or if you want to respond in writing
14 sometime, that would be great.

15 MR. PODONSKY: Well, we'll respond
16 in writing but I'll just -- rather than just
17 leave it open, I would also say again, what
18 we've determined is we have site leads now for
19 Los Alamos and Livermore, for Nevada and
20 Pantex, for Savannah River and I'm missing
21 Idaho and River Protection in Hanford.

22 And our site leads, they are going

1 to be in contact on a regular basis with the
2 site to understand what the operations are.

3 They will go out and visit
4 whenever they deem it is appropriate to see
5 what the operations are. If the Board goes
6 out there, they'll be out there to make sure
7 that we hear the same things that you are
8 hearing.

9 So it is a constant presence,
10 which I believe personally and professionally,
11 will be actually more effective than the site
12 resident program.

13 But it will also, I think, will
14 complement the knowledge that is gained from
15 the Fac Rep program. And put that back into
16 the oversight piece so that we understand more
17 of what is going on at the site on a real-time
18 basis.

19 And we'll give you a more direct
20 answer --

21 MS. ROBERSON: In writing?

22 MR. PODONSKY: Yes.

1 MS. ROBERSON: Okay.

2 CHAIRMAN WINOKUR: Yes?

3 MR. DWYER: So is it your vision
4 that this lead is resident at the site?

5 MR. PODONSKY: No.

6 MR. DWYER: Or is it resident at
7 Headquarters?

8 MR. PODONSKY: No, it will be
9 resident here at Headquarters. The reason --
10 well, first of all, our experience with the
11 site resident program is that unlike the Fac
12 Rep program, which has been very successful,
13 the site resident program had some shaky
14 starts. And we don't have the resource
15 capability to move people out there at the
16 different sites.

17 We believe that doing it based out
18 of our oversight, there is more of a linkage
19 directly to the oversight folks. And we'll
20 use the existing systems to include the Fac
21 Rep as supplement.

22 MR. DWYER: Okay. And in your

1 testimony, you said marry this up with the Fac
2 Rep program. The Fac Rep program is a very
3 successful program and the Fac Reps are under
4 the Site Office manager. They are his eyes
5 and ears.

6 MR. PODONSKY: Correct.

7 MR. DWYER: It would be a travesty
8 to disrupt that link. When you say marry up,
9 can you elaborate?

10 MR. PODONSKY: Just make sure that
11 we're communicating on a regular basis to find
12 out --

13 MR. DWYER: Okay. So there is no
14 intent to disrupt it?

15 MR. PODONSKY: No, no.

16 MR. DWYER: I just wanted to be
17 clear about that.

18 MR. PODONSKY: Marriage means
19 different things to different people.

20 (Laughter.)

21 MS. ROBERSON: Clearly.

22 MR. DWYER: I was curious. You

1 said that you had 12 low-hanging fruit that
2 were cut from the directive system.

3 MR. PODONSKY: Right.

4 MR. DWYER: And that the Board's
5 staff had no comments on them. Could I get a
6 copy of that list because I know we sent you
7 at least three that we distinctly objected to
8 cancellation. And at least eight others that
9 we did not believe the justification was
10 adequate. So I can't make the math add up.

11 MR. PODONSKY: I'll be happy to
12 provide that to you.

13 MR. DWYER: Thank you.

14 MR. AZZARO: Define -- it's the
15 Chairman's direction how he wants it. Do you
16 want to make it an exhibit to this proceeding,
17 Mr. Chairman? Or just have them send it over
18 and then we can -- the record is going to be
19 kept open, as I understand it, for a while
20 anyway. And it can be added to the record.

21 CHAIRMAN WINOKUR: We can
22 certainly add it to the record, that's fine.

1 And let me, for the record, state
2 that the last three questions have been asked
3 by the Board's Technical Director, Tim Dwyer.

4 MR. DWYER: In the program plan
5 for enhancing independent oversight of nuclear
6 safety, is that complete? It says -- in your
7 testimony, it says it is a draft.

8 MR. PODONSKY: It is a draft. I
9 have not read it yet. But I understand it is
10 very close to final. And that's coming out of
11 my Office of Oversight and Enforcement. And
12 we will be happy to provide that draft so you
13 can review it and comment.

14 MR. DWYER: Thank you. That was
15 my next question.

16 And the GAO reviews that were done
17 and the recommendations they provided you, one
18 of the things that you highlighted in your
19 testimony was that you needed to focus more
20 sources on the safety bases. How has that
21 been accomplished?

22 MR. PODONSKY: We haven't done

1 that yet.

2 MR. DWYER: Okay. Thank you.

3 Thank you, Mr. Chairman.

4 CHAIRMAN WINOKUR: Thank you, Mr.
5 Dwyer.

6 A few pieces of bookkeeping. Then
7 I do have some very general questions for you.

8 Did you say -- I wanted to get
9 this clear for the record -- that the Deputy
10 Secretary is aware of the reform changes we
11 have been talking about today? Your -- I'm
12 sorry, the process that we are going to be
13 using to evaluate the directives?

14 MR. PODONSKY: Yes. He -- the
15 Deputy does not have all the fine detail. But
16 what he has is the understanding, based on our
17 discussions with him, based on your
18 discussions with him, the understanding first
19 of all that his guidance that he put out, in
20 terms of the 50 percent, he never intended for
21 that 50 percent to be an indicator of the
22 driver or reducing safety. But clarifying the

1 directive system.

2 The other thing that he is aware
3 of is that the time frame that I committed to
4 is not going to be met because, as I said in
5 our April meeting with you, we are not going
6 to sacrifice quality for time.

7 CHAIRMAN WINOKUR: Thank you.

8 I have just a few general things
9 which I'm going to go through fairly quickly.
10 I just want your help on these things. I
11 don't think we can have a detailed dialogue
12 right now.

13 But the Secretary of Energy once
14 again has made some very specific comments
15 about the oversight process. And this is a
16 hearing today about oversight.

17 And I think we would all agree
18 that we want to strengthen these processes, we
19 want to strengthen the directives.

20 But let me just give you two
21 quotes from the Secretary in the hope that you
22 can perhaps, as the Chief Safety Office, at

1 least provide some guidance and insight if you
2 think it is necessary.

3 One of the quotes from the
4 Secretary says, "In terms of safety, if you
5 look at companies that are extremely safe,
6 they have a very skeleton crew of health and
7 safety experts, a company like DuPont."

8 But I really haven't heard
9 anything here today that makes me think that
10 the NNSA Administrator or the Chief of Nuclear
11 Safety or yourself believe that we are heading
12 towards skeleton crews of health and safety
13 experts.

14 And I don't know if you want to
15 briefly comment on that and my sense of it is
16 that it might not be sending the right
17 message. But what would your quick sense of
18 it be?

19 MR. PODONSKY: More than my sense,
20 my actual discussion with the Secretary was
21 that he had a view that corporate safety at
22 DuPont was a skeletal crew, 15 people. We

1 actually had DuPont, the head of their safety
2 organization come and meet with us, Mari Jo
3 Campagnone, who you all know, made the
4 arrangements. And we had the Chief of Staff
5 for the Deputy Secretary there. We had the
6 NNSA representative from their safety office
7 there. We had Dr. Brinkman from Science
8 there.

9 And what we learned from DuPont is
10 that yes, at headquarters they day 15. But
11 they had another 1,500 out in the field. So
12 we were getting the information back to the
13 Secretary that what was the perception was not
14 the reality.

15 CHAIRMAN WINOKUR: And you've
16 communicated that to him?

17 MR. PODONSKY: I've communicated
18 that to his Chief of Staff, not to the
19 Secretary yet. But I intend to.

20 CHAIRMAN WINOKUR: Thank you.

21 Well, here is another quote. And
22 it says, from the Secretary, "Reduced federal

1 oversight doesn't necessarily reduce safety.
2 Quite the opposite. So another suggestion to
3 the complex that we should reduce oversight.

4 You know my strong feelings about
5 it are we should, you know, trust but verify.
6 And the day may come when the contractor
7 assurance programs are so strong that we
8 convince ourselves that less oversight might
9 be necessary.

10 But until that point occurs, and I
11 don't think we're there yet, that we probably
12 need to maintain a pretty strong focused,
13 dedicated safety staff, or oversight function.

14 MR. PODONSKY: I'll just comment,
15 I fully -- we fully agree that we need to have
16 a strong safety oversight as well as security,
17 for that matter, which is also part of the HSS
18 responsibilities.

19 But I am reminded of the culture
20 in the Department, all the way back to 1994
21 with the Bob Galvin report that was written
22 for Secretary O'Leary that talked about

1 checkers checking the checkers.

2 One of the issues that has to be
3 dealt with with the Department, as I said
4 earlier, and I mentioned to the Secretary, is
5 roles and responsibilities. What are the
6 expectations? What is the Site Office? What
7 is the contractor? What is the Program
8 Office? What are the different staff offices?

9 Because it comes to a point in
10 time that I think the Administrator said this
11 or implied this, you can go so far that you
12 have too many checkers and not enough doers.
13 And so I don't disagree with the spirit of
14 what you're saying, Mr. Chairman, but I also
15 think that the Department has gone sometimes
16 in the wrong direction.

17 CHAIRMAN WINOKUR: And the final
18 thing I would say is that we have had a very
19 good dialogue here today. One of the things
20 that I was concerned about when you and I met
21 with the Deputy Secretary of Energy is always
22 the message that the contractors are

1 receiving.

2 And I did want to share with you
3 that I think the contractors have gotten the
4 message from the initiatives and safety
5 reforms that their requirements are going to
6 be significantly reduced. And I do want to
7 tell you that the Board staff that has been
8 out to attend certain meetings with the
9 contractors, you know, sense that the Board is
10 being viewed as an impediment to the
11 Department doing what it needs to do so the
12 contractors can get their job done.

13 But I think we've agreed here
14 today that safety is an enabler, not a barrier
15 to that mission. And we can certainly use
16 your help in making sure that the contractors
17 get the better message in terms of what we're
18 all trying to do here to strengthen and
19 improve these directives.

20 MR. PODONSKY: I fully agree. And
21 once again, I had to admit that I added to the
22 confusion of the messaging because at one

1 meeting in particular at EFCOG, I talked about
2 the Hill having interest in what we were doing
3 in reform.

4 And when I mentioned the Defense
5 Board, I said that you all had your hands
6 around my throat. My intention was not that
7 you were strangling me but my intention was
8 that you had my attention. And so obviously
9 we have to clear those messages.

10 CHAIRMAN WINOKUR: Thank you.

11 Dr. Mansfield?

12 VICE CHAIRMAN MANSFIELD: Thank
13 you, Mr. Chairman.

14 One of my remaining questions has
15 already been answered so but my fifth
16 question, this has to do with the site lead
17 program. I can see that this will be an
18 important mechanism, especially for
19 operational awareness.

20 Do you intend to have a formal
21 qualification process with the functional area
22 qualification program for these people?

1 MR. PODONSKY: Yes.

2 VICE CHAIRMAN MANSFIELD: Okay.

3 MR. PODONSKY: And we also -- we
4 have done oversight, as I mentioned, for 25
5 years. We have brought in some of the best
6 safety experts that we can get to join the
7 federal government.

8 But we have never had a regimented
9 process for follow-on training because they
10 come to us so qualified. But we need to do
11 that as well.

12 VICE CHAIRMAN MANSFIELD: Okay.
13 Great.

14 My next question has to do with --
15 I want to thank you for your words on page six
16 about the historical, fruitful working
17 relationship between DOE and the Board. I
18 certainly think that that's a fact. And it
19 has been important.

20 I do have to raise a question
21 about the term stakeholder. Recent
22 communications have mentioned that there is a

1 list of stakeholders, including the Board.

2 I just want to make a distinction
3 that I think is firmly founded in our statute.
4 Stakeholders are interested individuals who
5 have a right, a Constitutional right to be
6 heard and be consulted with respect. However,
7 they don't have a right to dictate what DOE
8 does. And they may -- their views may have to
9 be in the last instance, not followed.

10 But the Board has a problem, a
11 different problem. We have a statute that
12 demands that we be action-forcing. In other
13 words, we bother you to give up. And that
14 doesn't make us ordinary stakeholders. Do you
15 recognize that distinction?

16 MR. PODONSKY: Absolutely.

17 VICE CHAIRMAN MANSFIELD: Okay.
18 Good.

19 And my last question, on the
20 directives revision process, which is -- or
21 the approval process for it, which is a
22 question I also have for the approval process

1 for getting correspondence out, about
2 recommendations and things like that, but some
3 of these directives reply just to defense
4 nuclear facilities. And were written that
5 way.

6 So why does, for instance, the
7 Office of Energy and the Office of Science
8 have a say in changes of those directives?

9 MR. PODONSKY: Because the
10 structure in which the management of the
11 Department operates is that the three Under
12 Secretaries have a responsibility to the
13 Deputy and to the Secretary for concurring on
14 all the requirements. Some of them may be
15 applicable, some of them may not.

16 In the same way that they also,
17 the General Counsel, Congressional --

18 VICE CHAIRMAN MANSFIELD: So does
19 the, for instance, Director of NNSA weigh in
20 on the peer review process for DOE grants in
21 science?

22 MR. PODONSKY: That's a good

1 question. I don't know. But I did describe
2 the process as somewhat Byzantine.

3 VICE CHAIRMAN MANSFIELD: Yes.
4 And it's also been obstructive. I mean I call
5 to mind Recommendation 2009-1 where there was
6 useless waiting because of, I believe, a
7 pointless objection.

8 Mr. Chairman, that's my questions.

9 CHAIRMAN WINOKUR: Mr. Bader?

10 MR. BADER: I have no further
11 questions. Thank you, Mr. Chairman.

12 CHAIRMAN WINOKUR: Mr. Brown?

13 MR. BROWN: In your testimony, Mr.
14 Podonsky, we talk about greater emphasis on
15 this or that. And I'm wondering about your
16 resources to do your job at the Department of
17 Energy, the safety section of your job.

18 Are they increasing, decreasing,
19 staying the same? I'm talking about dollars.
20 Can you tell me something about that and your
21 ability to fulfill your role as the
22 Departmental safety rep.

1 MR. PODONSKY: We are being very
2 creative with the use of our limited
3 resources. The budget for HSS is a matter of
4 public record. It has been on a decline.

5 MR. BROWN: Can you describe how
6 much of a decline? Characterize it some way?

7 MR. PODONSKY: Well, it has had me
8 and my managers become creative in terms of
9 our prioritization. We will not sacrifice
10 safety for the less budget.

11 But, for example, I have used
12 moneys that we had originally planned for
13 security technology deployment, so I'm using
14 money for -- instead of deploying
15 technologies, which by all rights should be
16 the responsibilities of the Under Secretaries
17 to pay for, I'm no longer paying for that.
18 I'm using that money for the safety aspects
19 where I need them.

20 MR. BROWN: You mentioned you are
21 hiring five more --

22 MR. PODONSKY: Five more nuclear

1 engineers.

2 MR. BROWN: How is your cadre of
3 safety personnel? How has that tracked over
4 the last couple of years in numbers?

5 MR. PODONSKY: We've been able to
6 keep a pretty substantial cadre of safety
7 folks both between oversight and policy. But
8 it is taxing my people. We actually need to
9 make some changes.

10 And I intend to, as the reform
11 goes through to a more mature state, I want to
12 go back to the Deputy Secretary to restructure
13 the organization so I can make a more focused
14 effort on our resource base on safety as well
15 as security.

16 MR. BROWN: Do you have any
17 programs for renewing, restoring the -- your
18 personnel as -- I mean, you know, in most
19 organizations around the government, there are
20 a lot of retirements coming up. What are you
21 doing to reinvigorate the youth of your
22 organization?

1 MR. PODONSKY: We are having a
2 special Medicare program for our folk -- I'm
3 being facetious. We do have an aging
4 workforce. And what we really need to do, and
5 we've started looking at a younger cadre.

6 Part of our problem also is we
7 have some technically competent, very, you
8 know, junior folks that are being recruited
9 away from us to do work within the line. And,
10 of course, we don't stand in their way because
11 we want people to have as much experience as
12 possible.

13 It is, Board Member Brown, we do
14 have a problem there. And we are trying to
15 work it within the finite resources, financial
16 resources that we have.

17 MR. BROWN: You mentioned in your
18 written testimony that you are putting a
19 greater emphasis on the full range of
20 enforcement options to ensure compliance with
21 safety requirements. Can you describe what
22 enforcement options HSS will be emphasizing

1 that you haven't emphasized in the past? I
2 mean that implies a change. And what is this
3 change?

4 MR. PODONSKY: Well, the change is
5 the enforcement process, since its inception
6 in 1993 with the former EH [Environmental
7 Safety & Health] organization, has always be
8 driven out of Headquarters.

9 The federal line folks have not
10 seen this as their tool. And we're pushing
11 back to have the Under Secretaries and the
12 Assistant Secretaries recognize -- and the
13 Site Managers -- that enforcement is a tool
14 for the feds to hold the contractors
15 accountable and responsible.

16 It's not just Headquarters. What
17 we had found -- and in that process, there was
18 a long delay, eight, nine, ten months after an
19 event when you see an enforcement action. So
20 on two fronts, we're trying to streamline the
21 process so that we shorten the amount of time,
22 number one.

1 Number two, we're getting the
2 sites' federal folks to recognize that this is
3 their tool, not just HSS's. Those are the two
4 major areas.

5 MR. BROWN: Now when you say
6 enforcement actions, you're talking Price-
7 Anderson?

8 MR. PODONSKY: We're talking about
9 Price-Anderson. We're talking about 824 and
10 Worker Health & Safety -- 824 was the security
11 classification. We had three enforcement
12 responsibilities: Price-Anderson for nuclear
13 safety, classification for security, for
14 documents, and then Worker Health & Safety.

15 MR. BROWN: Okay. Thank you, Mr.
16 Chairman.

17 CHAIRMAN WINOKUR: Ms. Roberson?

18 MS. ROBERSON: Actually, I just
19 have one topic I wanted to follow up on,
20 Glenn, and that was the mission support
21 function that you described in your testimony.

22 My recollection is some part of

1 the organization has been available for
2 assistance to the line anyway. What is new
3 and different? And based on what is new and
4 different, how are you protecting your
5 enforcement function from the mission support?

6 MR. PODONSKY: Mission support in
7 the old days, like the Maytag repairman
8 waiting for somebody to call us, or sometimes
9 like at Rocky Flats, I'll always remember Mark
10 Silverman having an EH fire safety assistance
11 at the same time we had an inspection. And I
12 remember Mark never requested that fire
13 safety.

14 We're talking about mission
15 support where we're actually working with the
16 line to fix some of the problems that they
17 don't have the resources to fix, they don't
18 have the expertise. And we are finding -- in
19 fact my oversight folks will tell you, we have
20 more requests now than we have people to do
21 all the work.

22 It's the same -- it is across the

1 Board. It's in safety. It's in cyber. It's
2 in physical security. For example, we are at
3 science facilities right now, SLAC [Stanford
4 Linear Accelerator] out at the Stanford
5 facility. It's run like a university and they
6 need help with their security.

7 They've had a number of vandalism
8 inside issues. And so we've had people go out
9 to help them.

10 Now if we ever have to inspect
11 them, we won't use the same people, okay. Now
12 -- and then you might say well how do you
13 manage so few resources?

14 I mean eventually if we don't
15 bring on more folks to support us, we
16 eventually will run out where we can't do any
17 more inspections. So that is a problem.

18 But what we look at and say
19 figuratively and literally, if the objective
20 of oversight is to improve the process of the
21 way the facilities are operating, then
22 shouldn't we use that expertise in a way that

1 is helpful, not just providing a report?

2 MS. ROBERSON: And I understand
3 what you're saying, I guess. And maybe one of
4 the questions I was going to ask you, you
5 already answered is are you looking at
6 structural changes in your organization.

7 Because one of the concerns I
8 would have in this vein is we talked about --
9 we have these multiple operational, you know,
10 awareness or oversight, we have the Under
11 Secretaries or Administrator's organization.

12 The entry points for your assist,
13 is it at the contractor, field, line, Under
14 Secretary, how is all of this stuff intended
15 to work and have meaning in the total scheme
16 of oversight?

17 MR. PODONSKY: The entry is where
18 the work is getting done. That's most
19 important.

20 We have found that we can go and
21 talk to the Unders and talk to the Assistant
22 Secretaries, some of the -- I need to correct

1 one of the witnesses.

2 Chip Lagdon says to the Chairman's
3 question no, we're not using that organization
4 for assistance. And to the contrary, we're
5 actually out at Hanford, which originally
6 started as an assist visit to look at
7 beryllium turned into an inspection. So we
8 are doing that.

9 But we're find that where the real
10 work is being done, where the problems exist,
11 is at the sites. So John Bolden and his staff
12 have made the circuit to the site managers.
13 And they understand what's available because
14 like I said, we're pretty much running out of
15 resources to go out and provide the assistance
16 that have been requested, which, for the
17 record, we find that very refreshing in the
18 fact that people are now sharing with us
19 instead of hiding from us.

20 And I'm anxiously awaiting to see
21 what is going to happen at those same sites
22 when we go out and inspect them and see if the

1 attitude will change or whether we will have
2 a respectful relationship.

3 MS. ROBERSON: Okay. Thank you.

4 I don't have any further
5 questions, Mr. Chairman.

6 CHAIRMAN WINOKUR: Well, thank you
7 very much for your testimony today and
8 answering the Board's questions. Thank you
9 for your patience. You are the third witness
10 of the morning.

11 We did give you limited time to
12 provide oral testimony but that happened
13 because you were kind enough to share your
14 written testimony with us promptly the day
15 before, which gave us a fairly good
16 opportunity to go through it.

17 So once again, thank you.

18 In accordance with the Board's
19 practice and as stated in the Federal Register
20 notice, we welcome comments from interested
21 members of the public.

22 We ask presenters to limit their

1 original statements to five minutes. The
2 Chair will give consideration to additional
3 comments should time permit.

4 Presentations should be limited to
5 comments, technical information, or data
6 concerning the subjects of this meeting.

7 The Board members may question
8 anyone making presentations to the extent
9 deemed appropriate.

10 I do have a list here. And we
11 have a name on it, Jennifer Nordstrom from
12 Think Outside the Bomb. Would you come
13 forward please? And please restate your name
14 and affiliation for the record.

15 MS. NORDSTROM: I'm Jennifer
16 Nordstrom. I'm from Think Outside the Bomb.

17 Thank you for the opportunity to
18 testify today at this hearing for the DOE's
19 implementation of Recommendation 2004-1,
20 Oversight of Complex, High-Hazard Nuclear
21 Operations.

22 Think Outside the Bomb is the

1 largest youth-led network for nuclear
2 abolition in the United States and is
3 organized by youth activists, experts, and
4 organizers in nuclear weapons and nuclear
5 energy issues from academic and non-profit
6 fields.

7 Since 2005, we have organized
8 national and regional conferences focusing on
9 education, community organizing, and creative
10 expression. In August of 2009, we held our
11 conference in Albuquerque, New Mexico, and
12 learned first hand about the effects of the
13 nuclear weapons complex on the health of the
14 people and the natural resources in the area.

15 At the request of multiple groups
16 and community leaders in Espanola, Chimayo,
17 and other parts of New Mexico, TOTB [Think
18 Outside the Bomb] is now focused on supporting
19 efforts in the areas surrounding Los Alamos
20 National Labs. And in assisting on clean ups
21 of the lab's toxic legacy. And working to
22 prevent any further contamination and risk to

1 public health and safety in this area.

2 In March of this year, two of our
3 members met with this Board to discuss issues
4 regarding the proposed Chemical & Metallurgy
5 Research Replacement Facility at LANL [Los
6 Alamos National Laboratory]. Our testimony
7 today is intended to follow up on some of the
8 issues we raised at that meeting as well as to
9 make a specific recommendation regarding
10 necessary DOE oversight of this proposed
11 project.

12 So with regards to the proposed
13 CMR facility at LANL, we have two main
14 concerns, the first of which is public safety
15 and health. As this Board has acknowledged in
16 depth and in detail, seismic issues at LANL
17 have made the current CMR facility a grave
18 safety hazard in the event of an earthquake or
19 resultant fire.

20 The building of a new plutonium
21 laboratory in an equally seismically unstable
22 area will not reduce this catastrophic risk.

1 These concerns cannot be adequately resolved
2 and this building is unnecessary.

3 The best way to avoid these safety
4 problems is to end plutonium pit production at
5 LANL. Since the DNFSB is operating under a
6 new Congressional mandate to certify this
7 CMRR, might the Board further interpret its
8 mandate to not certify the entire project
9 based on the fact that it cannot be made safe
10 and should not proceed?

11 Is this Board willing to accept
12 the risk of catastrophic consequences for the
13 population surrounding LANL?

14 Please tell Congress and LANL that
15 it is not responsible to throw millions of
16 dollars at seismic safety measures that will
17 not work when the risk is easily prevented by
18 curtailing plutonium activities.

19 The second issue that we're
20 focused on is public input. And while this
21 Board has clearly made an attempt to accept
22 public input on this proposal and others, we

1 remain concerned that marginalized populations
2 in these areas are being excluded from this
3 regulatory dialogue.

4 So far it appears as though the
5 Board has made little effort to hear from
6 Chicano and indigenous groups in New Mexico
7 such as the Multi-Cultural Alliance for a Safe
8 Environment, Tribal Environmental Watch
9 Alliance, TEWA Women United, the New Mexico
10 Alliance, or the Products of Aztlan Youth
11 Group.

12 Such omissions of public
13 participation should be repaired expeditiously
14 by holding public hearings on certification in
15 the effected communities, including the
16 Espanola and Chimayo area, Santa Fe, and
17 Albuquerque. For many of these communities,
18 this is their sacred land.

19 And it is important to make an
20 effort to hold a series of meetings with an
21 open and well-noticed comment period to assure
22 adequate representation of their perspectives.

1 Finally, and most relevant to your
2 focus at today's hearing, we respectfully
3 request that this Board direct the Department
4 of Energy to conduct a supplemental analysis
5 for the environmental impact statement they
6 issued in February of 2004, the Record of
7 Decision 6967, regarding the proposed CMRR at
8 LANL.

9 In light of the seismic and safety
10 issues this Board made public in the fall of
11 2009, we feel that this additional analysis is
12 an obvious necessity. We also feel that the
13 initial EIS [Environmental Impact Statement]
14 should have included a fifth alternative,
15 which would have been to cease plutonium pit
16 production at LANL.

17 We dispute the decision to advance
18 Alternative 1, which was to build a new CMRR
19 at Technical Area 55. This choice overlooks
20 the many risks this Board has acknowledged as
21 being associated with TA-55 [Technical Area
22 55] and thus warrants a reexamination of the

1 initial EIS and the incorporation of an option
2 which would further prohibit plutonium work at
3 TA-55.

4 Thank you for your time and
5 consideration of these points. We look
6 forward to recommendations from this Board
7 that will put the health and safety of New
8 Mexicans in front of unjustified need for
9 further expansion of dangerous and wasteful
10 plutonium pit production at LANL.

11 We sincerely hope this Board will
12 also make a concerted effort to hear from the
13 residents that are most directly effected by
14 the hazards created at LANL.

15 Thank you.

16 CHAIRMAN WINOKUR: Thank you. Ms.
17 Nordstrom, thank you for your testimony.

18 Is there anybody in the room who
19 would also wish to address the Board?

20 (No response.)

21 CHAIRMAN WINOKUR: Seeing no other
22 hands, I'm going to move to the closing

1 statement for this public meeting and hearing.

2 The record of this proceeding will
3 remain open until June 12th, 2010. I would
4 like to reiterate that the Board reserves its
5 right to further schedule and otherwise
6 regulate the course of this meeting to recess,
7 reconvene, postpone, or adjourn this meeting,
8 and exercise its authority under the Atomic
9 Energy Act of 1954, as amended.

10 This concludes this meeting and
11 hearing of the Defense Nuclear Facilities
12 Safety Board. We will recess and take up at
13 the call of the Chair when that time is
14 necessary.

15 Thank you.

16 (Whereupon, the above-entitled
17 meeting of the Defense Nuclear Facilities
18 Safety Board was concluded at 12:48 p.m.)
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ability 19:22 26:9 26:20 28:21 43:15 215:21	accountabilities 46:16	152:11,18 153:14 164:8 167:16 180:14 195:10 229:18	29:14 30:18 160:3 190:19 191:8 192:13 194:20	ago 78:4 98:16 110:10 169:6 170:22 171:15 172:13
able 116:11 125:20 145:21 187:20 217:5	accountability 38:4 43:15 149:10	activity 76:16 77:10,11 95:5 115:20	Administration's 8:4	agree 63:11 64:13 75:19 145:17 164:11,13 189:12 205:17 208:15 210:20
abolition 227:2	accountable 219:15	actual 66:14 206:20	administrative 44:3	agreed 140:16 210:13
above-entitled 233:16	accurate 5:8	ad 19:20	Administrator 1:19 29:12,16 74:19 97:18 124:12 131:14 132:13 133:12 135:15 139:14 165:7 174:10 206:10 209:10	agreement 118:20 163:22
above-referred 140:17 156:5 157:15 159:11 183:16 185:5	achieve 129:1 147:5 151:4,7 191:8,9	adage 89:1	Administrator's 13:16,19 139:17 167:19 223:11	ahead 26:13
absolute 130:19	achieved 10:18 45:3	add 59:8 103:5 148:19 202:10,22	Admiral 15:9	Alamos 167:4 197:5 198:19 227:19 228:6
absolutely 92:7 100:5 128:9 213:16	acknowledge 24:6	added 202:20 210:21	Admission's 13:16,19 139:17 167:19 223:11	Albuquerque 227:11 230:17
absorbing 22:14	acknowledged 228:15 231:20	adding 130:9	Admission 15:9	aligned 46:18 117:3 136:14 149:7 184:1
academic 227:5	Act 5:7 7:22 115:21 194:12 233:9	addition 6:1 45:11 52:17 68:4 114:11	admit 78:13 210:21	Alliance 230:7,9,10
accelerate 190:1	action 95:4 115:18 169:19 219:19	additional 7:6 35:22 37:22 42:7 44:13 50:7 52:10 61:6 65:15 80:8 119:17 139:11 149:12 226:2 231:11	adopted 42:20 90:2	allocating 57:22
accelerated 190:13	actions 8:4 10:20 11:5 23:16 52:2 79:3 107:7 115:17 153:13 182:2 220:6	address 9:20 21:13 32:12 33:21 112:7 232:19	advance 189:20 231:17	allow 18:21 26:7 43:20 178:22
Accelerator 222:4	action-forcing 213:12	Addressed 11:7 16:5 35:9	advancing 76:17	allowed 43:20 44:7
accept 145:6 154:17 167:9 229:11,21	active 43:9	addressing 193:9	advantage 42:22 52:17	allowing 152:20
acceptable 180:15	activists 227:3	adequacy 34:9 119:10	advantages 43:7	all's 100:15
accepted 16:13 52:8 109:18 161:17 166:8	activities 10:1 15:2 15:3 24:17 26:11 26:22 40:6 41:3,5 41:8,10 45:21,22 46:14 49:12,15 51:14 57:19,21 58:14,16,20 63:20 75:9 76:18,21 79:15 84:10 88:15 93:8,11,17 94:21 97:2 100:19,19 101:1 111:20 113:9,12,17 116:8 116:9 117:22 119:14,22 120:2 125:8 130:8 135:6 135:17 138:10 140:5 142:17 147:10 151:19,22	addressed 11:7 16:5 35:9	advice 78:12 156:22 174:15	alternative 48:17 231:14,18
Accepting 134:12		addressing 193:9	advised 171:22 172:10,12	alternatives 39:21 48:20 49:2
access 186:1		adequate 12:1,11 13:5 49:9,17 52:16 119:6 130:21 202:10 230:22	advising 170:19	ambitious 110:6
accident 9:1 25:7,9 25:22 37:9 64:10 64:10 71:13 72:21		adequately 185:2 229:1	advisor 52:12 68:6 93:2 117:18	ambivalent 125:10
accidents 10:11 13:6 19:2 28:12 28:14 30:22 93:18 171:9		adherence 71:11	Advisory 108:9	amended 7:22 233:9
accomplish 22:4 78:6 114:2 146:2		adjourn 2:22 7:20 233:7	advocacy 150:14	AMERICA 1:1
accomplished 162:7 188:10 203:21		administration 1:21 8:11 25:12	advocate 154:18	American 115:20
accomplishment 49:8 78:19			Aeronautics 25:11	amount 102:2 187:9 219:21
account 57:10			affect 26:8,20 35:9 48:2 49:4 146:11	amplifies 164:16
			affiliation 226:14	amplify 56:12
			afford 18:21	analysis 26:4 34:21 50:12 72:21 132:11 139:3 153:11 167:15
			afternoon 177:9	
			agencies 74:14	
			age-related 50:10	
			aggressive 62:12	
			aging 50:11 218:3	

231:4,11	appreciated 86:15 121:11	78:21 80:3 85:6 85:20 88:3 90:1 110:14 116:3 147:19 211:21 227:14 228:1,22 230:16 231:19,21	assessment 25:18 40:18,20 41:19 80:22 98:3 110:17 111:5 112:10 113:19,20 114:6 116:16,17,18 119:10,20 120:6 120:13 131:17,18 132:3,15,16,21 133:16	11:13,18 14:1 31:18 44:11 48:10 61:9 70:21 92:10 99:19 100:1 107:19,20 111:10 111:10,14 115:2,6 115:7 118:16 120:15 121:20 123:9,11,16 124:5 124:9 136:17 208:7
analytical 168:8	approach 30:8,13 33:15 38:16,16,21 39:2,19 41:15 42:13 43:5,7,18 45:2,19 46:12 47:10,19,22 49:16 52:22 54:4 68:15 72:17 95:11 96:11 98:19 99:6 100:22 115:8 119:21 120:1,11 130:6 134:12 146:6,10 153:21 155:7 170:2 173:14 185:12	areas 18:20 32:7 33:13 37:3 38:22 39:1,4 47:4 52:21 53:4 59:5 62:1,14 70:9,20 88:10,11 99:9 107:3,21 118:14 120:6 153:12 166:21 197:6 220:4 227:19 230:2	assessments 13:19 30:14 32:2 33:20 37:1,5 40:2,9,18 50:9 88:5 93:21 113:13 114:3,5 115:10,19 120:19 124:4,5	assure 48:20 230:21
Anderson 220:7	answered 160:21 211:15 223:5	argument 21:11	assessor 120:9	Atomic 7:21 233:8
anniversary 82:2 86:12	answered 160:21 211:15 223:5	arises 12:7	assets 11:11 24:3	attempt 77:15,18 80:18 229:21
answer 30:6 54:12 73:7 78:1,1 101:2 101:3 126:1 160:12 172:9 185:15,16 199:20	approached 136:10	arising 42:8	assign 133:5	attend 104:17 108:20 210:8
answered 160:21 211:15 223:5	approaches 40:12 48:17 94:6 110:22 132:5,10	Arms 14:21	assigned 50:21 51:16 53:15,16 105:11 106:3	attention 50:7 54:12 58:13 146:14 159:21 164:3 211:8
answering 144:12 225:8	appropriate 7:13 12:5 21:21 38:19 41:1 43:22 44:7 47:9 76:19,20 95:9 100:18 112:9 119:13 137:3 147:22 183:9 187:8 189:16 199:4 226:9	Army 114:10	assigning 65:4 107:19	attest 27:18,18
answers 104:3	appropriately 35:16 39:3	arose 171:17 175:14	assignment 172:21	attitude 72:15,16 225:1
anticipate 42:6 47:5 80:7	appropriation 80:8	arrangement 38:9	assist 42:11 55:22 122:18 155:11 166:3 223:12 224:6	attrition 52:2
anxiously 224:20	approval 34:14,16 35:3 213:21,22	arrangements 207:4	Assistant 219:12 223:21	auditorium 6:11
anybody 15:20 98:12 167:9 232:18	approved 48:17 156:3	array 195:20	assisting 70:8 116:9 227:20	augment 52:18
anyway 202:20 221:2	approval 34:14,16 35:3 213:21,22	article 181:13	associated 5:18 40:10 50:22 60:9 101:21 113:12 114:18 115:20 120:18 231:21	augmented 50:12
apologize 69:2	approved 48:17 156:3	articles 3:9 15:13 16:7 17:9 140:13 176:20 181:9,10 181:11	assistance 37:17 38:1 117:21 153:18 170:2 221:2,10 224:4,15	August 227:10
appears 15:19 38:21 121:13 137:20 230:4	appropriately 35:16 39:3	article 181:13	Assistant 219:12 223:21	authority 7:21 30:16 50:19,20 105:9 108:7 112:16 142:3 149:13 233:8
applaud 182:17,18	appropriation 80:8	articles 3:9 15:13 16:7 17:9 140:13 176:20 181:9,10 181:11	assisting 70:8 116:9 227:20	authorization 80:8
applicability 48:15 51:4	approval 34:14,16 35:3 213:21,22	ascertain 15:10	associated 5:18 40:10 50:22 60:9 101:21 113:12 114:18 115:20 120:18 231:21	available 5:17,20 6:2 43:2 45:11,21 49:5 75:12 109:22 221:1 224:13
applicable 214:15	approved 48:17 156:3	asked 46:3 69:8 81:2 154:7 162:18 194:6 203:2	Assistant 219:12 223:21	Avenue 1:9
application 20:16 21:17 35:18 47:10 101:18 102:4	approval 34:14,16 35:3 213:21,22	asking 14:7 81:22 103:3 118:3 169:15 170:16	assisting 70:8 116:9 227:20	avoid 190:17 229:3
applied 18:2 41:1 57:17 73:17 77:8 92:1 118:10 120:2 130:16 191:19	approved 48:17 156:3	aspects 216:18	associated 5:18 40:10 50:22 60:9 101:21 113:12 114:18 115:20 120:18 231:21	avoidance 45:17
applies 61:10 77:7	appropriately 35:16 39:3	Assay 112:1	assume 166:1	avoided 23:1
apply 47:22 48:10 58:13 93:7 112:3 118:3 121:3 130:1 132:4 137:3 162:8	approval 34:14,16 35:3 213:21,22	assembled 35:20	assumption 158:16 191:17 193:11	avoiding 28:22
appreciate 60:4 61:14 82:1 104:5 104:10 145:21 162:10	approved 48:17 156:3	asserted 54:18	assurance 8:15	avoids 136:8
	area 36:4 47:8,9 55:7 56:7,18 57:18 59:4 60:14 61:22 64:15 78:20	assess 53:3		awaiting 224:20
	assessed 113:18 120:21	assesses 51:11		

aware 55:11 77:15 117:19 126:3 204:10 205:2	127:1,12 128:2,16 129:3,7 139:11,13 179:12 183:1,2,4	22:20 26:15 31:5 95:21 158:11 198:2	Bill 96:8 bit 56:12 65:9 84:6 88:6,19 90:3 96:10 101:14,17 102:5 124:15 136:7 172:5 189:5 198:12	233:12,18 Board's 4:15,17,18 5:9,15 6:4 9:8 17:14 22:21 23:14 23:17 25:3 29:9 94:8 151:15 161:19 163:17 202:4 203:3 225:8 225:18
awareness 35:5 37:14 40:6 51:9 111:19 137:14 152:7 211:19 223:10	183:6,14,19 184:4 184:11,16,19 185:8 186:18 187:10,22 188:15 188:17 215:9,10	begun 153:16 Behalf 2:11,14 behavior 173:15 174:6 beliefs 125:15 believe 16:3 19:21 54:8 56:5 63:1 82:8 99:11 109:5 116:2 119:15 122:12 150:20 153:21 154:12 155:9 173:4,7,11 173:16 174:14 183:20 187:2 193:7,13 199:10 200:17 202:9 206:11 215:6	black 107:18 bleeding 100:16 blending 53:10 block 126:18 Board 1:3,8,13,13 1:14 2:6,9,13,19 4:6,9,14 5:12 6:10 7:11,17 8:2,5,8,17 11:1,17 12:20 13:1,8 14:13,19 14:22 16:5,8 18:4 22:10 23:8 27:7 27:10 29:15,20 38:4 55:4,18 82:3 82:9,20 85:13 95:1 101:14 104:4 104:15 105:6 108:9 111:18,21 127:17,19 128:5,7 128:15 131:16 144:3 145:6,11 149:3 150:2,21 155:4,14 156:15 160:22 162:4 163:20 168:10 170:10 171:6,17 173:19 174:22 179:2,6,12,14,15 182:4 186:11,17 187:19 188:8 189:12 190:4,18 191:21 193:21 199:5 210:7,9 211:5 212:17 213:1,10 218:13 222:1 226:7 228:3 228:15 229:7,11 229:21 230:5 231:3,10,20 232:6 232:11,19 233:4	body 16:16,17,21 109:12 118:22 119:5 Bolden 224:11 Bomb 226:12,16,22 227:18 bookkeeping 204:6 boots 178:17 bosses 81:20 bother 213:13 bottom 103:11 bound 131:9 Branch 10:8 break 90:8 144:14 breakout 79:17,19 brevity 145:13 Brian 1:17 4:18 brief 30:15 51:3 briefed 117:8 briefers 126:13 briefing 88:13 89:17 155:8 briefings 191:20 briefly 206:15 bright 131:2 132:22 bring 32:11 134:1 222:15 bringing 109:8 brings 163:11 Brinkman 207:7 brought 212:5 Brown 1:13 4:12 23:6,7,9 27:4 86:7 86:8,14 89:20,22 91:7,12 93:12 95:16,20 97:11
away/restricted 50:2	Bader's 160:22 balance 12:5 49:2,7 58:5,21 82:18 103:4,7 133:15	believes 13:1 belong 119:17 belongs 75:18 beneficial 123:1 benefit 21:1,22 83:20 101:13 102:4 154:1 175:13 benefitted 21:14 beryllium 224:7 best 45:10 70:21 98:21 151:3 166:20 212:5 229:3 better 42:15,15 61:11 64:7 68:17 68:19 87:20 93:10 117:6 132:10,20 133:9 149:17 152:10,16,17 194:7,8 210:17	Board 1:3,8,13,13 1:14 2:6,9,13,19 4:6,9,14 5:12 6:10 7:11,17 8:2,5,8,17 11:1,17 12:20 13:1,8 14:13,19 14:22 16:5,8 18:4 22:10 23:8 27:7 27:10 29:15,20 38:4 55:4,18 82:3 82:9,20 85:13 95:1 101:14 104:4 104:15 105:6 108:9 111:18,21 127:17,19 128:5,7 128:15 131:16 144:3 145:6,11 149:3 150:2,21 155:4,14 156:15 160:22 162:4 163:20 168:10 170:10 171:6,17 173:19 174:22 179:2,6,12,14,15 182:4 186:11,17 187:19 188:8 189:12 190:4,18 191:21 193:21 199:5 210:7,9 211:5 212:17 213:1,10 218:13 222:1 226:7 228:3 228:15 229:7,11 229:21 230:5 231:3,10,20 232:6 232:11,19 233:4	Bob 208:21 body 16:16,17,21 109:12 118:22 119:5 Bolden 224:11 Bomb 226:12,16,22 227:18 bookkeeping 204:6 boots 178:17 bosses 81:20 bother 213:13 bottom 103:11 bound 131:9 Branch 10:8 break 90:8 144:14 breakout 79:17,19 brevity 145:13 Brian 1:17 4:18 brief 30:15 51:3 briefed 117:8 briefers 126:13 briefing 88:13 89:17 155:8 briefings 191:20 briefly 206:15 bright 131:2 132:22 bring 32:11 134:1 222:15 bringing 109:8 brings 163:11 Brinkman 207:7 brought 212:5 Brown 1:13 4:12 23:6,7,9 27:4 86:7 86:8,14 89:20,22 91:7,12 93:12 95:16,20 97:11
Aztlan 230:10	balances 156:18 159:3 balancing 118:10 136:17 ball 18:21,22 band 52:8 95:14 banner 103:11 bar 122:5 barrier 14:5 210:14 base 123:17 217:14 based 118:7,13 133:7 150:1 153:10 187:17 200:17 204:16,17 221:3 229:9 baseline 28:20 baselines 85:10,15 bases 32:5 203:20 basic 156:14 basically 123:10 125:18 171:17 188:6 195:8 Basin 107:13 basis 30:11 96:22 108:13,16 116:10 118:1 149:15 196:21 197:15 199:1,18 201:11	biennial 37:2 41:11 41:18 53:1 69:14 93:22 142:11 Big 10:8	Block 126:18 Board 1:3,8,13,13 1:14 2:6,9,13,19 4:6,9,14 5:12 6:10 7:11,17 8:2,5,8,17 11:1,17 12:20 13:1,8 14:13,19 14:22 16:5,8 18:4 22:10 23:8 27:7 27:10 29:15,20 38:4 55:4,18 82:3 82:9,20 85:13 95:1 101:14 104:4 104:15 105:6 108:9 111:18,21 127:17,19 128:5,7 128:15 131:16 144:3 145:6,11 149:3 150:2,21 155:4,14 156:15 160:22 162:4 163:20 168:10 170:10 171:6,17 173:19 174:22 179:2,6,12,14,15 182:4 186:11,17 187:19 188:8 189:12 190:4,18 191:21 193:21 199:5 210:7,9 211:5 212:17 213:1,10 218:13 222:1 226:7 228:3 228:15 229:7,11 229:21 230:5 231:3,10,20 232:6 232:11,19 233:4	beginning 6:16
Azzaro 1:15 4:16 155:17 156:10 157:9 164:20 165:1 181:10,15 183:13,15 185:1 202:14	balancing 118:10 136:17 ball 18:21,22 band 52:8 95:14 banner 103:11 bar 122:5 barrier 14:5 210:14 base 123:17 217:14 based 118:7,13 133:7 150:1 153:10 187:17 200:17 204:16,17 221:3 229:9 baseline 28:20 baselines 85:10,15 bases 32:5 203:20 basic 156:14 basically 123:10 125:18 171:17 188:6 195:8 Basin 107:13 basis 30:11 96:22 108:13,16 116:10 118:1 149:15 196:21 197:15 199:1,18 201:11	biennial 37:2 41:11 41:18 53:1 69:14 93:22 142:11 Big 10:8	Block 126:18 Board 1:3,8,13,13 1:14 2:6,9,13,19 4:6,9,14 5:12 6:10 7:11,17 8:2,5,8,17 11:1,17 12:20 13:1,8 14:13,19 14:22 16:5,8 18:4 22:10 23:8 27:7 27:10 29:15,20 38:4 55:4,18 82:3 82:9,20 85:13 95:1 101:14 104:4 104:15 105:6 108:9 111:18,21 127:17,19 128:5,7 128:15 131:16 144:3 145:6,11 149:3 150:2,21 155:4,14 156:15 160:22 162:4 163:20 168:10 170:10 171:6,17 173:19 174:22 179:2,6,12,14,15 182:4 186:11,17 187:19 188:8 189:12 190:4,18 191:21 193:21 199:5 210:7,9 211:5 212:17 213:1,10 218:13 222:1 226:7 228:3 228:15 229:7,11 229:21 230:5 231:3,10,20 232:6 232:11,19 233:4	beginning 6:16
a.m 4:2 144:18,20	bat 61:5 battery 194:13 bear 109:9 bedrock 12:10 began 45:2 98:1	Beyond 45:15 Bhopal 10:3 biennial 37:2 41:11 41:18 53:1 69:14 93:22 142:11 Big 10:8	Block 126:18 Board 1:3,8,13,13 1:14 2:6,9,13,19 4:6,9,14 5:12 6:10 7:11,17 8:2,5,8,17 11:1,17 12:20 13:1,8 14:13,19 14:22 16:5,8 18:4 22:10 23:8 27:7 27:10 29:15,20 38:4 55:4,18 82:3 82:9,20 85:13 95:1 101:14 104:4 104:15 105:6 108:9 111:18,21 127:17,19 128:5,7 128:15 131:16 144:3 145:6,11 149:3 150:2,21 155:4,14 156:15 160:22 162:4 163:20 168:10 170:10 171:6,17 173:19 174:22 179:2,6,12,14,15 182:4 186:11,17 187:19 188:8 189:12 190:4,18 191:21 193:21 199:5 210:7,9 211:5 212:17 213:1,10 218:13 222:1 226:7 228:3 228:15 229:7,11 229:21 230:5 231:3,10,20 232:6 232:11,19 233:4	beginning 6:16
B	bat 61:5 battery 194:13 bear 109:9 bedrock 12:10 began 45:2 98:1	Beyond 45:15 Bhopal 10:3 biennial 37:2 41:11 41:18 53:1 69:14 93:22 142:11 Big 10:8	Block 126:18 Board 1:3,8,13,13 1:14 2:6,9,13,19 4:6,9,14 5:12 6:10 7:11,17 8:2,5,8,17 11:1,17 12:20 13:1,8 14:13,19 14:22 16:5,8 18:4 22:10 23:8 27:7 27:10 29:15,20 38:4 55:4,18 82:3 82:9,20 85:13 95:1 101:14 104:4 104:15 105:6 108:9 111:18,21 127:17,19 128:5,7 128:15 131:16 144:3 145:6,11 149:3 150:2,21 155:4,14 156:15 160:22 162:4 163:20 168:10 170:10 171:6,17 173:19 174:22 179:2,6,12,14,15 182:4 186:11,17 187:19 188:8 189:12 190:4,18 191:21 193:21 199:5 210:7,9 211:5 212:17 213:1,10 218:13 222:1 226:7 228:3 228:15 229:7,11 229:21 230:5 231:3,10,20 232:6 232:11,19 233:4	beginning 6:16
B 3:12 155:19,20 156:6 157:9,10 164:14	bat 61:5 battery 194:13 bear 109:9 bedrock 12:10 began 45:2 98:1	Beyond 45:15 Bhopal 10:3 biennial 37:2 41:11 41:18 53:1 69:14 93:22 142:11 Big 10:8	Block 126:18 Board 1:3,8,13,13 1:14 2:6,9,13,19 4:6,9,14 5:12 6:10 7:11,17 8:2,5,8,17 11:1,17 12:20 13:1,8 14:13,19 14:22 16:5,8 18:4 22:10 23:8 27:7 27:10 29:15,20 38:4 55:4,18 82:3 82:9,20 85:13 95:1 101:14 104:4 104:15 105:6 108:9 111:18,21 127:17,19 128:5,7 128:15 131:16 144:3 145:6,11 149:3 150:2,21 155:4,14 156:15 160:22 162:4 163:20 168:10 170:10 171:6,17 173:19 174:22 179:2,6,12,14,15 182:4 186:11,17 187:19 188:8 189:12 190:4,18 191:21 193:21 199:5 210:7,9 211:5 212:17 213:1,10 218:13 222:1 226:7 228:3 228:15 229:7,11 229:21 230:5 231:3,10,20 232:6 232:11,19 233:4	beginning 6:16
back 32:11 37:16 54:18 69:19 70:4 70:12,13 71:15 84:3 92:17 99:6 99:15,17 143:2 144:19 146:19 150:5 159:4 166:17 171:3,13 172:16 173:9 179:8,17,18,22 186:16 187:3 193:21 199:15 207:12 208:20 217:12 219:11	bat 61:5 battery 194:13 bear 109:9 bedrock 12:10 began 45:2 98:1	Beyond 45:15 Bhopal 10:3 biennial 37:2 41:11 41:18 53:1 69:14 93:22 142:11 Big 10:8	Block 126:18 Board 1:3,8,13,13 1:14 2:6,9,13,19 4:6,9,14 5:12 6:10 7:11,17 8:2,5,8,17 11:1,17 12:20 13:1,8 14:13,19 14:22 16:5,8 18:4 22:10 23:8 27:7 27:10 29:15,20 38:4 55:4,18 82:3 82:9,20 85:13 95:1 101:14 104:4 104:15 105:6 108:9 111:18,21 127:17,19 128:5,7 128:15 131:16 144:3 145:6,11 149:3 150:2,21 155:4,14 156:15 160:22 162:4 163:20 168:10 170:10 171:6,17 173:19 174:22 179:2,6,12,14,15 182:4 186:11,17 187:19 188:8 189:12 190:4,18 191:21 193:21 199:5 210:7,9 211:5 212:17 213:1,10 218:13 222:1 226:7 228:3 228:15 229:7,11 229:21 230:5 231:3,10,20 232:6 232:11,19 233:4	beginning 6:16
backed 27:22	bat 61:5 battery 194:13 bear 109:9 bedrock 12:10 began 45:2 98:1	Beyond 45:15 Bhopal 10:3 biennial 37:2 41:11 41:18 53:1 69:14 93:22 142:11 Big 10:8	Block 126:18 Board 1:3,8,13,13 1:14 2:6,9,13,19 4:6,9,14 5:12 6:10 7:11,17 8:2,5,8,17 11:1,17 12:20 13:1,8 14:13,19 14:22 16:5,8 18:4 22:10 23:8 27:7 27:10 29:15,20 38:4 55:4,18 82:3 82:9,20 85:13 95:1 101:14 104:4 104:15 105:6 108:9 111:18,21 127:17,19 128:5,7 128:15 131:16 144:3 145:6,11 149:3 150:2,21 155:4,14 156:15 160:22 162:4 163:20 168:10 170:10 171:6,17 173:19 174:22 179:2,6,12,14,15 182:4 186:11,17 187:19 188:8 189:12 190:4,18 191:21 193:21 199:5 210:7,9 211:5 212:17 213:1,10 218:13 222:1 226:7 228:3 228:15 229:7,11 229:21 230:5 231:3,10,20 232:6 232:11,19 233:4	beginning 6:16
bad 83:19 89:3 171:10 173:17	bat 61:5 battery 194:13 bear 109:9 bedrock 12:10 began 45:2 98:1	Beyond 45:15 Bhopal 10:3 biennial 37:2 41:11 41:18 53:1 69:14 93:22 142:11 Big 10:8	Block 126:18 Board 1:3,8,13,13 1:14 2:6,9,13,19 4:6,9,14 5:12 6:10 7:11,17 8:2,5,8,17 11:1,17 12:20 13:1,8 14:13,19 14:22 16:5,8 18:4 22:10 23:8 27:7 27:10 29:15,20 38:4 55:4,18 82:3 82:9,20 85:13 95:1 101:14 104:4 104:15 105:6 108:9 111:18,21 127:17,19 128:5,7 128:15 131:16 144:3 145:6,11 149:3 150:2,21 155:4,14 156:15 160:22 162:4 163:20 168:10 170:10 171:6,17 173:19 174:22 179:2,6,12,14,15 182:4 186:11,17 187:19 188:8 189:12 190:4,18 191:21 193:21 199:5 210:7,9 211:5 212:17 213:1,10 218:13 222:1 226:7 228:3 228:15 229:7,11 229:21 230:5 231:3,10,20 232:6 232:11,19 233:4	beginning 6:16
Bader 1:13 4:12 19:9,10 23:5 74:18,19 75:1,15 75:20 77:14 81:5 81:21 82:5,22 83:16 84:2 85:18 86:6,10 126:22	bat 61:5 battery 194:13 bear 109:9 bedrock 12:10 began 45:2 98:1	Beyond 45:15 Bhopal 10:3 biennial 37:2 41:11 41:18 53:1 69:14 93:22 142:11 Big 10:8	Block 126:18 Board 1:3,8,13,13 1:14 2:6,9,13,19 4:6,9,14 5:12 6:10 7:11,17 8:2,5,8,17 11:1,17 12:20 13:1,8 14:13,19 14:22 16:5,8 18:4 22:10 23:8 27:7 27:10 29:15,20 38:4 55:4,18 82:3 82:9,20 85:13 95:1 101:14 104:4 104:15 105:6 108:9 111:18,21 127:17,19 128:5,7 128:15 131:16 144:3 145:6,11 149:3 150:2,21 155:4,14 156:15 160:22 162:4 163:20 168:10 170:10 171:6,17 173:19 174:22 179:2,6,12,14,15 182:4 186:11,17 187:19 188:8 189:12 190:4,18 191:21 193:21 199:5 210:7,9 211:5 212:17 213:1,10 218:13 222:1 226:7 228:3 228:15 229:7,11 229:21 230:5 231:3,1	

129:10,11 131:13 132:12 133:11 134:5 140:9 188:19,20 189:2 190:19 192:12 193:21 194:21 195:2 215:12,13 216:5,20 217:2,16 218:13,17 220:5 220:15 budget 26:1 84:5 216:3,10 build 231:18 building 5:22 228:20 229:2 built 12:12 130:2 burden 73:2 burdensome 20:6 21:5 business 79:6 108:6 busy 96:5 104:5 Byzantine 173:14 194:2 215:2	cancellations 185:20 cancelled 164:6 candor 167:6 capabilities 52:19 capability 25:19 108:11 109:9 200:15 capacity 105:9 capital 110:8 Capitol 167:20 capture 28:21 care 84:2 career 27:11 191:4 careful 130:14 carefully 48:4,19 148:2 151:14 164:5 cares 65:1 carries 49:13 carry 140:1 carrying 126:20 case 44:20 45:4,14 45:14 161:5 180:12 cases 16:19 32:13 50:1 64:14 73:4 135:3,5 catastrophic 228:22 229:12 categorization 135:9 category 92:2 105:22 106:1 132:1,7,9 135:4 cause 10:10 13:10 91:19,20 139:3 177:15 192:7 caused 16:3 causes 25:6 cautions 62:17 147:21 CDNS 51:20 67:3 68:5 94:1 96:14 97:2,7,7 133:14 142:11 CDNSes 69:8	cease 231:15 cell 72:20 107:18 central 30:15 50:18 50:19 105:8 111:6 112:16 certain 40:1,8 89:12 102:2 147:9 195:10 210:8 certainly 55:11 62:13 70:16 71:3 75:12 104:9 105:7 178:3 202:22 210:15 212:18 certification 230:14 certify 229:6,8 cetera 16:19 17:12 176:12 194:13 CFR 16:22 Chair 7:5 226:2 233:13 Chairman 1:9,12 1:12 4:3,4 14:15 14:16,17 19:6,7 19:11 23:2,4,8 25:3,21 26:12 27:1,3,7 29:5,7,19 54:14,17 55:13 59:9 60:4,15 62:7 63:12 64:13 65:14 65:18 66:4,9,18 67:2,8 69:4,7 71:7 71:22 72:7,11 73:9,12,20 74:15 74:16,17 86:4,6,7 86:9 97:12,13,15 97:16 100:14 101:10,12 102:7 103:2,10,15,19 104:3,7,12,15 105:6 121:8,9 122:8,13 123:6 124:11 125:13 126:5,8,9,21,22 127:2 129:9,10,12 130:17 134:6,7,9 139:10 140:10,11	140:12,16,20 141:1,3,6 144:10 144:21 145:10,17 146:5 155:18 156:3 157:11 158:14 161:16 162:14 163:16 164:18 165:4 168:19 169:3 170:8 171:6 175:4 175:17,19,20 176:10,15,16 177:3,6,10 180:5 180:22 181:5,19 182:7,9,13,21,22 183:1 188:18,19 188:21 200:2 202:17,21 204:3,4 205:7 207:15,20 209:14,17 211:10 211:12,13 212:2 212:12 213:17 214:18 215:3,8,9 215:11,12 220:16 220:17 225:5,6 232:16,21 Chairman's 2:5 202:15 224:2 challenge 194:11 Challenger 10:2 challenges 101:21 chance 94:10 change 25:10 117:14 140:7 147:2 148:5 155:14 161:14 189:19 219:2,3,4 225:1 changed 16:20 22:7 25:14 51:2 139:22 162:22 190:12 changes 9:14,20 14:10 30:11 35:8 42:8,19 47:15 48:5 55:21 117:12 117:14 127:19,22 146:18,21 148:19	149:1 154:13,22 169:22 170:4 204:10 214:8 217:9 223:6 changing 66:6 characteristics 124:2 characterization 111:4,7 Characterize 216:6 charge 79:5 82:17 88:21 Chart 184:18 charter 106:9 149:5 151:4 157:2 check 93:1,3 99:2 159:15 checked 100:3 checkers 209:1,1 209:12 checking 142:9 209:1 checklist 3:16 159:7,17 checks 75:14 85:14 156:18 159:3 chemical 58:15 83:8 228:4 Chernobyl 10:3 Chicano 230:6 Chief 1:21,23 2:10 2:13 36:5 37:1 51:18,20 52:3,4 52:15 104:19 105:10,11 106:10 112:17 145:2 170:17 205:22 206:10 207:4,18 Chimayo 227:16 230:16 Chip 104:19 224:2 choice 231:19 Chu 108:22 109:3 169:15 circuit 224:12 circumstances 36:7 City 10:3 43:21
C				
C 3:14 156:9 157:12,13,16 164:21 184:18 cadre 24:7,8,14 217:2,6 218:5 calculating 84:18 calendar 134:2 159:2 169:5 call 6:14 69:13 80:14 84:7 87:10 88:5 90:21 94:5 118:5 120:3 169:20 174:7 179:12 215:4 221:8 233:13 called 20:17 21:2 159:20 calls 67:22 68:10 Campagnone 207:3 cancellation 179:4 187:2 202:8				

44:17 45:3,7,16 59:1 73:4,13,18 83:3 97:21 98:16 101:15 clarification 137:11 161:10 clarify 138:2 161:14 176:1 178:16 clarifying 81:17 204:22 clarity 20:9 56:17 58:7,7,10 61:12 148:9 class 98:22 classification 220:11,13 clean 227:20 clean-up 136:13 clear 11:2 19:15 21:14 22:18 56:3 57:6 77:15,16 78:19 79:8 81:10 129:4 151:2 172:17 184:8 188:3 201:17 204:9 211:9 clearer 192:10 clearly 46:18 55:20 60:20 83:20 98:5 172:14 180:1 187:19 201:21 229:21 Clinton 14:20 clock 160:2 179:19 179:21 close 30:14 50:17 203:10 closely 4:22 52:14 94:14 133:20 155:4 closer 153:7 closest 31:3 32:21 closing 2:21 155:13 232:22 CMR 228:13,17 CMRR 83:8 229:7	231:7,18 coal 10:8 code 109:11,12,19 176:3 codify 119:1 cognizant 32:7 coherence 39:16 Cold 172:2,11 collaboration 173:6 collating 166:12 colleague 75:18 189:4 colleagues 145:12 collect 64:18 Columbia 10:2 25:6,8 combination 33:20 combined 98:9 come 19:2 39:14 40:11 65:12 93:21 93:22 95:4 99:1 101:4 168:10 179:6 197:3 207:2 208:6 212:10 226:12 comes 52:11 118:19 209:9 comfort 68:18 comfortable 70:1 70:12 95:11 98:10 132:17 coming 168:11 174:5 178:11 190:22 203:10 217:20 commence 41:22 comment 67:7 72:8 82:1,6 84:3 139:12,14 162:12 203:13 206:15 208:14 230:21 comments 6:6 7:6,9 23:3 27:2 60:5 83:4 86:11 105:1 110:20 112:20 145:5,13 156:20	157:8 161:18 202:5 205:14 225:20 226:3,5 commercial 12:18 18:1,5,15 132:3 138:18,20 195:19 Commission 195:13 196:3 commitment 27:19 99:17 102:10 146:19 149:2 170:15 175:8 191:6 commitments 128:7 149:22 150:6 188:8 committed 10:15 117:1 149:16 165:13 205:3 committee 14:21 148:16 common 72:13 151:1 commonly 24:17 communicate 80:1 80:20 communicated 91:5 92:12 103:13 125:15 139:15 207:16,17 communicating 201:11 communication 77:21 81:3,6 102:12,13 152:8 197:13 communications 76:4 139:17 212:22 communities 230:15,17 community 185:22 227:9,16 companies 206:5 company 206:7 comparable 17:22 195:12	compare 169:4 comparison 45:5 competent 24:22 218:7 competently 19:16 competing 49:15 complained 163:13 complement 199:14 complete 40:16 118:20 167:6 187:13 203:6 completed 23:17 85:11 167:21 completion 10:22 complex 5:12 8:6 10:17 23:15 24:9 107:2 123:21 208:3 226:20 227:13 complexity 105:22 113:13 compliance 11:14 125:11 169:21 218:20 compliant 169:21 174:20 complies 167:17 complying 28:5 component 9:6 components 74:8 108:19 comprehensive 22:18 31:18 113:7 151:14 196:16 compressed 41:19 compromised 64:11 118:21 130:20 concealing 66:13 concentration 39:5 concern 8:16 61:14 61:15 139:18 155:5 171:5 172:5 179:13 180:3 concerned 8:9 12:20 13:8 64:8	82:11 125:10 162:8 175:8 209:20 230:1 concerning 5:9 7:10 226:6 concerns 9:17,20 39:15 63:2 100:15 106:17 146:9 155:15 158:3,3 161:19 171:8 191:22 223:7 228:14 229:1 concerted 28:16 96:18 232:12 concluded 233:18 concludes 14:12 19:5 29:9 233:10 conclusion 6:8 15:16 25:8,22 190:2 concurrences 186:10 concurring 214:13 concur 51:3,7 conduct 11:3 12:14 16:12 33:2 34:18 36:15 49:12 52:22 120:22 136:18 138:14,21 141:11 143:7 158:19 165:17 231:4 conducted 24:12 32:7 41:21 111:9 141:19 165:19 conducting 9:6 35:12 39:9 106:6 106:16 108:18 121:5 142:19 143:8 153:17 conducts 142:12 conference 227:11 conferences 227:8 confidence 15:5 171:18 176:18 confident 125:19 confirm 177:8 conflict 12:7 39:14
---	---	---	---	---

conflicting 39:17	constantly 92:13	28:3 31:10,14,15	coordination 53:22	172:7 218:10
confronted 136:16	constitute 4:14	31:16,17,22 33:7	153:5	233:6
confuse 60:8	Constitutional	34:1,14,16 35:6	copies 140:13	courses 108:19
confused 60:12	213:5	37:15 39:8,12	177:2	covered 72:3
confusion 38:18	construction 20:3	43:5,20 44:4,6,11	copy 6:1 15:21	covering 48:9
57:10 101:17	32:3 37:8 48:10	44:17 45:12 59:22	202:6	covers 44:9
102:16 163:6,7	50:10 106:16	70:19 72:3 75:13	core 174:11	create 57:8,9
178:18 210:22	108:22 109:6	87:6,17 97:21	corporate 32:10	102:16 161:8
Congress 16:4	110:5,12 116:21	99:19,21 100:1	92:15,16,16 99:1	created 57:9 85:21
17:12 167:9	117:5 118:17	111:11 113:8,13	99:6,7,17 206:21	232:14
174:22 229:14	constructive	121:20 123:8,11	corporation 37:16	Creating 53:10
Congressional 80:7	155:10	123:16 124:5,9	corporations 32:12	creation 171:16
214:17 229:6	constructs 151:6	150:12 158:20	Corps 114:10	creative 216:2,8
conjunction 12:9	consultants 114:8	173:21 175:10	correct 81:9,10	227:9
consensus 43:1	consulted 96:10	208:6 209:7	144:4 169:2	credited 34:4
47:12 71:8 73:17	213:6	223:13	176:14 180:3	crew 206:6,22
consequence 9:1	contact 36:9 199:1	contractors 8:14	184:3,10 201:6	crews 206:12
41:2,4 125:3	contacted 6:10,12	9:11 12:14 25:16	223:22	criteria 21:15
132:8	contamination	26:4,10,21 32:10	correction 143:21	123:22 148:18
consequences 10:4	227:22	32:14,15,15 33:9	144:9	158:12 161:20
41:7 129:22 148:4	content 148:2	34:10 35:10 39:20	corrective 11:4	188:3,4,11,12,13
186:7 229:12	continually 59:13	40:3 43:1,8,14	107:6 115:17,17	188:14
Consequently	126:14	63:22 101:16	153:13 169:19	critical 11:21 19:13
49:12	continue 9:5 10:6	113:11 139:20	182:1	85:8 118:14
conservative 72:18	69:18 80:1 112:2	146:12 150:11	correctly 76:6	136:12 150:8
119:7 130:22	112:3 140:1	163:12 168:4	correspond 23:13	154:2 166:21
131:8	146:17 153:19	171:2 197:14	correspondence	criticality 106:18
consider 22:2,5	154:22 181:22	209:22 210:3,9,12	214:1	106:20 107:1,4
75:1 155:3	continued 34:22	210:16 219:14	cost 43:16 45:17	cross 62:1 131:2
consideration 7:6	77:21 106:11	contractor's 92:15	87:8	crosscutting
137:2 148:14	continues 8:16	contracts 51:5	counsel 1:15 4:15	110:15
157:7 226:2 232:5	92:18	109:14 139:21,22	157:1 214:17	crosswalk 3:22
considered 15:1	continuing 13:4	contrary 224:4	counselor 164:22	184:5,12,20
72:6 148:18 149:3	21:21 44:19 154:1	contributions	181:13,18 183:8	CTA 50:19,21 51:3
151:14	continuous 11:16	113:4	184:21	51:8,11,16,19
considering 30:12	24:3 26:16 28:17	control 15:17 34:4	count 58:8 66:2	52:10,16 53:4,14
49:3	42:14 189:9,13,17	35:5 112:21	167:6	53:17,20 54:5,8
consistency 159:16	continuously 28:4	controls 11:22	counted 67:21	95:4,22 96:1,6
consistent 31:11	29:2 123:16 124:6	107:6	counting 167:10	97:2,3 119:10,12
164:10	139:5 155:2	conversations	couple 57:4 78:6	133:13,17 137:18
consolidate 161:13	contract 31:13,20	126:3 187:17	81:15 101:12	137:19
consolidated 163:1	43:10,11,19 47:12	converse 60:6	165:4 170:9 185:8	CTA's 116:5 121:2
164:6	178:9	convince 208:8	195:4,6 217:4	137:13
consolidation	contracting 43:5	Conway 25:4,21	Coupled 106:9	cuff 82:2
161:9	44:16	26:12	course 7:18 30:5	culpa 158:14
constant 66:19	contractor 11:18	cooperation 173:6	38:3,6 71:2 75:6	187:14
197:1,9 199:9	14:1 25:12 27:11	coordinated 152:16	101:20 108:14	culture 97:22 98:4

105:15 208:19 cumbersome 21:10 193:19 curious 201:22 current 3:12,14 9:18 11:8 14:8 15:11 45:2 47:2 106:12 113:11 117:12 119:13 156:14 228:17 currently 30:8 40:20 42:11 45:16 46:3 142:19 197:9 cursor 162:20 curtailing 229:18 customers 74:13 cut 202:2 cyber 222:1 cycle 17:17 110:1 118:8,13 161:3 cycles 17:17 C-O-N-T-E-N-T-S 2:3	67:12,14 187:3,4 187:5 221:7 day-to-day 33:3 40:5 71:5 116:11 de 179:14 deactivation 108:15 deadline 159:1 deadlines 160:16 187:16,18 deal 62:15 64:7 66:11 122:18 162:7 164:1 196:17 dealing 122:10 dealt 209:3 debated 131:5 decade 56:17 decades 12:17 December 13:17,20 183:11 decided 156:22 166:20 decision 49:8 70:11 82:18 157:3 164:4 231:7,17 decisions 85:8 102:20 133:2,10 148:17 decision-making 49:16 declared 51:19 decline 216:4,6 decommissioning 108:15 decrease 8:22 decreasing 215:18 decrepit 83:17 dedicated 24:6 114:4 208:13 deem 138:14 199:4 deemed 7:13 226:9 deep 170:14 deeply 106:14 defense 1:3 4:5 5:1 8:13 9:4 10:16 11:20 12:1,15,19	13:6 14:9 15:2 18:2,6 24:9,12 36:3,5 37:2 38:3 51:18,21 52:3,5 52:13,15 55:3 62:16,21 63:20 64:2 74:12 93:1 95:2,7 97:9 101:21 103:10 111:21 112:21 122:11 131:10 144:3 146:7,12 164:2 166:22 179:6 211:4 214:3 233:11,17 deficient 16:11 define 43:10 77:4 131:2,22 132:10 132:21 133:9 202:14 defined 46:19 48:7 109:14 128:22 172:17 defining 57:6 77:5 79:16 128:21 130:22 172:14 definitive 184:9 degrades 19:20 degrading 41:1 degree 22:8 41:1 76:21 110:12 131:22 135:18 delay 219:18 delegated 9:10 35:14 104:18 delegation 10:12 deliver 192:9 deliverables 34:15 43:11 delivered 73:16 180:9 delivering 43:15 80:13,15 demands 39:12 143:1 213:12 demonstrated 44:17 46:11	demonstrates 28:8 demonstration 163:4 denigrate 173:8 Department 1:22 5:1,11 8:3,10 9:7 10:18 13:15 14:3 28:7,8 51:6 54:3 54:19 56:20 60:3 67:11 74:12 77:2 77:4 100:11 108:6 120:16 121:16 140:4 157:2 161:4 166:8,13 170:18 171:9,18 172:1,11 172:15 173:14 175:13 180:21 182:12 186:10 192:9 194:3,5,16 195:16 208:20 209:3,15 210:11 214:11 215:16 231:3 Departmental 46:2 50:15 115:15 132:5 187:17 215:22 Department's 54:7 120:11 154:20 180:15 Department-wide 24:1 depend 26:3 dependence 25:16 depending 80:7 94:18 depends 53:21 depicted 184:17 Depleted 107:10 deploy 27:17 deploying 216:14 deployment 216:13 deposition 107:22 141:18 depth 120:6 131:10 228:16 deputy 13:13 21:2	55:14 62:8,10 63:2,11 76:5,11 85:4 90:12 95:22 96:4 116:22 125:17 134:20 139:16 156:21 157:5 160:14,15 162:5,16 166:11 170:15 174:16 177:2 181:3 191:6 204:9,15 207:5 209:21 214:13 217:12 describe 57:14 118:9 120:19 147:19 215:1 216:5 218:21 described 60:2 92:10 113:4 141:9 185:2,10 220:21 describes 155:22 describing 30:7,11 description 133:16 deservedly 99:12 design 20:2,17,22 32:2 34:6 37:7,11 44:1 48:10 50:9 60:7 85:10 108:18 108:19 109:20 110:18,21 118:16 151:12 153:14 designate 185:1 designated 128:12 designation 183:9 designed 42:21 109:18 desire 8:12 98:13 123:7 desired 44:6 detail 68:7,16 135:13,16 180:17 204:15 228:16 detailed 185:16 189:7 205:11 details 41:15 65:10 80:10 113:20 131:7 146:6
D				
D 3:16 159:8,12 161:17 daily 24:11 67:22 68:8 115:14 116:7 133:21 134:4 danger 92:5 dangerous 232:9 dangers 66:14 DART 63:17 95:17 data 7:9 26:5 75:11 75:12 151:18 153:12 196:10 226:5 date 8:5 20:19 dated 13:17,20 dates 113:21 Davis-Besse 10:2 day 45:13 70:18,19 89:9 144:15 145:1 181:3 207:10 208:6 225:14 days 6:3 50:2 63:17				

detected 135:22	199:19 231:3	directors 113:11	34:20 37:13	169:4,6,8 170:6
determination 168:5,13	directed 16:10 83:21	178:10	documented 34:20	179:20 182:17,17
determine 44:7 50:6,13	direction 16:15,16 41:9 109:2 129:19	Director's 111:17 185:21	documents 5:19 35:4 81:8 91:4	200:17 210:11
determined 115:13 153:11 167:22	134:16 202:15	disagree 209:13	109:15 157:22	211:2 217:21
198:18	209:16	disappointed 79:21 178:8	188:2 220:14	224:8
determining 42:18 44:6	directive 13:2 19:13,18,20 20:22	disappointment 178:10	DoD 74:12	dollar 65:4
detonation 18:12	21:3 85:21 148:3	disbursal 18:10	DOE 2:17 8:18	dollars 215:19 229:16
develop 110:7 133:6 151:20	148:19 161:22	disciplined 148:1	9:13 10:20 11:8,9	Don 65:2 69:21
181:22	186:2 189:13	disciplines 33:21	11:12,12,15 12:9	94:10,12,20 96:17
developed 30:20 40:21 56:16	193:18 202:2	discomfort 68:18	12:13,21 13:9	door 59:19 80:15 133:22
113:19 119:1,3	205:1	discount 57:2	14:8 15:2,5,9,11	downgrading 100:20,21
123:21 152:1	directives 3:16,19 9:15,18 12:9,16	discovered 192:1	15:18,19 16:1	downsizing 26:2
153:22	12:22 13:4,12	discuss 29:22 30:9	17:7,10,16,18	dozens 88:4,4
development 51:14	14:9 16:18 20:8	30:13 36:17 64:4	18:2 19:2 20:18	Dr 4:10 14:15 19:7
devices 74:9	21:7,9,12 22:3,6	228:3	21:22 22:6 23:10	22:21 65:16 126:7
dialogue 155:10 205:11 209:19	22:19 24:21 48:6	discussed 114:12 144:1 149:4	23:16,20 26:15	139:11 140:10
230:3	48:8 55:5,15	158:11 160:13	28:3 51:13 54:22	175:18 207:7
dictate 213:7	56:17 60:17 61:8	177:8	63:22 71:11 94:5	211:11
differ 90:5 119:6	62:13,20 63:3,4,9	discussing 62:14	107:14 109:18	draft 152:1 198:9
difference 135:2	77:4 111:19	discussion 25:10	113:13 120:14,15	203:7,8,12
differences 77:1 119:21 120:5	118:22 121:19	30:15 50:17 79:8	120:16 128:12	draw 56:3
different 18:14 57:11 58:8 61:17	122:10 125:12	206:20	146:2 147:2 149:1	drive 58:7,10 60:21
61:18 63:13 64:15	127:4,6,6,15,17	discussions 36:13	149:16,22 150:3	173:15 174:7
84:16,17 89:16	127:19 128:4,6,11	82:13 204:17,18	150:10,11,20	driven 61:12
92:3 132:4 137:17	128:15,17 140:6	dispatching 167:11 167:12	151:6,10 152:18	120:11 146:21
151:3,5 167:4	145:15 147:14,15	displayed 156:14	182:10 196:2,7	150:2 219:8
169:16 171:1	148:8 155:7,14	dispute 231:17	212:17 213:7	driver 204:22
195:20 197:6	159:8,17 161:1,4	disrupt 201:8,14	214:20 228:10	drivers 49:5 189:19
200:16 201:19,19	161:5,12 162:3,20	distinct 138:3	doers 209:12	drives 174:6
209:8 213:11	176:2,11 177:15	distinction 46:22 56:4 213:2,15	DOE's 8:10 9:11,17	driving 58:20
221:3,4	177:17,22 179:3	distinctly 69:21 202:7	10:16 11:9 12:6	64:20,21 117:13
diligent 187:15	180:14 183:10	DNFSB 1:8 151:5 229:5	12:10 15:14 17:2	190:6
diminished 9:9	185:9,18 189:15	document 3:7 23:20 81:12,16	18:6,13 19:22	dropped 159:2
dip 97:9	190:7,11 192:17	140:18 156:6	20:14 22:14 24:9	drove 190:15
dipped 96:14	193:6,12 194:9	157:16 159:12	26:8,20 28:9,10	due 21:17 158:5 179:9
direct 26:9,21 31:9 34:8 35:5 97:8	204:13 205:19	183:17 184:20	145:2 146:11,22	DUF6 107:10
102:12 113:8	210:19 213:20	185:6	147:5 148:11	duplicative 20:7 21:10 88:1,18
	214:3,8	documentation	176:4 226:18	143:19 177:14
	directly 80:19 200:19 232:13		doing 31:7 56:21	duplicity 86:19 89:13
	director 1:17 4:19 173:13 193:16		57:3,4 69:14 70:3	DuPont 206:7,22 207:1,9
	203:3 214:19		79:4 84:20 88:22	
			95:3 96:9 125:6	
			130:6 140:7	
			150:17,18 160:7	
			166:19 167:10	

duration 113:21	211:1	either 125:9 127:13 156:12	ends 88:22	109:22 119:6,11
duties 15:2,3 42:6 121:6	effect 109:16 142:16	elaborate 90:3 136:7 182:15	enduring 151:7	121:4 130:11,21
duty 17:14	effected 230:15 232:13	198:12 201:9	energy 1:23 2:12 2:15 7:22 8:10	146:11 151:11
Dwyer 1:16 4:19	effective 9:5 28:19 29:22 30:21 40:12	electrical 50:3 68:9	9:7 13:15 20:4	218:20
141:1,5,7,13,16	effectiveness 30:9 43:16 54:6 113:3	electrocution 66:15	28:2 50:21 62:9	ensuring 10:15
142:2,8,18 143:2	124:1 150:8 151:7	element 90:18 91:6	67:11 104:17	11:5 33:9 35:17
143:6,20 200:3,6	154:14,20 189:16	elements 10:21	111:13,15 112:14	40:22 125:2
200:22 201:7,13	190:1 199:11	152:3 175:9	117:1 120:16	enter 183:9
201:16,22 202:4	effectively 19:22 31:20 37:20 38:13	195:21 196:6	121:15,17 122:22	enterprise 13:21
202:13 203:3,4,14	96:5 119:16	elicitation 133:4,6	123:3 125:15,17	49:10 53:13 54:2
204:2,5	125:21 152:14	eliminate 17:8 89:18	133:18 150:12	entertain 121:7
D'Agostino 1:19	191:13 192:19	eliminated 162:22	163:10,11 170:12	entire 186:10 229:8
29:12,16,17 54:16	effectiveness 30:9 112:11 115:18	EM 106:19 108:9	170:18,21 172:1,6	entirely 40:15
55:12 56:11 59:10	117:17 129:17	109:12 110:7	192:15 205:13	entitled 13:15,17
62:22 64:12 65:17	142:9 153:14	114:21 115:4,21	209:21 214:7	13:20
66:3,8,17 67:1,6,9	effects 227:12	123:5 127:4,8	215:17 227:5	entrance 6:10,18
69:6,10 71:14	efficacy 87:12 98:20 150:19	130:7 136:3,13,16	231:4 233:9	entry 223:12,17
72:1,9 73:8,11,18	efficiencies 22:17	161:1	Energy's 5:1,11 8:3	environment 11:11
73:21 74:21 75:4	efficiency 20:9 60:21	email 68:8	enforcement 28:13	12:12 24:2 28:11
75:17 76:7 77:17	efficient 43:17 100:22 152:16	emanate 197:20	75:15,17 146:16	45:20 52:12 57:8
77:20 81:13 82:4	192:10 193:17	emanating 172:18	147:12 149:18	80:12 148:21
82:7 83:15 84:1,4	effort 13:1 47:14 53:21 96:18	embark 84:9	153:5 154:3	230:8
86:3,13 87:2	134:17 147:14,19	embarked 110:6	195:11,18 203:11	environmental
89:21 90:7 91:10	217:14 230:5,20	embody 12:16	218:20,22 219:5	28:14 106:19
91:13 93:19 95:19	232:12	embracing 29:1	219:13,19 220:6	108:14 113:1
96:7 97:19 98:15	efforts 11:10 58:6 114:1 115:5 146:2	emerging 36:17	220:11 221:5	219:6 230:8 231:5
102:6 103:1,9,16	146:11 147:3	emphasis 8:20 124:8,15 153:12	engaged 32:14	231:13
104:1,6,9,14	152:4 165:10	154:11 215:14	36:19 107:8	environmentally
140:15 165:7	227:19	218:19	117:10	90:16
D.C 1:9	EH 219:6 221:10	emphasize 97:21	engineering 118:16	environments 57:9
	eight 21:7 50:22 51:21 53:15 106:3	emphasized 219:1	138:19,22	equal 7:3
	175:20 192:3	emphasizing	engineers 26:3 32:8	equally 77:9
	202:8 219:18	218:22	114:10 168:18	228:21
	eighth 188:4	employed 42:4	217:1	equip 35:17
	eight-month 162:6	enable 79:12	enhance 147:4	equipment 109:17
	EIS 231:13 232:1	enabler 14:5 210:14	enhanced 76:18	equivalencies 35:2
		enabling 17:15 53:13	153:4	equivalent 48:21
		encourage 64:5 159:1	enhancements 28:5	109:16
		encouraged 64:5	29:3 49:20	error 192:2
		ended 57:3 99:14	enhancing 76:16	errors 158:4
			152:2 203:5	186:15
			ensure 11:14 12:5	Espanola 227:16
			13:5 22:11 35:14	230:16
			37:19 38:12 48:12	especially 40:6
			49:16 52:16 53:11	60:7 63:18 178:9
			90:17 106:22	178:17 211:18
				espouse 70:16

essentially 47:2	88:21 186:6	164:14,20 181:15	155:15 158:2,3	110:22 111:1
establish 24:1	exacting 186:13	183:12,13,17	expressed 178:9,10	112:6,21 113:15
39:21 85:9 106:20	exactly 167:8 198:6	184:18,22 185:6	191:22	117:21 122:11
152:5	examine 8:2 148:2	202:16	expression 227:10	132:5,6,9 135:5,6
established 12:21	157:20,22	exist 17:5 172:15	extend 60:13	135:9,19,20 146:8
17:2,5,14 50:20	examining 166:14	224:10	extending 46:13	146:12 147:10
51:16 110:18	example 10:9 52:22	existing 38:8,16	extensive 107:16	150:12 152:17
111:13 112:13	61:9 74:3 122:15	39:16 115:15	151:18	154:5 164:2 190:9
113:3 138:6,18	141:19 142:11	200:20	extent 7:12 226:8	214:4 222:3,21
139:21	143:11 167:3	exists 30:9 36:20	external 24:21 38:1	233:11,17
establishing 14:22	169:5 185:17	expansion 232:9	113:14 114:9	facility 20:12,18
49:14	186:1 197:4	expect 73:7 189:11	149:2,4 157:20	24:7 33:4 38:3
ES&H 28:10	216:11 222:2	expectations 46:2	extremely 63:16	40:5 55:3 77:9,10
196:16	examples 20:15	50:16 53:18 54:7	73:19 81:7 102:11	83:7,19 107:9
et 16:19 17:11	60:16 86:21	54:8 119:2 140:1	104:5 206:5	108:18 109:17
176:12 194:13	exceeds 44:21	148:11 209:6	eye 18:20 66:19	110:2 114:13
ethically 90:15	excellence 11:15	expected 76:10	eyes 201:4	118:13 130:3
evaluate 26:6 38:6	124:2	80:21	E-Government	141:20 222:5
40:10 46:13 48:19	excellent 73:13	expecting 192:2	5:15	228:5,13,17
93:15 113:11	exchange 134:3	expediency 158:5	E-X-H-I-B-I-T-S	fact 15:1 60:9
155:1 204:13	excited 170:5	159:2 180:4	3:5	66:14 67:13 96:22
evaluated 148:22	exciting 102:21	expedited 192:7		139:20 187:13
evaluates 140:4	excluded 230:2	expeditiously	F	212:18 221:19
evaluating 42:12	excuse 69:11 118:9	230:13	F 1:13 3:22 184:22	224:18 229:9
46:7 47:14 48:5	155:17	expenditures 50:14	185:6	facto 179:14
49:2 84:15,19	execute 33:15 34:2	experience 12:17	Fac 114:13,19	factor 177:14
evaluation 43:12	125:21	27:14 96:9 132:2	152:12 199:15	factors 146:22
47:11 61:7 114:22	executed 35:16	151:18 153:20	200:11,20 201:1,2	failing 10:4
139:3	36:2 106:21	200:10 218:11	201:3	failure 10:11
evaluations 107:5	execution 115:9	expert 133:4,6,8	facetious 218:3	fair 171:7
evening 89:7	118:6 119:11	148:14	facets 122:1	fairly 195:5 205:9
event 143:12	120:4 122:1,1	expertise 27:19	facilitated 21:1	225:15
219:19 228:18	125:2	32:16 42:22 52:18	facilitates 20:9	fall 231:10
events 26:8 36:14	executive 78:3	116:12 174:19	facilities 1:3 4:5 5:2	falling 26:14
113:14 171:16	148:16	221:18 222:22	8:13 9:4 11:20	falls 95:14
eventually 222:14	executives 78:7	experts 33:12	12:1,15,18 13:7	familiar 80:5
222:16	79:9 80:2	38:11 53:6 54:1	14:9 15:11 18:3,6	family 92:16
everybody 7:2 89:7	exemptions 35:1	162:19 196:11	19:2 22:12 24:13	far 4:16,19 45:5
165:2	51:5	206:7,13 212:6	30:1 32:4 33:6	47:6,6 166:4
everybody's 21:1	exercise 7:21	227:3	34:6 37:8 40:7	209:11 230:4
evidence 20:10	160:19 178:12,21	expert-based 173:9	47:20,21 48:3,11	faster 191:19
65:11,12	233:8	explaining 135:16	48:13,16,18 49:1	fault 160:1
evidenced 113:4	exhibit 3:7 124:1	exploring 158:13	62:16,21 63:20	Fe 230:16
evolution 77:2	140:18 155:19	explosive 18:10	64:3 78:11 83:18	feasible 48:19
evolved 38:17	156:6,9 157:10,12	exposed 52:21	83:22 92:19 98:5	February 231:6
evolving 146:10	157:13,16 159:8	exposures 31:1	101:22 105:20	federal 5:4 6:5
exact 59:17 65:5	159:12 161:17	express 146:9	107:11,15 109:12	16:21 19:3 24:19

24:22 27:11 32:18 43:10,13 46:17 56:21 70:22 75:2 75:4,6,8,10 83:5 83:12 93:13 109:13 111:11 113:10 114:6 176:3 207:22 212:7 219:9 220:2 225:19 fed s 219:14 feedback 42:12 102:5 110:20 128:14 feel 81:5,9 95:15 129:3 132:16 193:6 194:14 231:11,12 feelings 62:18 208:4 fees 65:5 Feingold 165:8 167:19 Feingold's 167:18 fellow 14:13 23:8 27:7 felt 54:19 70:11 102:14 fence 96:2 fewer 47:6 91:20 field 8:14 27:12,20 35:22 36:9 37:10 37:14 52:18,20 53:11 68:11 87:6 92:20 94:9 95:2 106:4,7 114:11 116:12 121:5 130:4 142:15 169:10 207:11 223:13 fields 227:6 fifth 211:15 231:14 figuratively 179:20 222:19 figure 84:11,16 103:17 193:5 figuring 160:6	final 46:21 47:16 94:17 124:4 125:14 133:11 144:14 145:1 203:10 209:17 finally 13:8 67:16 124:11 231:1 financial 218:15 find 68:13 70:14 201:11 224:9,17 finding 170:1,3 192:19 221:18 findings 169:18 finds 122:22 fine 69:5 156:4 176:11 182:14 202:22 204:15 fingers 89:8 finished 42:18 finite 168:14 218:15 fire 221:10,12 228:19 firm 28:20 firmly 150:20 213:3 first 14:14 15:1 16:7 17:14,15 23:21 25:3 31:4,5 41:22 45:18 51:15 58:5 61:22 64:3 67:10 69:12 78:6 105:19 106:2 108:12 109:1 110:16 112:9 113:5 140:21 146:22 147:20 152:5 158:1 160:6 163:10 165:21 171:21 176:16 183:7,20 193:22 200:10 204:18 227:12 228:14 fiscally 90:16 five 4:13 7:5 45:18 52:8 105:1,19 119:9 145:5 167:4	167:7,13 168:18 179:9 197:5 216:21,22 226:1 fix 28:20 175:1 221:16,17 fixed 58:1,3 86:1 Flats 15:8 221:9 floor 5:21 flow 60:11 flowing 31:19 focus 58:5 61:21 76:15 85:5 89:15 90:11,17 96:13 100:18 105:12 116:6 121:2 124:3 124:14 136:11 148:5 161:13 163:5 203:19 231:2 focused 34:2,3 37:5 70:8 93:20 110:14 154:15 161:7 166:21 167:13 168:7,13,14 172:3 193:19 194:11 208:12 217:13 227:18 229:20 focuses 9:3 focusing 112:20 152:10 227:8 folk 218:2 folks 27:20 52:9 63:18,22 70:21 78:16 80:19 82:11 84:12 86:16 92:19 94:9 101:4 192:3 200:19 217:7 218:8 219:9 220:2 221:19 222:15 follow 6:22 71:3 120:22 141:7 143:12,17 163:15 165:3 178:19 220:19 228:7 followed 29:15 108:13 213:9 following 8:17	41:13 95:3 155:22 158:17 173:10 187:16 192:11 follows 165:2 follow-on 212:9 foregoing 144:17 foremost 106:2 forgot 69:2 formal 30:3 211:20 formality 120:8 162:9 former 219:6 formulation 137:1 fortunately 189:20 forum 29:22 forward 23:10 26:18 67:5 80:3 85:16 145:19 155:5 226:13 232:6 for-cause 44:12 found 15:20 23:19 72:14 120:5 158:2 158:4 179:16 219:17 223:20 founded 213:3 four 45:10 86:18 94:18 96:21 160:5 160:20 175:21 177:16,17,20,21 178:4 180:6,11 186:19 fourth 118:8 160:9 181:20 182:22 four-year 161:3 frame 134:17 205:3 framework 28:1 Frank 65:2 68:6 94:13,20 frankly 57:15 63:10 65:9 67:22 78:13 80:18,22 81:2 93:10 118:2 190:16 free 40:9 frequency 120:6 121:4 152:8	frequent 72:13 149:15,20 196:21 frequently 33:22 103:4 front 232:8 fronts 80:9 219:20 fruit 185:11 202:1 fruitful 212:16 fulfill 215:21 full 42:3 112:2 159:19 162:16 191:15 218:19 fully 16:8 153:22 197:19 208:15,15 210:20 full-time 53:14,16 function 18:7 30:16 31:9 50:20 51:19 52:11 53:14 54:5 54:8 75:3 95:22 96:6 119:12 137:22 138:22 142:7 174:13 208:13 220:21 221:5 functional 32:6 33:13 36:4 79:3 108:2 118:14 211:21 functionality 33:11 functions 12:4 25:17 31:16 34:3 35:14 36:1 37:18 52:5,16 139:5 149:19 153:6,6 fundamental 124:7 fundamentally 118:11 123:15 147:2 funding 45:21 further 7:17 23:2 27:1 28:7 29:6 127:14 130:13 131:22 173:11 188:17 215:10 225:4 227:22 229:7 232:2,9
---	---	---	--	---

233:5	Glenn 1:23 81:18 145:1 220:20	199:17 202:18 204:12 205:4,5,9 210:5 223:4 224:21 232:22	greatest 49:13 116:5	100:12 143:11,11 143:12
Furthermore 17:3	global 191:9 194:12	good 4:3 20:11 22:18 27:6 28:21 64:1,6 65:21 68:15 73:16 74:20 74:21 82:14 95:15 96:8 131:4 144:22 173:17 177:11 178:4 181:6 183:4 183:5,8 188:22 189:1,14 209:19 213:18 214:22 225:15	greatly 164:17 grips 179:7 Grosner 1:17 4:18 ground 178:18 group 36:16 71:20 79:4 82:11 87:16 88:13 101:4 111:14 142:1 150:12 230:11	happy 30:5 54:12 202:11 203:12 hard 10:7 82:19 119:4 194:17 hats 27:11 hazard 41:3,5 77:9 77:10 93:16 100:18 105:22,22 110:17 111:3,5 132:1,7,9 135:19 135:19 151:22 154:4 228:18
<hr/> G <hr/>	go 54:18 74:8 75:20 79:6 80:10 88:9 94:20 97:1 100:6 103:7 143:2,22 159:18 160:18 161:22 171:3,13 173:9,19 179:1 196:14 199:3 205:9 209:11 217:12 222:8 223:20 224:15,22 225:16	gotten 135:12 210:3 governance 9:16 9:19 40:10 42:4,8 56:1 58:7 77:7 79:16 88:19 89:14 91:4 government 5:7 9:10 10:11 11:21 12:3 38:4 149:9 150:14 212:7 217:19 governmental 10:13 75:3,7 governmentally 75:16 Grab 29:18 graded 120:1,10 grants 194:12 214:20 grave 228:17 great 18:19 66:10 68:7 77:3 79:8 80:17 103:15 109:6 135:16 156:11 162:7 178:14 196:17 198:14 212:13 greater 61:20 91:20 165:11 215:14 218:19	groups 138:19 150:14,16 175:21 193:2 227:15 230:6 guess 95:20 96:3 103:3 125:13 165:21 171:22 223:3 guidance 53:19 120:18 134:15,20 204:19 206:1 guide 152:4 186:16 guided 148:17 guides 130:22 161:13 176:7 gun 189:22 guy 96:5	hazardous 26:10 26:22 hazards 113:12 168:9 232:14 head 158:16,22 177:18 191:17 192:8 207:1 heading 206:11 headquarters 8:14 15:19 30:14 35:13 35:21 36:1,8,12 36:19,21 37:9,17 40:1 46:18 53:7 53:11 70:3 87:14 106:8 112:15 114:7,21,21 115:4 115:16 117:22 121:4 130:5 136:10 143:13 200:7,9 207:10 219:8,16 Headquarters-le... 88:5 headway 20:11 health 1:23,25 2:17 5:10 28:11 38:2 52:12 53:8 55:2 55:16 93:3 94:3 131:12 145:2 146:1 165:17 194:16 206:6,12 219:7 220:10,14 227:13 228:1,15
gain 153:20	goal 12:21 21:6 28:9,11,15 55:14 62:12 89:10 108:7 151:1,4 178:13,16 195:15,15	gotten 135:12 210:3 governance 9:16 9:19 40:10 42:4,8 56:1 58:7 77:7 79:16 88:19 89:14 91:4 government 5:7 9:10 10:11 11:21 12:3 38:4 149:9 150:14 212:7 217:19 governmental 10:13 75:3,7 governmentally 75:16 Grab 29:18 graded 120:1,10 grants 194:12 214:20 grave 228:17 great 18:19 66:10 68:7 77:3 79:8 80:17 103:15 109:6 135:16 156:11 162:7 178:14 196:17 198:14 212:13 greater 61:20 91:20 165:11 215:14 218:19	groups 138:19 150:14,16 175:21 193:2 227:15 230:6 guess 95:20 96:3 103:3 125:13 165:21 171:22 223:3 guidance 53:19 120:18 134:15,20 204:19 206:1 guide 152:4 186:16 guided 148:17 guides 130:22 161:13 176:7 gun 189:22 guy 96:5	hazardous 26:10 26:22 hazards 113:12 168:9 232:14 head 158:16,22 177:18 191:17 192:8 207:1 heading 206:11 headquarters 8:14 15:19 30:14 35:13 35:21 36:1,8,12 36:19,21 37:9,17 40:1 46:18 53:7 53:11 70:3 87:14 106:8 112:15 114:7,21,21 115:4 115:16 117:22 121:4 130:5 136:10 143:13 200:7,9 207:10 219:8,16 Headquarters-le... 88:5 headway 20:11 health 1:23,25 2:17 5:10 28:11 38:2 52:12 53:8 55:2 55:16 93:3 94:3 131:12 145:2 146:1 165:17 194:16 206:6,12 219:7 220:10,14 227:13 228:1,15
gained 151:18 199:14	goals 54:7 147:6 195:9	gotten 135:12 210:3 governance 9:16 9:19 40:10 42:4,8 56:1 58:7 77:7 79:16 88:19 89:14 91:4 government 5:7 9:10 10:11 11:21 12:3 38:4 149:9 150:14 212:7 217:19 governmental 10:13 75:3,7 governmentally 75:16 Grab 29:18 graded 120:1,10 grants 194:12 214:20 grave 228:17 great 18:19 66:10 68:7 77:3 79:8 80:17 103:15 109:6 135:16 156:11 162:7 178:14 196:17 198:14 212:13 greater 61:20 91:20 165:11 215:14 218:19	hazardous 26:10 26:22 hazards 113:12 168:9 232:14 head 158:16,22 177:18 191:17 192:8 207:1 heading 206:11 headquarters 8:14 15:19 30:14 35:13 35:21 36:1,8,12 36:19,21 37:9,17 40:1 46:18 53:7 53:11 70:3 87:14 106:8 112:15 114:7,21,21 115:4 115:16 117:22 121:4 130:5 136:10 143:13 200:7,9 207:10 219:8,16 Headquarters-le... 88:5 headway 20:11 health 1:23,25 2:17 5:10 28:11 38:2 52:12 53:8 55:2 55:16 93:3 94:3 131:12 145:2 146:1 165:17 194:16 206:6,12 219:7 220:10,14 227:13 228:1,15	
Galvin 208:21	goes 88:18 89:7 92:14 139:4 160:5 199:5 217:11	gotten 135:12 210:3 governance 9:16 9:19 40:10 42:4,8 56:1 58:7 77:7 79:16 88:19 89:14 91:4 government 5:7 9:10 10:11 11:21 12:3 38:4 149:9 150:14 212:7 217:19 governmental 10:13 75:3,7 governmentally 75:16 Grab 29:18 graded 120:1,10 grants 194:12 214:20 grave 228:17 great 18:19 66:10 68:7 77:3 79:8 80:17 103:15 109:6 135:16 156:11 162:7 178:14 196:17 198:14 212:13 greater 61:20 91:20 165:11 215:14 218:19	hazardous 26:10 26:22 hazards 113:12 168:9 232:14 head 158:16,22 177:18 191:17 192:8 207:1 heading 206:11 headquarters 8:14 15:19 30:14 35:13 35:21 36:1,8,12 36:19,21 37:9,17 40:1 46:18 53:7 53:11 70:3 87:14 106:8 112:15 114:7,21,21 115:4 115:16 117:22 121:4 130:5 136:10 143:13 200:7,9 207:10 219:8,16 Headquarters-le... 88:5 headway 20:11 health 1:23,25 2:17 5:10 28:11 38:2 52:12 53:8 55:2 55:16 93:3 94:3 131:12 145:2 146:1 165:17 194:16 206:6,12 219:7 220:10,14 227:13 228:1,15	
GAO 149:9 150:21 151:16 166:7 167:8 168:15 190:3 203:16	going 9:5 41:22 55:21 56:6 59:18 60:20 61:2,6,21 62:13 69:18,19 70:7 71:18 80:12 83:3 84:14 87:20 90:22 91:22 95:4 97:3 99:15 104:10 109:5 127:18 137:18 140:20 144:13,15 157:8 159:10 160:9,15 160:18 161:7 162:17 167:7,9 168:5 172:20 178:7 179:14,19 179:22 183:22 185:15 186:3,5,13 187:3 190:1 195:7 196:18 197:15 198:6,11,22	gotten 135:12 210:3 governance 9:16 9:19 40:10 42:4,8 56:1 58:7 77:7 79:16 88:19 89:14 91:4 government 5:7 9:10 10:11 11:21 12:3 38:4 149:9 150:14 212:7 217:19 governmental 10:13 75:3,7 governmentally 75:16 Grab 29:18 graded 120:1,10 grants 194:12 214:20 grave 228:17 great 18:19 66:10 68:7 77:3 79:8 80:17 103:15 109:6 135:16 156:11 162:7 178:14 196:17 198:14 212:13 greater 61:20 91:20 165:11 215:14 218:19	hazardous 26:10 26:22 hazards 113:12 168:9 232:14 head 158:16,22 177:18 191:17 192:8 207:1 heading 206:11 headquarters 8:14 15:19 30:14 35:13 35:21 36:1,8,12 36:19,21 37:9,17 40:1 46:18 53:7 53:11 70:3 87:14 106:8 112:15 114:7,21,21 115:4 115:16 117:22 121:4 130:5 136:10 143:13 200:7,9 207:10 219:8,16 Headquarters-le... 88:5 headway 20:11 health 1:23,25 2:17 5:10 28:11 38:2 52:12 53:8 55:2 55:16 93:3 94:3 131:12 145:2 146:1 165:17 194:16 206:6,12 219:7 220:10,14 227:13 228:1,15	
gaps 22:9	goals 54:7 147:6 195:9	gotten 135:12 210:3 governance 9:16 9:19 40:10 42:4,8 56:1 58:7 77:7 79:16 88:19 89:14 91:4 government 5:7 9:10 10:11 11:21 12:3 38:4 149:9 150:14 212:7 217:19 governmental 10:13 75:3,7 governmentally 75:16 Grab 29:18 graded 120:1,10 grants 194:12 214:20 grave 228:17 great 18:19 66:10 68:7 77:3 79:8 80:17 103:15 109:6 135:16 156:11 162:7 178:14 196:17 198:14 212:13 greater 61:20 91:20 165:11 215:14 218:19	hazardous 26:10 26:22 hazards 113:12 168:9 232:14 head 158:16,22 177:18 191:17 192:8 207:1 heading 206:11 headquarters 8:14 15:19 30:14 35:13 35:21 36:1,8,12 36:19,21 37:9,17 40:1 46:18 53:7 53:11 70:3 87:14 106:8 112:15 114:7,21,21 115:4 115:16 117:22 121:4 130:5 136:10 143:13 200:7,9 207:10 219:8,16 Headquarters-le... 88:5 headway 20:11 health 1:23,25 2:17 5:10 28:11 38:2 52:12 53:8 55:2 55:16 93:3 94:3 131:12 145:2 146:1 165:17 194:16 206:6,12 219:7 220:10,14 227:13 228:1,15	
gauge 49:19	goes 88:18 89:7 92:14 139:4 160:5 199:5 217:11	gotten 135:12 210:3 governance 9:16 9:19 40:10 42:4,8 56:1 58:7 77:7 79:16 88:19 89:14 91:4 government 5:7 9:10 10:11 11:21 12:3 38:4 149:9 150:14 212:7 217:19 governmental 10:13 75:3,7 governmentally 75:16 Grab 29:18 graded 120:1,10 grants 194:12 214:20 grave 228:17 great 18:19 66:10 68:7 77:3 79:8 80:17 103:15 109:6 135:16 156:11 162:7 178:14 196:17 198:14 212:13 greater 61:20 91:20 165:11 215:14 218:19	hazardous 26:10 26:22 hazards 113:12 168:9 232:14 head 158:16,22 177:18 191:17 192:8 207:1 heading 206:11 headquarters 8:14 15:19 30:14 35:13 35:21 36:1,8,12 36:19,21 37:9,17 40:1 46:18 53:7 53:11 70:3 87:14 106:8 112:15 114:7,21,21 115:4 115:16 117:22 121:4 130:5 136:10 143:13 200:7,9 207:10 219:8,16 Headquarters-le... 88:5 headway 20:11 health 1:23,25 2:17 5:10 28:11 38:2 52:12 53:8 55:2 55:16 93:3 94:3 131:12 145:2 146:1 165:17 194:16 206:6,12 219:7 220:10,14 227:13 228:1,15	
general 1:15,17 4:15,17 38:5 92:2 108:12 183:8 195:4 204:7 205:8 214:17	going 9:5 41:22 55:21 56:6 59:18 60:20 61:2,6,21 62:13 69:18,19 70:7 71:18 80:12 83:3 84:14 87:20 90:22 91:22 95:4 97:3 99:15 104:10 109:5 127:18 137:18 140:20 144:13,15 157:8 159:10 160:9,15 160:18 161:7 162:17 167:7,9 168:5 172:20 178:7 179:14,19 179:22 183:22 185:15 186:3,5,13 187:3 190:1 195:7 196:18 197:15 198:6,11,22	gotten 135:12 210:3 governance 9:16 9:19 40:10 42:4,8 56:1 58:7 77:7 79:16 88:19 89:14 91:4 government 5:7 9:10 10:11 11:21 12:3 38:4 149:9 150:14 212:7 217:19 governmental 10:13 75:3,7 governmentally 75:16 Grab 29:18 graded 120:1,10 grants 194:12 214:20 grave 228:17 great 18:19 66:10 68:7 77:3 79:8 80:17 103:15 109:6 135:16 156:11 162:7 178:14 196:17 198:14 212:13 greater 61:20 91:20 165:11 215:14 218:19	hazardous 26:10 26:22 hazards 113:12 168:9 232:14 head 158:16,22 177:18 191:17 192:8 207:1 heading 206:11 headquarters 8:14 15:19 30:14 35:13 35:21 36:1,8,12 36:19,21 37:9,17 40:1 46:18 53:7 53:11 70:3 87:14 106:8 112:15 114:7,21,21 115:4 115:16 117:22 121:4 130:5 136:10 143:13 200:7,9 207:10 219:8,16 Headquarters-le... 88:5 headway 20:11 health 1:23,25 2:17 5:10 28:11 38:2 52:12 53:8 55:2 55:16 93:3 94:3 131:12 145:2 146:1 165:17 194:16 206:6,12 219:7 220:10,14 227:13 228:1,15	
generalized 39:2	goes 88:18 89:7 92:14 139:4 160:5 199:5 217:11	gotten 135:12 210:3 governance 9:16 9:19 40:10 42:4,8 56:1 58:7 77:7 79:16 88:19 89:14 91:4 government 5:7 9:10 10:11 11:21 12:3 38:4 149:9 150:14 212:7 217:19 governmental 10:13 75:3,7 governmentally 75:16 Grab 29:18 graded 120:1,10 grants 194:12 214:20 grave 228:17 great 18:19 66:10 68:7 77:3 79:8 80:17 103:15 109:6 135:16 156:11 162:7 178:14 196:17 198:14 212:13 greater 61:20 91:20 165:11 215:14 218:19	hazardous 26:10 26:22 hazards 113:12 168:9 232:14 head 158:16,22 177:18 191:17 192:8 207:1 heading 206:11 headquarters 8:14 15:19 30:14 35:13 35:21 36:1,8,12 36:19,21 37:9,17 40:1 46:18 53:7 53:11 70:3 87:14 106:8 112:15 114:7,21,21 115:4 115:16 117:22 121:4 130:5 136:10 143:13 200:7,9 207:10 219:8,16 Headquarters-le... 88:5 headway 20:11 health 1:23,25 2:17 5:10 28:11 38:2 52:12 53:8 55:2 55:16 93:3 94:3 131:12 145:2 146:1 165:17 194:16 206:6,12 219:7 220:10,14 227:13 228:1,15	
generally 32:22 33:14 49:13	going 9:5 41:22 55:21 56:6 59:18 60:20 61:2,6,21 62:13 69:18,19 70:7 71:18 80:12 83:3 84:14 87:20 90:22 91:22 95:4 97:3 99:15 104:10 109:5 127:18 137:18 140:20 144:13,15 157:8 159:10 160:9,15 160:18 161:7 162:17 167:7,9 168:5 172:20 178:7 179:14,19 179:22 183:22 185:15 186:3,5,13 187:3 190:1 195:7 196:18 197:15 198:6,11,22	gotten 135:12 210:3 governance 9:16 9:19 40:10 42:4,8 56:1 58:7 77:7 79:16 88:19 89:14 91:4 government 5:7 9:10 10:11 11:21 12:3 38:4 149:9 150:14 212:7 217:19 governmental 10:13 75:3,7 governmentally 75:16 Grab 29:18 graded 120:1,10 grants 194:12 214:20 grave 228:17 great 18:19 66:10 68:7 77:3 79:8 80:17 103:15 109:6 135:16 156:11 162:7 178:14 196:17 198:14 212:13 greater 61:20 91:20 165:11 215:14 218:19	hazardous 26:10 26:22 hazards 113:12 168:9 232:14 head 158:16,22 177:18 191:17 192:8 207:1 heading 206:11 headquarters 8:14 15:19 30:14 35:13 35:21 36:1,8,12 36:19	

232:7	higher 41:2,2,7 57:20 91:1 93:9 93:10 122:6 151:22 152:17 165:11	HSS 2:18,19 3:19 94:3 127:7 128:4 146:15 147:19 148:1 150:5 153:5 153:6 156:16 158:16 165:10 183:10 208:17 216:3 218:22	98:12,13 114:4 146:7 152:15 153:16 182:1	17:20 23:12 40:13 59:13 62:2 69:1 71:21 87:1 88:10 108:11 109:3 116:20 123:17 124:6,10 139:5 146:17 148:9 149:13 154:10 164:4 193:15 194:4 210:19 222:20
healthier 171:3	highest 15:14 58:13 62:11 70:20 146:13 147:7	HSS's 220:3	implementation 32:5 33:18 34:5 34:10,17,19 44:2 46:21 48:5 50:18 51:9 98:2 107:6 115:1 120:15 153:15 226:19	improved 24:10 47:3 122:4 151:20 162:3
hear 9:11 199:7 230:5 232:12	highlighted 203:18	human 93:3	implemented 12:2 19:17 31:21 37:21 38:13 51:20 153:7 153:22	improvement 11:16 24:4 26:17 42:15 44:20 63:5 63:10 109:6 120:8 122:3 182:1 189:9 189:13,17,19
heard 56:2 84:22 156:21 163:21 164:9 165:14 174:9 206:8 213:6	highly 22:1 30:21	hurried 22:3	implementing 9:14 10:21 46:8 77:6 134:13 146:22 155:12	improvements 10:19 28:17 54:20 61:4 99:9 112:4 116:19 184:13
hearing 1:8 4:7 5:3 5:5 7:11,19,20 9:2 25:1 125:18 144:16 163:7 199:8 205:16 226:18 231:2 233:1,11	high-hazard 8:6 23:15 24:16 124:14 226:20	hurry 185:13	implication 184:7	improving 13:4 26:13 62:6 70:9 76:17 98:20 108:5 112:5 122:6 152:7
hearings 230:14	high-hazardous 24:11	I	implications 97:3 128:5	inadvertent 18:11
heavily 123:8,13 144:8	high-risk 40:5	Idaho 20:14 198:21	implied 209:11	inappropriate 39:4
heavy 63:16 121:20	Hill 167:20 211:2	idea 79:16 85:7 129:19	implies 219:2	incarnations 197:18
held 5:6 108:9 122:16 227:10	hip 59:21,21	identification 20:21 109:15 140:19 156:7 157:17 159:13 183:18 185:7	implying 173:8	inception 219:5
helm 15:18	hiring 52:2 168:17 216:21	identified 11:6 119:19 197:22	importance 13:12 24:10 76:12 78:18 129:15 172:14	incident 72:2
help 12:6 31:17 48:12 49:19 50:13 66:21 85:7,17 86:22 131:21 132:10,21 133:9 168:4 192:9 205:10 210:16 222:6,9	historical 212:16	identifies 113:17 152:3	important 9:3 39:6 41:6 56:9 57:1,3 62:20 68:19 74:3 78:10 81:7 87:11 91:19 92:7,8 100:5 102:11,17 102:22 113:5 124:17 126:19 128:13 147:18 158:10 172:8,22 178:21 191:7 197:12 211:18 212:19 223:19 230:19	incidents 13:6 50:3 107:5
helpful 81:9 223:1	history 98:1	identify 19:22 114:2 116:1 117:13 138:3	imposed 31:12	included 31:13 176:19 231:14
helping 38:11 96:17	hit 198:5	identifying 27:16	impression 14:4 60:7	includes 24:20 31:15 34:4 109:19
helps 53:11	hoc 19:21	ignore 58:18	improve 8:21 14:10	
Hexafluoride 107:11	Hodel 193:22	illnesses 28:13		
hey 68:11 79:5 95:2	hold 219:14 230:20	imagine 88:12		
hiding 224:19	holding 80:12 230:14	immediate 4:10 159:6		
hierarchy 130:15	home 89:7	immediately 16:5		
high 8:22 9:22 45:22 73:19 74:1 74:5 77:9 91:1,14 91:16 93:16 100:18 119:16 125:3 135:18 148:12 154:4 168:9	homework 143:16	impact 48:7 49:13 128:14 148:20 149:1 155:1 173:3 231:5,13		
	Honeywell 98:22 99:7,10	impacting 100:22 128:7		
	honored 188:6	impacts 39:11 120:7 148:6		
	hoops 190:15	impediment 210:10		
	hope 9:11 104:21 126:17 205:21 232:11	implement 11:13 35:6 47:18 59:3		
	hopefully 47:3 93:17			
	horror 15:15 17:8 176:17			
	hot 72:20			
	hours 45:13			
	hover 45:6			

114:22 148:13 including 50:1 53:8 109:13 112:14 114:7 115:2 150:10 153:17 213:1 230:15 inclusion 51:5 inclusive 176:8 incomplete 22:9 incorporation 232:1 increase 8:21 84:15 108:11 115:19 increased 8:20 25:16 43:17 44:10 85:5 increasing 80:4,11 152:7 215:18 increasingly 43:13 93:14 incredibly 27:21 57:2 independence 37:7 independent 12:4 55:1 75:14 82:10 82:10 85:14 93:1 93:3,21 95:10 99:18,21 101:4 135:2 137:21 138:14,18,21 141:19,22 142:17 146:7 149:11,17 149:18,20 150:3,7 151:12 152:2,11 152:22 154:10,13 154:21 156:16 166:1 173:16 174:14 182:3,10 195:21 196:3 203:5 independently 11:21 34:2 99:1 100:2 Indiana 1:9 indicate 184:11 indicated 126:19 indicator 204:21	indigenous 230:6 indirect 148:20 individuals 106:3 213:4 indulge 158:8 industrial 43:22 71:8,11 83:2 industries 50:1 industry 18:1 43:2 44:22 45:6 industry's 45:10 inefficiency 177:15 inefficient 20:7 influence 88:9 informally 82:14 information 5:9 7:9 60:11 64:18 64:19 113:16 134:3 155:6 186:1 186:18 207:12 226:5 informed 43:14 93:14 94:7 131:15 132:14,22 133:9 160:14 infrastructure 50:11 194:15 inherent 11:19 12:7 49:6 inherently 10:13 75:2,7,16 initial 231:13 232:1 initiate 109:21 initiated 35:13 122:19 147:1 initiative 5:16 13:22 101:15 122:21 129:20 147:13 195:9 196:8 initiatives 23:11,11 26:20 108:21 110:16 115:1,4 121:18 123:4 130:13 169:7 192:15 210:4 injuries 28:12	input 38:6 51:12 71:19 82:15,20 85:12,13 148:15 149:6 150:1,10 162:10 229:20,22 inputs 82:20 155:3 inquiry 30:3,5 inside 91:2 222:8 insight 34:9 68:17 68:19 206:1 insights 172:3 inspect 196:14 222:10 224:22 inspection 149:20 173:20,22 174:1 175:3 221:11 224:7 inspections 33:12 149:15 153:1 165:18,19 166:2,3 166:9,15,18,21 167:21 168:22 169:4,9,11,17 196:16 222:17 Inspector 38:5 inspectors 174:5 instance 72:19 177:16 213:9 214:6,19 instances 10:10 115:11 Institute 123:18 insufficient 21:18 insufficiently 72:15 insurance 12:13 integrate 138:7 integrated 20:13 40:20 49:11 83:6 83:12 100:2 107:20 120:1,10 120:17 137:20 141:10 143:3 197:19 integration 20:16 76:12 79:10 149:18 integrity 62:19	intelligence 118:5 intelligent 118:6 120:4 125:2 intelligently 118:3 intend 48:14,19 207:19 211:20 217:10 intended 23:12 148:8 152:15 163:3,6 204:20 223:14 228:7 intends 35:6 intensity 57:18 intent 9:16 47:21 187:20 201:14 intention 211:6,7 interacts 133:13 interest 12:7 22:22 55:18 127:5 154:6 163:18,20 196:4 211:2 interested 6:7 90:3 155:11 213:4 225:20 Interestingly 98:18 internal 157:20 internally 105:13 internet 5:17 interpret 229:7 interpretation 26:4 interpretations 119:5 introduce 4:8 investigation 25:9 39:20 investigations 37:9 invited 108:20 inviting 122:20 invoke 10:1 invoked 109:20 invoking 142:3 involve 75:11 152:19 involved 4:22 18:9 38:18 42:11 68:1 106:14 111:2 125:5 177:18	involvement 127:14 163:17 involves 112:10 116:1 195:20 involving 37:6 106:15 110:16 124:2 in-house 25:19 irrelevant 66:5 Island 138:17 issue 9:12 21:13 23:18 53:18 65:20 134:1 137:2 179:10 229:19 issued 8:8 110:10 131:16 149:10 169:18 231:6 issues 11:6 16:6 20:1,4,22 25:20 36:17,20 106:15 107:17 108:1 109:8 110:4,5 113:14 117:13 125:16 134:3 136:12,16 155:5 167:14 186:11 209:2 222:8 227:5 228:3,8,16 231:10 item 109:17 items 81:4 85:6 94:16 191:10 i.e 135:17 <hr/> J <hr/> J 1:16 January 39:21 Jennifer 226:11,15 Jessie 1:14 4:13 Jo 207:2 job 77:13 102:15 103:6 150:18 187:20,21 210:12 215:16,17 John 1:12 4:10 14:15,18 25:4 224:11 Johnson 104:17
---	---	--	---	--

join 212:6	65:2,4,8 70:15	133:3,19 134:10	110:3,18 119:4	131:22 137:17
Joseph 1:13 4:11	71:18 73:22 74:1	134:19 135:7,12	138:17 144:2	liaisoned 106:4
JR 1:21	74:2,6,7 76:10	136:2,9 137:4,8	151:15 173:12	liaisons 114:16
judge 95:12	78:12,13 79:3,7	137:15 138:5,12	198:3 207:9	license 140:6
judgment 92:3	79:15 80:2,13,21	139:7,13,19	227:12	licensee 196:14
133:5 192:2,8	82:11 84:22 85:10	140:22 141:12,14	learning 26:18	life 10:8 17:17
judgments 92:1	85:18 87:8,14,15	141:18 142:5,13	leave 61:11 104:11	110:1 118:7,13
185:16	87:20 88:4,7,7	142:21 143:5,10	105:2 198:17	173:12
jump 190:15	89:1,6 90:11,13	144:7 174:10	leaves 194:20	light 55:9 231:9
June 7:15 45:14	92:16 94:8,22	224:2	leaving 14:4 127:10	limit 7:4 225:22
233:3	95:6 96:8 98:5,21	laid 140:3 167:2	led 11:1 32:22	limited 7:8 34:16
junior 218:8	100:8,16 102:18	land 230:18	39:17,21 171:16	39:22 216:2
justification 202:9	102:18,21 103:5,6	LANL 228:5,13,16	left 4:10,11,16	225:11 226:4
justifications 34:22	104:4 111:20	229:5,13,14 231:8	169:18	line 12:3 13:22 31:5
	118:21 133:2	231:16 232:10,14	legacy 227:21	31:10,17 32:20
	156:10 174:11	largely 42:5	legally 90:15 91:17	36:2 44:13 49:6
K	175:7 177:1 179:2	larger 24:20,20	legislation 14:22	55:1 59:22 82:16
K 67:14 107:13	179:5 185:3	larger-ticket	length 133:13	92:21 106:6 131:2
kaleidoscope	190:18 202:6	191:10	lesson 10:5,7	133:1,1 135:3
161:12	206:14 207:3	largest 227:1	lessons 11:5 85:1	137:20 138:7,8
Kansas 43:21	208:4,5 210:9	Larry 1:13 4:12	110:3,18 119:4	141:10 143:4
44:17 45:2,7,16	215:1 217:18	23:9	138:16 144:1	150:11 181:21
59:1 73:4,13,18	218:8 223:9	latest 156:15	letter 139:16	182:19 218:9
83:3 97:21 98:16	knowledge 123:18	Laughter 77:19	147:17 155:8	219:9 221:2,16
101:15	190:10 199:14	145:16 201:20	160:16 163:3	223:13
keep 104:22 116:11	knows 179:2	laws 109:14	165:6,16 167:18	Linear 222:4
145:5 217:6		layer 138:13	letters 22:16 94:8	lines 30:2,5 89:16
keeping 105:18		layers 37:18 38:10	128:8	142:10
kept 202:19	L	38:11 57:5,7,11	let's 22:2,5 59:1	link 201:8
key 9:22 11:9 27:15	lab 173:13 178:9	58:8,9,11 79:17	81:10	linkage 200:18
28:1 31:19 33:21	193:16	88:20 130:2,9	level 22:11 31:14	linkages 153:8
44:8 93:6 146:1	labor 150:13	138:4	33:16,17,17 35:22	linked 40:15
kid 96:7	Laboratories 46:5	laying 91:4	36:13 39:8 48:21	179:17
kind 56:6,20 60:17	laboratory 170:22	lead 152:6 197:12	49:4 57:17 59:22	list 6:9 15:15 67:4
61:3,8 65:6 79:21	228:6,21	200:4 211:16	60:1 61:16,18,20	70:1 87:22 88:3
82:13 87:4,5,9	labs 60:8 114:8	leader 175:12	68:16,18,18 70:17	94:21 97:6 126:16
88:2,16 89:4,13	227:20	leaders 78:7 227:16	70:21 72:3,4,5	159:14 176:8
93:7 95:12 96:20	lab's 227:21	leadership 13:10	76:20 89:14 91:12	202:6 213:1
96:21 99:3,14,16	lack 39:15 73:1	24:22 187:18	91:13,14,16 92:3	226:10
100:16,21 124:12	159:20	leading 106:15	93:7 98:13 105:21	listed 6:11
124:18 158:11	lacking 22:8	leads 37:2 53:21	106:7,8 113:5	listened 156:20
225:13	Lagdon 1:21	66:16 183:19	114:20 135:13	literally 222:19
knew 161:21	104:19 105:5	197:22 198:9,18	156:18	little 29:18 63:13
know 33:2 55:13	121:22 122:12	198:22	levels 13:5 38:11	79:21 88:19 90:3
56:5,13 58:2	123:2,14 125:1	learn 10:4,7 84:22	60:2 62:11 87:9	101:14,17 102:5
60:19 61:1,3,4,9	126:1 127:3,11,16	85:2 112:3 124:6	89:11,16 92:10	105:2 123:8
61:10,15 62:9,10	128:9,19 129:5,13	learned 11:5 85:1	93:5 96:19 112:13	124:15 136:7
63:1,7 64:9,15,22	129:21 131:4,21			

150:18 168:20 172:4 198:12 230:5 live 194:19 Livermore 198:19 LLC 46:7 loans 194:12 local 72:4 99:21 LOCAS 13:22 long 59:2 192:4 219:18 longer 22:13 131:3 186:4 187:6 216:17 look 23:9 26:18 47:17 59:5,12 60:20 62:1,2 64:16,17 65:6,8 68:9,22 71:4 81:16,19 88:9,14 94:13 95:5,6 118:12 123:15,20 130:14 141:22 143:14 145:19 155:5 161:2,4 166:17 177:21 180:1 192:12 194:17 206:5 222:18 224:6 232:5 looked 70:4 71:16 98:19 167:22 188:1 191:5,5,11 194:1,3 looking 55:9,20 59:1 68:4 71:20 75:11 84:13 95:3 118:6 120:3 121:22 122:2,4 125:1 128:5 135:10 138:12 154:10 161:1,9 168:8,9,11 178:12 187:2 189:21 192:6 194:8 218:5 223:5 Los 167:4 197:5	198:19 227:19 228:5 lose 87:12 loss 10:7 15:5 lost 176:18 lot 55:9 65:3,21 84:22 85:17 121:17 178:1,11 178:17,18 192:14 217:20 low 41:4,4 45:20 59:4 77:10 90:22 125:3 lower 45:10 57:18 58:19 93:8 125:7 135:19 165:13 lower-value 124:16 low-hanging 185:11 202:1 low-probability 9:1 low-risk 40:1,8,17 low-value 21:5 <hr/> M <hr/> MA 161:2 machine 72:22 magnitude 19:1 main 53:15 194:15 228:13 maintain 36:9 37:13 56:6 62:19 119:16 150:6 208:12 maintained 12:2 19:4,17 100:7 107:1 maintaining 111:19 116:6 118:15 147:6 maintains 51:8 maintenance 34:18 124:3 158:19 major 83:6 106:15 108:21 110:8 116:21 121:17 122:9 220:4 making 7:12 58:12	84:7 100:17 102:19 103:17 157:4 160:19 161:7 168:5,12 210:16 226:8 malicious 169:21 maliciously 174:19 manage 26:9,21 114:4 222:13 management 12:4 28:3 31:10 34:18 43:9 44:13 49:6 65:1 75:13 84:8 85:6 87:3 99:6 106:20 107:7 113:1 115:3 120:17 147:1 150:11,21 151:9 153:8 158:19 181:22 194:5 214:10 management's 77:13 manager 1:17 4:17 27:12,12 36:2 59:22 78:14 92:15 92:21 111:21 113:10 201:4 managers 26:3 31:18 32:20 33:1 36:5 52:7 70:14 78:10 82:9,14,16 168:3 216:8 219:13 224:12 managing 9:22 11:19 mandate 229:6,8 mandates 11:12 mandatory 17:7 manifested 108:8 manner 43:17 54:9 90:14 91:18 171:20 Mansfield 1:12 4:11 14:15,16,18 19:8 22:21 65:16 65:18 66:4,9,18	67:2,8 69:4,7 71:7 71:22 72:7,11 73:9,12,20 74:15 126:7,8 130:17 139:12 140:10,11 175:18,19 176:10 176:15 177:3,6,10 180:5,22 181:5,19 182:7,9,13,21 211:11,12 212:2 212:12 213:17 214:18 215:3 Manual 120:17,18 manuals 16:18 161:13 176:7,12 March 13:14 160:17 162:17 165:6 228:2 marginalized 230:1 Mari 207:2 mark 185:3 221:9 221:12 marked 140:18 155:19 156:6 157:16 159:12 183:17 185:6 Marriage 201:18 married 152:12 marries 151:5 marry 201:1,8 match 168:3 material 18:8,8 materialize 129:2 materials 18:11 112:1 math 202:10 matrices 34:17 matrix 94:21 97:1 matter 32:16 33:11 53:6 54:1 58:20 144:17 162:19 208:17 216:3 matters 20:19 38:7 42:5 50:11 53:19 53:20 mature 217:11 matures 117:6	maturing 113:3 maximizes 117:17 maximizing 129:16 maximum 42:22 Maytag 221:7 mea 158:14 187:14 mean 22:16 58:18 59:7,11 71:2,17 74:5 75:5,7 77:21 78:13 81:6 87:10 89:9 91:9,10 94:4 132:12 164:20 176:3,6 177:19 185:11 193:7 195:22 215:4 217:18 219:2 222:14 meaning 79:16 223:15 means 75:5 91:18 115:13 131:8 132:18 177:21 201:18 meant 17:21 77:16 81:11 measure 35:5 64:2 64:7 150:19,19 measurements 28:18 141:20 measures 229:16 measuring 21:4 mechanism 152:6 211:18 mechanisms 33:4 35:11 36:10 115:16 153:3 Medicare 218:2 meet 29:21 50:15 159:1 207:2 meeting 4:7 5:3,5 5:16 7:10,19,20 8:1 9:2,17 30:3 84:5 104:18 112:19 144:16 147:16 179:13 191:21 205:5 211:1 226:6 228:8
---	---	---	--	---

233:1,6,7,10,17 meetings 25:4 133:21,21 144:5 210:8 230:20 meets 54:6 127:19 150:8 member 1:13,13,14 2:6 128:4 160:22 179:12 190:19 193:21 218:13 members 4:8,21 6:7,19 7:11 14:13 23:8 27:8 29:19 52:8 105:6 128:10 144:3,6 170:10 173:19 189:12 225:21 226:7 228:3 memo 162:17 memorandum 13:14,17,20 14:2 162:5 mention 114:15 mentioned 42:14 56:19 61:1 89:22 93:13 129:15 130:19 146:5 150:22 163:8 179:1 187:6 190:5 190:20 192:14,21 193:1,20 197:4 209:4 211:4 212:4 212:22 216:20 218:17 merit 76:21 message 65:6 80:19 81:8,11 103:17 164:10 172:5 206:17 209:22 210:4,17 messages 13:9,13 63:8 77:16 139:15 211:9 messaging 210:22 met 1:8 110:19 205:4 209:20 228:3	Metallurgy 83:8 228:4 method 44:8 methodical 189:7 methodology 48:22 methods 133:7 153:19 metric 50:6 93:15 93:20 130:20 132:20 metrics 49:19,22 64:6 118:9,12 Mexicans 232:8 Mexico 46:5 227:11,17 230:6,9 Mile 138:17 million 45:13,18 millions 229:15 mimicked 196:2 mind 121:2 196:5 215:5 mindful 47:19 mine 10:9 minimal 28:6 minimizing 117:16 129:16 minimum 53:14 minor 70:10 minute 144:14 183:6 minutes 7:5 105:1 105:17,19 145:6 145:12,12 180:10 226:1 mirrors 164:15 misinterpret 175:10 misinterpretations 13:11 misses 50:3 missing 188:5 198:20 mission 5:10 12:6 14:3,5 40:14 43:16 46:19 49:8 50:14 56:9 59:15 59:16 64:11 76:13	76:13 78:18,20,21 90:14,18,19 113:9 118:11 124:3 125:22 136:13,15 140:2 147:6 171:12,19 174:12 210:15 220:20 221:5,6,14 missions 74:10 146:3 190:8 mistakes 28:22 85:3 misunderstood 138:2 mitigate 12:6 130:1 mixed 63:8 76:2,8 77:16 81:7 139:15 model 27:15 40:10 40:20 44:16 46:13 83:4 98:2 102:3 141:8 151:7 174:8 174:17 195:19 modeled 138:15 models 9:16 43:19 56:1 98:14 121:19 122:14 modifications 8:18 41:14 modifying 42:12 moment 158:9 money 216:14,18 moneys 216:12 monitor 154:22 monitoring 24:11 month 10:8 15:13 months 21:8 41:20 67:5 69:12 81:15 129:2 131:6 192:3 219:18 moratorium 13:18 39:22 40:4 41:13 42:3,9,17 morning 4:3 27:6 74:20,22 104:8 105:3 129:14 144:22 163:22 164:10 165:14	180:9 183:4,5 188:22 189:1,5 225:10 motivation 196:1 move 41:8 62:13 63:12 65:16 85:16 86:5 200:15 232:22 moved 44:5 moving 26:13 70:12 80:3 100:13 174:17 180:4 191:16 197:1 multiple 37:18 39:9 87:9 92:10 148:14 149:6 223:9 227:15 multiplication 177:13 Multi-Cultural 230:7 M&O 75:13 <hr/> N <hr/> name 4:4 6:15 226:11,13 named 14:19 names 10:2 NASA 25:11 26:2,2 NASA's 25:13 nation 10:6 national 1:20 8:3 8:11 11:11 24:3 25:11 29:13 30:17 46:4,6 56:9 74:9 114:8 227:8,20 228:6 natural 110:17 227:14 nature 39:17 49:10 88:1 naval 12:19 near 50:3 nearly 16:10 near-term 21:4 113:12 necessarily 18:14	125:8 137:7,8 177:15 208:1 necessary 26:6 42:13 116:10 118:14 132:1 135:17 138:15 143:19 147:4 206:2 208:9 228:10 233:14 necessity 231:12 need 10:1 19:14,15 27:22 29:1 36:20 39:8 62:19 86:5 97:10 98:10 99:8 99:16,16 100:9,10 116:20 117:14 121:15 122:9 124:18,21 141:11 143:7,18 144:4,13 160:7 179:6 180:16 187:8,12 193:8 208:12,15 212:10 216:19 217:8 218:4 222:6 223:22 232:8 needed 14:3 32:16 42:7 46:1 49:20 50:7,15 114:2 119:17 167:17 168:4 203:19 needs 32:13 77:11 85:22 86:22 100:11 115:12 148:22 149:3 150:8 210:11 negative 125:9 network 35:20 227:1 Nevada 46:5 47:20 61:19 98:6 198:19 never 49:7 63:15 78:9 163:3 204:20 212:8 221:12 new 3:9 15:13 17:9 20:2 22:12 40:19 45:19 46:5 56:1 98:2,14 122:14
---	---	---	---	--

140:13 153:15 164:14 168:18 176:19 181:13 185:11 188:14 192:13,15 194:13 195:15 221:2,3 227:11,17 228:20 229:6 230:6,9 231:18 232:7 nice 82:5 Nichols 65:3 68:22 69:22 94:10,13,20 nine 160:4 163:9,9 219:18 NNSA 2:7,9 8:18 13:9,16,19,21 33:14 35:20 37:22 38:8 39:17 44:3,5 44:10 46:3,22 47:3 48:6 49:18 51:13,16,19 52:17 53:3 54:1,19 58:6 78:3,8,15,21 82:3 95:22 96:6 165:7 206:10 207:6 214:19 NNSA's 8:10 50:18 50:18 NNSA-Initiated 13:18 nobody's 22:22 nomenclature 176:2 185:19 nominally 143:9 non 39:6 46:9,13 56:21 60:9 64:14 90:4 100:12 101:22 135:19 nonconformance 107:5 Nondestructive 112:1 Nonproliferation 95:8 non-contractor 39:13 non-existent 16:11	non-nuclear 38:22 39:1 42:20 43:6 43:21 47:4,7,21 47:22 48:11,18 56:4 57:2,18 58:15,19 60:19 61:3,22 88:14 90:1,10 91:9 92:4 92:6 119:22 120:2 124:16 180:14 non-profit 227:5 non-safety 39:6 Nordstrom 226:11 226:15,16 232:17 normal 42:6 161:3 normalized 135:18 137:6 notch 122:5 note 103:10 126:12 noted 187:19 notes 104:16 183:21 notice 5:19 6:6 28:2 156:17 225:20 noticed 5:4 notices 67:12 NRC 196:2,13,20 197:8 198:3 NRC's 196:6 nuclear 1:3,20,22 2:10,13 4:5 5:1,11 8:4,6,11,13 9:4 10:17 11:20 12:1 12:15,17,19 13:7 14:9 15:3 18:1,3,6 18:7,11,15 22:7 23:15 24:9,12,16 29:13 30:1,17,18 30:21 31:8,11,19 32:4,19 33:6,19 33:21 34:5,10,17 35:2,4,7,12,15 36:5 37:2,3,6,8,19 38:3,7,12 39:3,7 40:7 41:7,11 46:10,14 47:1,8 47:20 48:2,7,11	48:12,16,22 50:5 50:8,22 51:4,7,10 51:12,13,18,21 52:3,5,15 53:1,20 55:3,7 56:4,7,18 56:22 57:20 58:14 59:12,13 60:10,12 60:18 61:16,20 62:2,15,16,21 63:3,19,20 64:2 64:15 67:18 68:5 70:20 72:12 73:3 75:3 90:5,6,9 91:9 92:2 93:16,16 100:13,19 101:22 101:22 102:1 104:20 105:10,12 105:20 106:10,18 107:9 108:18 110:15,21 111:15 112:5,17,21 113:15 117:15,20 118:15 119:21 120:2 121:6 122:11 123:18,20 123:22 124:14 125:11 128:13,20 131:15 132:3,5,9 135:4,6,6,8,20 138:16 144:3 146:8,12,16,20 147:10 148:6 149:14,21 151:1 151:13,21 152:3 154:3,4,11,15,19 163:5 164:2 165:12,18 168:18 180:12,15 192:15 195:10,12,19 196:2,11 203:5 206:10 214:4 216:22 220:12 226:20 227:1,4,4 227:13 233:11,17 number 12:22 32:9 35:13 36:22 38:17 49:19 52:4,6	57:12,13,16 64:4 64:14 72:2 84:12 84:15 87:3 89:8 95:13,14,17 107:9 119:9 153:18 157:19 165:19 166:14,15 167:22 169:16 171:8 185:9 188:14 219:22 220:1 222:7 numbers 66:5 80:14 96:15 217:4 numerous 36:10 NUREG 138:15 N.W 1:9 <hr/> O <hr/> objected 202:7 objection 215:7 objective 13:3 65:11 132:16 222:19 objectives 20:20 objects 195:16 observation 73:6 83:1 175:22 observe 25:21 34:1 36:12 37:10 144:5 observed 56:13 observing 33:7 obstructive 215:4 obvious 231:12 obviously 68:16 74:6 97:4 98:11 170:18 211:8 occasion 103:8 occasionally 74:1 114:9 occasions 141:15 167:5 occupational 49:21 occur 72:14 occurred 45:14 occurrence 65:22 67:15 73:14 occurrences 50:4	occurs 64:10 208:10 offer 19:12 143:21 196:15 offered 60:16 office 1:22,25 2:17 27:12 32:22 33:1 33:17,22 34:12 36:4,13 37:1,17 38:2,5,5 45:16 46:4,6 51:18,20 52:3,11,13 53:5,8 60:1 70:14,18 72:4 87:16 92:19 92:20 96:14 99:20 112:22 113:10 114:3 122:20 127:5 137:19 138:6 142:10 145:22 149:10 154:21 156:16 167:1 172:18 174:2,3 201:4 203:11 205:22 207:6 209:6,8 214:7,7 officer 1:24 27:13 145:3 170:17 officers 142:15 152:9,9 offices 8:14 33:2,14 35:11 37:4 40:2 43:10 53:7 106:4 111:15 112:15,16 113:6,7 114:7,11 115:6 121:5 130:4 196:21 209:8 official 88:12 offsite 78:2,5 off-the 82:1 Oh 67:8 69:10 okay 69:11,22 71:22 73:8,20 78:9 83:15 86:4 87:2 98:15 100:6 101:9 103:19 104:1,11 105:5
--	--	--	--	--

122:1 126:5 131:13 134:21 135:14 136:6,21 137:9 139:6 141:6 142:8,18 143:2,20 144:7,10,21 162:15 165:1 176:10,15 177:6 177:10 180:5 181:5 182:7,13 184:16 188:15 200:1,22 201:13 204:2 212:2,12 213:17 220:15 222:11 225:3 old 22:12 83:17 89:1 221:7 omissions 230:12 once 14:6 40:16 42:3 46:11 144:10 196:18 197:16 205:13 210:21 225:17 ones 68:9 97:3,4,5 one-time 100:6 ongoing 14:10 49:18 147:19 152:12 154:22 166:6 onsite 24:19 149:15 149:20 153:2 onus 116:11 open 5:6 7:15 97:4 97:5 133:22 155:10 198:17 202:19 230:21 233:3 opening 2:5,6 14:12,14 29:9 42:14 54:18 179:1 189:8 191:14 openness 166:7 operate 146:12 operates 214:11 operating 12:17 17:3 22:12 42:21 75:13 90:2,4,5,10	90:13 91:2 110:8 151:17 222:21 229:5 operation 22:21 26:10,22 60:12 87:13 122:2 137:19 156:19 174:12 operational 17:4 36:14 40:6 44:2 51:9 68:1 107:12 137:14 152:7 158:20 211:19 223:9 operations 8:7 12:14 15:8 16:12 17:18 20:3 23:15 24:12 34:6,19 35:1 36:1 39:11 43:6 46:10 48:1 49:18 60:18,19 63:19 67:19 72:12 109:21 115:3,6 118:18 122:7,10 123:19 124:3,6,15 136:1,18 139:5 147:8 151:1 165:12,13 178:19 193:17 199:2,5 226:21 operator 195:22 196:1 opinion 21:20 24:5 71:10 133:8 opportunities 52:20 opportunity 6:20 7:3 25:2 29:21 36:11,18 54:11 63:8,15,21 79:14 102:8 137:11 138:2 175:5,14,15 193:15 225:16 226:17 opposed 132:15 158:5 166:3 194:18	opposite 22:2 208:2 ops 158:19 optimize 151:20 option 122:18 232:1 options 218:20,22 oral 105:1 225:12 order 6:12,14 7:1,2 20:18 120:14,15 128:12 151:11 158:21 174:12 orders 16:18,18 55:18 61:7 62:12 126:15 161:12 163:18,20 164:1 176:7,11 ordinary 213:14 organization 36:6 43:8 54:6 55:3,17 58:2 77:22 92:21 92:22 93:4 94:2 95:7,8 122:16 130:7 149:2,4 158:22 162:1 165:10 191:18 192:8 207:2 217:13,22 219:7 221:1 223:6,11 224:3 organizational 8:19 112:13 153:7 190:8 organizations 11:13,15 36:3,8 38:1,17 39:10 40:16 53:8 66:12 78:11 80:20 105:14 106:6 114:9 138:7,8,8 150:13,22 217:19 organized 30:4 227:3,7 organizers 227:4 organizing 227:9 original 7:4 106:10 187:4 226:1 originally 14:19	69:16 216:12 224:5 ORPS 65:22 66:12 66:20 67:7,21 68:4 ORR 158:20 Ostendorff 96:8,17 outcome 44:6 117:8 147:12 outcomes 128:22 outliers 131:9 outrage 16:3 outside 99:22 226:12,16,22 227:18 outstanding 162:2 overall 30:8 44:21 49:14,16 65:7,13 71:5 87:13 98:20 120:1 146:2 154:1 overhaul 13:2 overlap 130:10,11 overlapping 38:10 overlooks 231:19 oversee 142:14 overseeing 116:8 overseers 197:22 oversight 3:12,14 4:22 8:6,13 9:4,5 9:9,15,19,22 10:12 11:2,4,6,8 12:4 13:12,22 14:8 19:14,20 23:11,14,18 24:1 24:8,15,18,19,21 26:16 27:15,20 28:19 29:3,22 30:8,18 31:5,14 32:1,11,19 33:3,8 33:15 34:3,3,13 35:12,14,22 36:1 36:11,22 37:16,16 37:18,19,22 38:9 38:10,16,19,22 39:5,9,13,19 40:12 41:2,4 42:19 43:6,13	44:14 46:20 47:1 47:4,6 55:1,1,21 58:17,19 59:22 62:6 67:19 70:22 71:1 75:2,5,6,8,10 76:20,22 83:3 84:21 86:20 87:1 88:10 89:18 90:22 91:1 93:8,14 105:16 106:7,19 106:21 108:3 109:3 112:5,11,12 112:20 113:2,6,8 114:14,17,20,22 116:3,7,11,15 117:12,15,17,20 119:21 120:12,16 121:3,5,19 122:14 122:17,19 125:7 129:17 130:4,8 132:11 134:14 135:3,3,11,17 136:4,10 137:1,17 137:21 138:4,9,14 139:1 141:8,11 142:2,8,16,17 143:7,8,19 144:6 146:7,10,16 147:11 149:12,13 149:17,19 150:3,7 150:15,17 151:6 151:12,19,21 152:2,11,15,22 153:6 154:3,10,14 154:20,21 155:12 163:5 165:11 166:2 167:1 170:2 170:3,7 173:16 174:15 182:3,10 193:3,19 194:7 195:11,17,21 197:19,20 199:16 200:18,19 203:5 203:11 205:15,16 208:1,3,8,13,16 212:4 217:7 221:19 222:20
--	---	--	---	--

223:10,16 226:20 228:10 oversights 19:3 107:16 overstated 24:13 owner 98:11 195:22,22 196:1 owners 196:4 O'Leary 208:22	89:10 94:16 95:5 97:6 100:14 123:4 128:1 131:7 148:5 154:11 179:11 182:18 211:1 particularly 42:1 61:7 70:8 84:7,9 85:9 96:16 107:10 151:10 parties 110:1 155:11 partly 197:18 partner 197:11 partnering 152:8 parts 227:17 pass 129:8 175:17 189:3 194:22 passes 190:21 passionately 155:9 path 99:5 100:13 168:5 patience 225:9 Patty 101:6 Paul 193:22 pause 40:1 pay 164:3 216:17 paying 216:17 peer 44:12 214:20 pencil 133:1 people 6:11 64:22 66:20 70:17 72:17 76:8 77:22 78:22 79:1,4 83:5 84:20 88:20 100:3 155:22 167:12 169:21 174:8 193:6,11,12 200:15 201:19 206:22 211:22 217:8 218:11 221:20 222:8,11 224:18 227:14 perceived 117:14 percent 12:22 21:7 45:3 55:15 145:15 163:1 204:20,21 percentage-wise	61:17 perception 207:13 perfect 74:7 perform 50:8 116:17 125:22 148:1 152:20 153:1,1,9 154:2 171:12,19 performance 28:17 28:18 33:7 40:14 43:12 44:18,19,21 45:15 46:20 48:21 53:2 59:14 62:3,6 64:21 70:5 85:9 98:1,4 106:13 109:7 110:21 113:14 115:14 116:21 122:3 123:22 153:12 performance-bas... 43:4,19 44:16 46:8 performed 31:4,7 32:21 166:4 performing 119:15 123:12 period 69:17,20 115:16 162:6 171:7,14 230:21 periodic 36:22 periodically 42:10 94:14 99:2 136:19 permission 140:12 permit 7:7 226:3 personal 102:10 personally 27:18 102:14 117:7 172:20 199:10 personnel 24:8,15 32:22 33:8,18,22 34:13 35:17 36:12 36:16,19 37:10 42:11 51:22 52:4 52:6,20 53:11 66:6 114:14 217:3 217:18 perspective 70:22	71:1,17 83:13 102:2 146:15 perspectives 151:3 230:22 pertain 117:16 pertaining 17:16 Peter 1:9,12 4:4 PF-4 83:18,19 phase 109:20 110:1 113:20 phased 61:1 phases 17:17 phenomenon 110:17 philosophical 75:21 phone 67:22 68:10 physical 18:9 222:2 physically 91:18 pick 68:13 picture 65:13 143:3 piece 185:21 186:12,13 199:16 pieces 72:2 204:6 piloting 98:6 pipng 107:18 pit 229:4 231:15 232:10 place 21:12 22:14 24:17 44:13 55:10 61:11 66:16 100:3 118:4 121:18 164:15 189:6 places 83:13 plan 3:20 13:16 43:12 110:6,7 113:16 137:2 139:16 149:8 150:5 152:2 155:4 156:15,17 167:2 183:11 184:1,6 187:1 188:2 203:4 planned 69:13 216:12 planning 63:14 113:20 114:1 115:8 120:7,21	184:6 plans 34:19 169:19 Plant 117:9 plants 15:14 18:5 123:20 124:1 132:3 138:21 plate 112:2 192:14 play 27:21 86:16 played 29:4 player 146:1 plays 9:22 43:8 please 162:14 181:16 184:13,20 226:13,13 229:14 pleasure 105:7 plus 94:8 plutonium 15:7 72:22 83:18 141:20 228:20 229:4,18 231:15 232:2,10 Podonsky 1:23 75:18 81:18 94:3 98:18 145:2,8,9 145:19 156:8,13 157:10,13,18 159:14 162:12,15 164:12,21,22 166:5 169:1,8 172:9 175:16 176:9,14 177:1,5 177:7 178:6 180:20 181:2,7,12 181:17 182:5,8,11 182:15 183:2,3,5 184:2,10,14,17,21 185:14 187:5,11 188:13,16,22 189:1 190:18 193:10 195:3 196:9 198:10,15 199:22 200:5,8 201:6,10,15,18 202:3,11 203:8,22 204:14 206:19 207:17 208:14 210:20 212:1,3
--	---	---	--	--

213:16 214:9,22 215:14 216:1,7,22 217:5 218:1 219:4 220:8 221:6 223:17 Podonsky's 122:16 point 20:10 30:9 47:14 67:17 68:21 73:11,22 81:13 87:12 96:15 159:17 164:13 165:22 171:11 178:6 183:22 208:10 209:9 pointed 18:4 30:19 73:14 pointing 86:15 pointless 215:7 points 148:14 149:7 157:19 223:12 232:5 pointy 79:5 policies 16:19 161:12 176:6 policy 11:8,9,12 23:19,19,20,22 26:16 28:9 120:16 162:19 217:7 poor 16:12 population 229:13 populations 230:1 Portsmouth 107:11 position 180:11,18 positions 180:19 possible 6:13 48:14 66:13,14 145:6 218:12 possibly 46:7 posted 6:10 postpone 7:20 233:7 postponement 67:3 posture 172:11 potential 13:10 18:10 47:15 148:4 potentially 55:21 power 12:19 18:1	123:18 138:20 practicality 46:12 practice 6:5 156:12 225:19 practices 8:19 28:22 47:3 66:7 preceded 10:12 25:5 precise 129:4 184:8 186:5 precisely 17:8 precision 73:1 predecessor 106:11 predilection 66:11 premise 28:1 prepared 104:22 113:17 preparing 25:1 presence 24:11 197:9 199:9 present 1:11,15,18 4:9 14:14 24:18 29:14 105:4 140:8 presentation 6:16 6:20 126:10 presentations 7:8 7:12 226:4,8 presenters 7:4 225:22 preserved 121:6 preserves 33:10 preside 4:6 President 14:19 presiding 1:10 press 93:8,10 pressure 124:9 pretty 21:13 55:19 56:8 84:10 88:12 91:8 125:19 163:22 208:12 217:6 224:14 prevailed 17:22 prevent 13:6 64:9 227:22 prevented 71:12 229:17 preventing 30:21	previous 6:21 70:4 149:1 160:21 169:12 173:12 186:17 187:7 197:18 previously 69:14 119:18 156:19 168:6 Price 220:6 Price-Anderson 220:9,12 primarily 97:8 110:5 128:3 178:13 primary 10:10 31:2 32:18 35:11 94:5 106:17 120:11 127:5 163:19 prime 45:11 principally 158:5 179:9 181:8 principle 40:7 41:6 50:6 51:17 principles 42:21 46:9 90:2,4,6,11 90:13 91:2,8,14 prior 30:3 44:15 115:18 187:1,1 priorities 40:22 49:14 118:7,10,12 130:15 136:12 152:18 153:10 prioritization 216:9 prioritizes 147:2 priority 113:18 116:10 117:22 125:4 151:21 private 10:14 25:17 44:22 45:6,10 126:3 privilege 27:9 proactively 117:10 probabilistic 111:5 132:2 probability 8:22 125:4	probably 81:15 134:22 192:4 208:11 probed 25:5 problem 57:12,13 57:14 68:14 92:6 135:22 136:3 196:17 213:10,11 218:6,14 222:17 problems 20:6 27:16 70:9,10 74:2 171:10 175:2 221:16 224:10 229:4 proceed 85:15 181:16 229:10 proceeding 5:13 7:14 85:8 99:5 202:16 233:2 process 3:12,14 19:21 20:7,17 21:12,15,22 22:3 24:1 28:16 39:16 55:6 61:1 66:20 67:16 89:19 110:4 112:4 117:1,5,6 127:15 128:17 129:4 133:4 142:14 146:18 148:13 149:7 155:14,16 156:14 157:4,7,21,21 158:2,15 159:4,6 159:19 161:21 162:18 164:14,16 168:17 176:5 179:3,9 180:2 183:22 185:11 186:3,4,14 189:6 189:16 190:1,4 192:2,17 204:12 205:15 211:21 212:9 213:20,21 213:22 214:20 215:2 219:5,17,21 222:20 processes 9:15 11:4	18:9 44:3 60:9 107:7 116:3 120:9 152:15,19 155:12 158:18 205:18 processing 20:12 66:1 83:7 107:14 process-related 47:7 procurement 87:3 87:5,7,11 88:2 89:4 118:17 produce 192:3 product 59:18 73:16 production 39:13 229:4 231:16 232:10 productive 125:8 productivity 8:20 147:5 Products 230:10 professionally 199:10 profiles 133:6 program 24:20,20 24:21 27:12,13 35:4 92:21 106:21 109:10 112:15 113:2,6 114:21 115:5 116:15 122:20 147:12 149:12 150:4,7 151:20 152:1,6,9 152:13 154:14 174:3 195:11,18 197:17 199:12,15 200:11,12,13 201:2,2,3 203:4 209:7 211:17,22 218:2 programmatic 115:1,10 programs 8:15 12:20 34:18 36:3 52:14 93:1 95:2,7 97:9 108:3,5 112:11,12 116:7,9
--	---	--	--	---

117:12 134:17 136:5 139:4 154:19 208:7 217:17 program's 116:5 progress 18:19 20:10 41:17 134:15 177:11 prohibit 232:2 project 3:19 20:13 37:7 70:2 83:6,12 84:8 85:5 106:13 106:16 107:20 108:22 109:6 110:12 111:8 113:10 115:2,16 119:18 122:3 150:14 183:11 228:11 229:8 projects 32:3 45:16 50:10 83:6,14 84:13 106:15 109:4,9 110:6,8 116:22 117:2,2 proliferation 79:12 promptly 225:14 promulgated 17:2 proper 49:7 71:10 72:21 118:15 properly 11:7 proportionality 77:12 proportionately 41:3 proposal 229:22 proposals 129:18 proposed 48:20 49:15 117:11 122:15 127:18 154:12 228:4,10 228:12 231:7 protect 24:2 131:11 protecting 11:10 221:4 protection 12:11 13:5 148:20 198:21	protocols 116:17 198:9 proved 116:13 proven 30:20 provide 5:8 12:10 12:13 31:17 32:16 33:12 34:8,13 35:21 36:10,18 37:18 38:6 78:11 87:22 106:5 110:20 112:10 113:7 117:3,21 119:9,20 124:13 125:22 128:14 137:10 145:22 149:19 152:6 153:22 165:11 182:2 196:11 202:12 203:12 206:1 224:15 225:12 provided 30:2 63:7 107:16 117:7 134:16 172:2 203:17 provides 35:4 36:21 51:12 82:9 82:20 146:6 providing 52:19 155:6 157:3 182:4 223:1 provisions 5:7 47:13 prudence 118:4 prudent 156:22 public 2:20 4:6 5:6 5:9,19,20 6:7,19 9:2,16 10:16 11:10 12:11 15:5 15:16 16:2 22:11 23:12 24:2 25:4 29:21 31:1 119:8 131:12 144:15 147:16 148:21 171:18 176:18 216:4 225:21 228:1,14 229:20	229:22 230:12,14 231:10 233:1 publicly 5:4 pull 179:8 pulling 179:18 pulse 116:8 purpose 23:22 40:8 78:17 160:19 purposes 45:6 112:19 pursue 11:15 29:2 90:14 pursued 28:15 pursuing 28:4 91:11,16 purview 55:16 105:21 117:16 119:14 124:22 134:18 163:19 push 64:22 69:19 77:3 pushing 182:19 219:10 put 17:1 41:6 65:21 66:10 72:10 85:4 96:13 124:8 158:1 160:16 162:2 163:2 176:20 179:3,16 185:21 187:8 191:12 199:15 204:19 232:7 putting 164:15 218:18 puzzled 177:13,14 P-R-O-C-E-E-D... 4:1 p.m 233:18	116:18 212:10 qualify 52:7 quality 48:9 61:9 73:15,15,19 84:20 107:18,19 111:9 111:10,14 115:2,7 118:16 120:14 136:17 158:6 205:6 quantitative 131:18 133:7 quantities 18:7 quantity 148:7 quarterly 94:15 142:14,19,22 143:8,9 quasi 179:1 question 7:11 8:17 34:20 59:11 65:15 69:3,8 71:8 73:13 75:21,22 78:2 81:22 95:21 99:15 100:16 101:3 112:9 116:1 117:11 118:9 119:9 125:14 126:2 127:3 131:5 133:12 134:22 135:15 137:10 139:11 141:4 159:18 160:12,22 165:21 170:9 171:21 176:16 177:12 181:20 182:22 183:20 186:22 187:22 193:1 198:7 203:15 211:16 212:14,20 213:19 213:22 215:1 224:3 226:7 questioning 72:15 72:16 140:14 questions 2:9,13,19 29:6,15 30:6 54:13 86:18 101:11 104:4	105:2 112:8 121:8 144:12 145:18 154:7 158:8 165:5 170:11 175:20 185:9 188:18 189:3 195:4 203:2 204:7 211:14 215:8,11 223:4 225:5,8 quick 65:19 185:10 185:17 186:4 206:17 quicker 190:6 quickly 21:19 160:5 190:2,16 205:9 quite 83:19 84:6 88:6 96:10 99:8 118:2 132:4 144:8 195:20 208:2 quote 23:22 25:13 28:3,10 170:20 180:11 195:7 207:21 quoted 186:16 quotes 175:6 205:21 206:3
R				
			radioactive 18:11 112:1 radiological 30:22 raise 212:20 raised 16:6 228:8 range 105:21 132:6 218:19 rapid 109:7 190:6 rapidity 191:16 192:1 rapidly 17:1,2 rate 45:8,9 rates 44:20 45:4,6 reach 32:10 37:16 92:17 99:6,17 reached 25:22 reactor 67:14 68:2 reactors 12:19 15:7	

79:12	233:12	86:20 148:10	151:10 170:6	176:16 186:16
read 68:7 94:10	recognize 147:9,20	208:1,3 228:22	195:8 210:5	relates 100:14
177:4 181:8 190:7	159:21,22 191:2	reduced 207:22	refreshing 224:17	relating 123:22
203:9	213:15 219:12	210:6	regard 107:4 108:5	relationship 82:3
readiness 15:6 17:4	220:2	reducing 25:18	116:14 118:8	133:17 171:1,3,4
17:7 32:3 34:5	recognizing 70:6	55:15 62:12	122:6 125:3	212:17 225:2
37:11 68:1 107:12	145:11	165:12 178:2	146:13	relative 113:18
158:21	recollection 220:22	204:22	regarding 34:9	relatively 24:16
reading 5:21 68:4	recommendation	reduction 21:7	38:19 130:13	59:4
165:3	8:5,9 10:21 23:14	45:3 83:21 145:15	228:4,9 231:7	released 42:5
ready 68:2 99:8	23:18 25:5 111:22	148:7 163:6	regards 46:19	releases 28:15
101:5 121:7	131:16 179:15,18	reductions 26:2	228:12	relevance 137:14
173:21 174:1,3,4	186:17 215:5	63:4,9 180:13	regime 196:6	relevant 25:9 231:1
reaffirm 148:1	226:19 228:9	redundancy 86:19	regimented 212:8	reliable 171:19
real 224:9	recommendations	117:16 129:16	regional 196:20	reliably 171:11
reality 207:14	11:1 16:8 17:19	redundant 143:18	227:8	reliance 63:17
realize 158:7	17:19 22:17 150:1	Reengineering	Register 5:4 6:5	121:20
realized 160:4	151:16 157:3	13:21	225:19	relied 32:10 126:14
really 66:21 84:21	194:17 203:17	reexamination	registered 6:22	relief 21:4
85:1,5,7 86:14	214:2 232:6	231:22	regular 36:9 94:9	rely 35:13 96:12
101:18 121:15	recommended	refer 168:21	96:20 189:14	97:7 99:5 123:7
137:13,20,21	149:11 166:7	176:12	197:15 199:1	relying 76:19
142:21 164:3	reconvene 7:19	referred 22:22 76:2	201:11	131:11
168:4 193:7 206:8	144:15 233:7	140:14 155:21	regularly 36:15	remain 7:15 180:16
218:4	record 7:14 59:2	referring 156:2	regulate 7:18 233:6	230:1 233:3
realm 132:2,7	71:16 72:10 73:14	182:6 185:4	regulation 16:22	remaining 211:14
real-time 36:11	73:15,16,19 98:17	refine 89:18 153:19	31:12 138:16	remains 108:7
199:17	104:16 109:11,12	refined 152:15	148:3	117:9 121:3
reason 127:9	109:19 140:13	refinements 42:7	regulations 17:6,11	146:17
192:18 200:9	144:1,18,19 145:7	reflect 156:17	18:13 48:6 118:22	remark 82:2
reasonable 22:8	155:18,21 156:1	reflected 145:14	176:4	remarks 2:5,6
131:3	161:17 165:2	reflects 156:15	regulatory 16:17	14:12,14 19:6
reasonably 119:7	172:1 176:1,21	refocus 165:10	28:13 154:2	29:10 42:14 54:18
130:21 131:1,8	183:12 184:5	reform 13:16,21	195:11,12,17	105:18
reasons 96:12	202:18,20,22	14:3 121:16,18	196:3,6 230:3	remember 15:19
rebalancing 40:22	203:1 204:9 216:4	125:16 134:14,14	reinforced 92:13	16:1,2,4 17:10
Rec 152:12	224:17 226:14	134:15 135:10,16	reins 99:4	67:14 98:19 221:9
recall 67:13,18	231:6 233:2	139:16 147:13,14	reinventing 20:5	221:12
69:21 173:19	Recorded 63:17	147:15 151:11	Reinvestment	remembers 17:12
197:17	recording 5:12,14	155:7 159:8	115:21	remind 10:3
receive 94:1,2	5:19 6:2	162:18 166:11,12	reinvigorate	reminded 208:19
received 71:19 81:1	records 177:16	167:16 169:7	217:21	Remote-Handled
150:9 156:16	Recovery 115:20	195:9 196:7	reiterate 7:16	107:13
receives 37:22	194:12	204:10 211:3	233:4	renewables 192:16
receiving 41:3	recruited 218:8	217:10	reiterated 76:11	renewed 192:20
210:1	redirect 124:13	reforms 55:10	related 11:1 38:15	renewing 217:17
recess 7:19 233:6	reduce 8:21 12:21	147:1,4,9 150:3	120:12 124:16	reorganization

52:1	227:15 231:3	resolving 106:14	9:9 10:13 31:2	review 17:15 21:12
rep 114:19 199:15	requested 155:8	107:17	32:19 44:1 51:17	21:15 22:3 33:18
200:12,21 201:2,2	221:12 224:16	resource 116:13	53:4,18 109:10,11	34:7,14,16 35:3
215:22	requests 221:20	200:14 217:14	114:15 116:4	37:3 40:18 44:18
repaired 230:13	require 84:14	resources 21:18	123:15 124:8	53:5,5 68:1 70:7
repairman 221:7	190:12	27:17 32:11 35:21	154:18 182:19	101:6 107:3 110:7
repeat 28:21,22	required 22:10	39:5,12 40:9 41:7	191:15 214:12	111:18 117:5,8
39:1 48:1 85:2	52:6 180:10	42:4 49:3,5 50:7	responsible 28:4	127:9,15,17
86:10	requirement 47:16	57:22,22 58:3	31:6 33:8 40:17	128:15,18 141:19
replace 47:13	148:4	107:20 114:2	57:7,10 63:19	148:15 149:14
Replacement 83:9	requirements 11:2	117:3 119:17	80:13 89:2,2	158:21 162:20
228:5	11:14 19:15,16	124:13,19,21	90:16 91:18	183:10 187:2
replicate 196:7	21:5 28:6,20 31:8	130:1 149:13	105:14 106:6	188:8 189:15
197:8 198:3	31:12,19 32:6	165:13 166:15	108:4,4 109:22	190:7,13 192:7,17
reply 67:10 123:13	33:19 34:11,22	168:14,17 169:13	111:21 113:21	203:13 214:20
214:3	35:2,7,19 37:20	187:9 191:12	117:19 138:9	reviewed 34:19
report 25:9 26:1	38:12 39:6,7 47:7	215:16 216:3	154:21 161:6	70:1 87:19 127:8
64:22 67:7 68:5	47:11 48:16 49:3	218:15,16 221:17	162:16,21 166:12	128:6 192:20
88:13 97:8 155:7	51:1,4,7,10 53:12	222:13 224:15	219:15 229:15	reviewers 157:20
208:21 223:1	109:13,15,20	227:14	restaffing 96:13	159:10
reportable 28:14	120:12 125:11	resource-constra...	restart 15:7 32:4	reviewing 34:5
44:20 45:4 50:1	128:8 139:20	45:19	67:14	87:18
reportables 64:17	140:3 148:10,11	respect 22:6 49:21	restate 136:22	reviews 17:4,7 32:2
65:20	153:15 154:4,19	50:5 85:21 107:18	226:13	32:3,6 34:4,7,8
reported 115:15	163:11,14 173:10	127:21 128:19	rested 31:3	37:7,11,11,12,12
reporting 65:22	180:16 190:8	136:16 138:21	restoration 108:14	40:5 41:11,18,21
66:15 67:15 96:20	192:11 210:5	213:6	restoring 217:17	44:12,12,14 51:11
120:8,22	214:14 218:21	respectful 225:2	restructure 217:12	53:1,3 67:3,4
reports 37:13 66:1	requires 26:16	respectfully 145:13	result 38:10 40:21	69:15 70:2,14
66:12 67:21 68:8	28:19 47:11 49:7	231:2	57:21 76:3 87:21	87:3,5,7,9,11 88:2
88:11 102:12	49:11 65:10,11	respective 46:9	154:13 155:15	88:16 89:4,12,12
107:6 149:10	72:5 87:16	respects 22:19	160:10 186:4	93:22,22 94:2,15
168:9,11 169:17	reread 25:2	respond 82:8	resultant 228:19	106:16 107:12
197:2	research 51:14	198:13,15	resulted 15:12	109:1,2 110:13
represent 105:8	83:8 228:5	response 8:5 23:17	38:18 39:10 54:5	115:17,18 127:18
146:19 196:4	reserve 138:13	30:4 72:6 232:20	56:17	128:3,11 129:1
representation	141:10 143:6	responses 94:22	resulting 22:9 39:4	136:18 142:11
230:22	reserves 7:17 233:4	responsibilities	results 26:6 43:16	143:18 148:2
representative	reset 179:19	25:15 30:19 35:15	50:12 121:1 151:8	149:6,20 151:16
207:6	resident 197:16	38:20 40:11 46:16	194:19	152:21 153:2,10
representatives	199:12 200:4,6,9	50:22 51:1 104:18	resume 15:7 41:13	153:13 159:16
24:7 33:5 114:13	200:11,13	114:17 120:20	retain 48:15	169:9,11 187:13
114:18 130:4	residents 232:13	126:20 139:2	retained 48:22 96:2	203:16
reps 92:19 114:13	resolution 20:3,21	172:15,17 198:1	retirements 217:20	revised 43:11 157:6
130:3 201:3	109:7	208:18 209:5	return 22:20	162:22
reputation 99:11	resolve 20:1 136:15	216:16 220:12	rev 110:11	revision 122:9
request 145:4,10	resolved 229:1	responsibility 8:12	reveal 66:6	176:5 213:20

revisions 21:3 51:6 51:8	129:21 130:1 231:20	run 78:10 222:5,16	50:12,15 51:1,4,7 51:10,12,14,18,21 52:3,5,7,12,13,15 53:1,9,20 54:20 55:2,4,10,16 56:22 57:2 58:14 59:12,14,16,16 61:22 62:3,6,15 62:15,21 63:3,5 63:10 64:2,16 65:7 67:18 68:6,6 70:20 71:12,21 75:3 76:12,13,13 76:17,20,22 78:20 79:2,10 83:2 89:5 90:1,18 91:11 92:3,4,7,22 93:2,3 94:3,15 97:22,22 98:4,13,21 102:10 102:17 103:11 104:20 105:10,12 105:15,16 106:10 106:18,18,21 107:1,4,4 108:12 108:15 110:15 112:5,17 113:9 114:14,17 115:5,6 115:14 118:11,15 118:19,21 119:2,7 120:17 121:6,16 121:17 122:4,16 125:3,11,16,22 128:13 130:3,12 130:20,21 131:12 131:15,15 132:11 138:19,22 144:3 145:2 146:1,2,13 146:16,20 147:3 147:10,13 148:6 148:12 149:14,14 149:21 150:8 151:6,11,13,21 152:3 154:3,11,15 154:19 155:1 163:4,5 164:1 165:12,17,18 166:13 168:18	169:9 170:15,17 172:1,10 173:8,10 173:22 174:8,11 175:8 180:12,15 183:10 194:15 196:11 203:6,20 204:22 205:22 206:4,7,11,12,21 207:1,6 208:1,13 208:16 210:4,14 212:6 215:17,22 216:10,18 217:3,6 217:14 218:21 219:7 220:10,13 220:14 221:10,13 222:1 228:1,14,18 229:3,16 231:9 232:7 233:12,18
Richard 1:15,21 4:16 104:19	River 42:2 67:21 69:16 141:21 171:10 176:19 198:20,21	rush 185:15 rushing 180:2 Russell 165:8 Russo 65:2 68:7,22 94:13,20		
right 4:12,13,20 7:17 27:16 41:16 55:12 58:5 61:4 66:3,8,17,21 69:10 70:17 77:18 84:1,8,12 93:19 95:16,16 103:1,20 108:7 109:8 121:18,21 125:20 128:20 138:13 141:10 143:6,10 174:9 182:14 183:15 188:15 192:5 202:3 205:12 206:16 213:5,5,7 222:3 233:5	Roberson 1:14 4:13 27:5,6 29:8 67:12 97:13,14,17 97:20 101:9 134:7 134:8,21 135:8,14 136:6,21 137:5,9 137:16 138:11 139:6,8 141:8 189:4 194:22 195:1 198:5,11 199:21 200:1 201:21 220:17,18 223:2 225:3	S S 1:9,12 sacred 230:18 sacrifice 205:6 216:9 safe 26:10,22 59:18 90:14 91:17 147:7 151:1 171:20 193:17 206:5 229:9 230:7 safeguard 185:18 safely 12:14 80:16 103:6 safety 1:3,22,24,25 2:11,14,18 3:19 4:5,9 5:10 8:12,21 9:3,21 10:16,19 11:22 12:6,10 13:15 14:4 15:11 17:16 19:22 20:17 20:18 22:7,12 23:13 24:8,15 25:17,19 28:5,11 29:3 30:18 31:3,8 31:11,19 32:5,8 32:19 33:7,10,19 33:21 34:4,7,11 34:20,21,21 35:2 35:4,7,9,12,15 36:4,6 37:2,3,6,12 37:19 38:2,4,7,12 38:22 39:1,7 40:13 41:11 42:16 42:20 44:18,19,21 45:15 46:1,2 47:1 47:4,8,9 48:2,8,12 49:4,9,11,13,17 49:20,21 50:4,5,9		
rights 216:15 rigid 17:3 rigor 110:12 132:1 159:20 162:9 191:18 196:13,17	robust 54:9 56:15 84:10 93:4 119:11 146:17 174:17 robustness 56:15 rocket 71:13 Rocky 15:8 221:9 role 9:22 11:9 13:11 19:3 27:21 29:3 43:9 67:19 86:16 102:17 131:17,19 137:13 145:22 154:2 170:19 215:21	run 78:10 222:5,16 running 160:2 224:14 rush 185:15 rushing 180:2 Russell 165:8 Russo 65:2 68:7,22 94:13,20		
rigorous 28:1 121:3 132:20 147:11 151:13 154:18 161:21 163:4 180:16 189:14	robust 54:9 56:15 84:10 93:4 119:11 146:17 174:17 robustness 56:15 rocket 71:13 Rocky 15:8 221:9 role 9:22 11:9 13:11 19:3 27:21 29:3 43:9 67:19 86:16 102:17 131:17,19 137:13 145:22 154:2 170:19 215:21	S S 1:9,12 sacred 230:18 sacrifice 205:6 216:9 safe 26:10,22 59:18 90:14 91:17 147:7 151:1 171:20 193:17 206:5 229:9 230:7 safeguard 185:18 safely 12:14 80:16 103:6 safety 1:3,22,24,25 2:11,14,18 3:19 4:5,9 5:10 8:12,21 9:3,21 10:16,19 11:22 12:6,10 13:15 14:4 15:11 17:16 19:22 20:17 20:18 22:7,12 23:13 24:8,15 25:17,19 28:5,11 29:3 30:18 31:3,8 31:11,19 32:5,8 32:19 33:7,10,19 33:21 34:4,7,11 34:20,21,21 35:2 35:4,7,9,12,15 36:4,6 37:2,3,6,12 37:19 38:2,4,7,12 38:22 39:1,7 40:13 41:11 42:16 42:20 44:18,19,21 45:15 46:1,2 47:1 47:4,8,9 48:2,8,12 49:4,9,11,13,17 49:20,21 50:4,5,9		
rigorously 19:4,17 192:20	roles 25:11,14 38:19 40:11 46:15 172:14,17 209:5	run 78:10 222:5,16 running 160:2 224:14 rush 185:15 rushing 180:2 Russell 165:8 Russo 65:2 68:7,22 94:13,20		
risk 10:1 11:19 15:14 25:18 43:14 57:19,20 58:13,19 59:4 82:18 83:21 90:22 91:1,20 93:8,9,11,14,16 125:7 131:15,17 131:18 132:2,4,14 132:21 133:5,9 152:17 153:10 165:11,13 227:22 228:22 229:12,17	room 1:9 5:21 6:18 135:1 232:18 root 139:3 rooted 12:18 rose 73:2 roughly 37:3 45:17 round 109:2 routine 33:12 136:18 routinely 182:2 rule 17:3 119:6 rules 12:10	run 78:10 222:5,16 running 160:2 224:14 rush 185:15 rushing 180:2 Russell 165:8 Russo 65:2 68:7,22 94:13,20		
risks 18:5 91:21	rules 12:10	run 78:10 222:5,16 running 160:2 224:14 rush 185:15 rushing 180:2 Russell 165:8 Russo 65:2 68:7,22 94:13,20		
		S S 1:9,12 sacred 230:18 sacrifice 205:6 216:9 safe 26:10,22 59:18 90:14 91:17 147:7 151:1 171:20 193:17 206:5 229:9 230:7 safeguard 185:18 safely 12:14 80:16 103:6 safety 1:3,22,24,25 2:11,14,18 3:19 4:5,9 5:10 8:12,21 9:3,21 10:16,19 11:22 12:6,10 13:15 14:4 15:11 17:16 19:22 20:17 20:18 22:7,12 23:13 24:8,15 25:17,19 28:5,11 29:3 30:18 31:3,8 31:11,19 32:5,8 32:19 33:7,10,19 33:21 34:4,7,11 34:20,21,21 35:2 35:4,7,9,12,15 36:4,6 37:2,3,6,12 37:19 38:2,4,7,12 38:22 39:1,7 40:13 41:11 42:16 42:20 44:18,19,21 45:15 46:1,2 47:1 47:4,8,9 48:2,8,12 49:4,9,11,13,17 49:20,21 50:4,5,9		
			schedule 7:17	

41:19 94:19	118:3,20 121:14	220:10,13 222:2,6	78:14 79:9 80:2	shaky 200:13
113:19 115:11	122:9,22 123:3	see 83:10 98:10	93:2	share 63:2 128:18
142:19 233:5	124:20 125:15,17	99:9,16,16 100:10	sense 160:10	150:22 210:2
scheduled 33:20	125:17 127:13	100:10,11 101:7,8	161:10,11 190:20	225:13
36:15 69:16 97:1	133:18,19 134:13	101:8 102:2 109:5	191:1,3 206:15,17	shared 62:7,17
schedules 39:14	134:16 135:10,21	121:12,15 122:9	206:19 210:9	sharing 224:18
40:19	147:1,18 156:21	127:9,13,17,22	sent 15:10 76:3	sharp 79:16
scheduling 114:1	157:4,5 163:10	129:20 131:17	202:6	sharpen 89:16
115:9	169:15 170:12,21	136:22 157:19	sentence 23:21	sheet 6:18
scheme 223:15	171:14,22 172:6	159:9 171:15	SEN-3591 28:2	shift 8:12 43:18
science 111:13,15	172:12,19 173:4,8	177:13 178:11,16	29:2	100:18 124:19
111:16 191:9	173:12 174:16,16	178:18 184:19	separate 88:8	shifting 44:15
207:7 214:7,21	175:5 176:22	186:8 190:11	90:19	ship 124:21
222:3	177:2 181:4	194:3 199:4	separated 59:16	shopping 126:18
scientists 60:11	182:16 193:13,14	211:17 219:19	78:22	short 172:9 185:14
scope 115:12	193:22 194:1,6	224:20,22	separately 90:8	shortage 83:5
119:13	204:10 205:13,21	seeing 59:3 232:21	separating 76:14	shorten 219:21
score 66:2	206:4,20 207:5,13	seek 39:18 149:6	separation 57:6	shorter 152:20
scores 70:5	207:19,22 208:22	196:7	sequence 26:8	shots 72:22
screw 74:3	209:4,21 214:13	seen 55:20 57:8	series 8:2 15:12,15	show 83:11 155:13
searching 193:9	217:12 223:14	170:4 176:22	230:20	157:6
seated 4:16,19	Secretary's 13:14	219:10	serious 171:9	showed 88:6
second 8:1 42:1	90:12 112:22	seismic 108:19	seriously 155:2	shown 44:19
69:3,20 99:15	134:20 137:19	110:21 111:3,5,7	serve 27:10	shows 87:15
102:19 116:1	139:16 147:3	144:1 228:16	served 14:20 56:7	shuttle 25:6
149:9 152:14	162:5,17 170:14	229:16 231:9	160:3	side 3:12,14 32:18
160:7 177:12	170:16 172:18	seismically 228:21	serves 35:11	56:21 57:20 61:3
190:21 192:22	section 215:17	selected 37:12	service 52:9	96:1 100:13 123:3
198:6 229:19	sector 10:14 25:17	selection 51:13	Services 14:21	136:3 142:4
secretarial 27:13	secure 90:15 91:17	self 8:15	serving 24:9	sign 6:21
112:15 122:20	147:7	self-assessment	session 78:20 79:10	signals 76:3,8
Secretaries 16:15	securely 80:16	31:15	80:17 108:12	signed 7:1
16:15 163:9,9	security 1:20,24,25	self-assessments	sessions 79:17,20	significance 49:20
182:20 214:12	2:18 8:4,11 11:11	31:22 32:17 34:1	set 28:6 42:20	120:7
216:16 219:11,12	13:16 24:3 29:13	168:12	47:16 55:14 62:11	significant 9:14
223:11,22	30:17 38:2 40:14	self-regulation	64:6 77:11 82:20	10:18 30:22 35:8
Secretary 1:22	41:8 46:6 53:9	12:8	84:10 90:2 91:14	36:14 46:22 50:13
2:12,15 16:14	55:2,17 56:9	SEN 67:12	91:16 118:12	53:22 54:20 80:18
21:2 28:2 50:21	74:10 79:1,2,11	Senate 14:21	122:5 123:21	117:19 121:16
51:15 55:14 62:8	94:4 115:5 122:17	Senator 165:8	138:5 187:16,18	132:8 136:3
62:9,18 63:1,2,2	145:3 146:1 147:4	167:18	setting 28:9	153:18 180:13
63:11 76:5,11	147:13 148:12	send 94:9 184:4	settings 36:16	significantly 61:20
85:4 96:2 104:16	150:9 165:17	202:17	seven 145:5 167:13	85:11 210:6
105:8 106:12	166:13 169:10	sending 206:16	188:2	sign-up 6:18
108:22 109:3	174:1 185:19,22	sends 65:5	seventh 5:21	Silverman 221:10
111:18 112:14	194:15 208:16	senior 52:7,9,11	severe 143:15	similar 46:8 49:22
116:22,22 117:7	216:13 217:15	68:6 78:3,7,7,10	shadow 34:1	115:8

Similarly 53:17	136:20 152:10	39:17 178:8 215:2	192:21 193:1	standing 119:6
simple 139:19	166:22 169:17	soon 88:12	sponsor 99:1	standpoint 84:9
simplest 14:7	174:18 196:20	sorry 204:12	sponsored 108:10	99:18
simply 41:20 48:15	197:13,21 198:2	sort 16:17 75:21	sponsoring 110:15	Stanford 222:3,4
136:4,7	200:16 220:2	185:12	spot 25:19 78:8	stark 10:9
simultaneously	224:11,21	sound 19:13 45:15	stack 163:11	start 32:4 61:2 91:4
25:18	site-specific 115:10	85:15 90:15 91:17	staff 1:15 4:21	102:9 138:20
sincerely 126:17	Situ 111:22	100:1	14:21 51:17,22	170:11 175:22
232:11	situation 14:11	sounded 84:4	52:18 53:5,15,16	started 42:1 58:22
single 96:13 131:11	22:5,20 63:7	sounds 91:7 132:12	53:21 86:15 96:14	67:11 89:9 98:15
sir 59:11 65:17	127:12	Source 111:7	96:18 97:8 106:2	99:4 109:1 110:9
67:7 74:21,22	situations 32:9	sources 150:10	108:4,20 111:12	158:15 167:3
77:18 82:4 84:4	35:8 37:14 38:7	203:20	112:18 113:22	218:5 224:6
86:3 91:10 95:19	190:9	so-called 83:3	114:4,6,8 116:12	starting 67:16
102:6 104:2,6	six 12:16 41:20	space 25:6,12 186:2	116:18 128:10	151:9
169:1 181:16	67:5 69:12 123:22	spare 183:7	133:21 144:3	starts 31:10 92:11
183:3 184:2	124:1 166:5	speak 6:13 7:3	158:4 159:6	200:14
sit 94:19 127:16	179:10 181:21	54:11 63:21 126:2	178:17 179:16	startups 107:9
site 20:14 32:22	212:15	175:5	186:19 187:15	state 6:15 15:11
33:1,2,14,17,22	sixth 110:19	speakers 6:9,14,15	188:6 191:11	19:14 98:4,7
34:12 35:10 36:13	six-month 13:18	26:19 126:13	202:5 207:4,18	105:19 109:13
36:16 37:4,17	39:22 69:17,20	speaking 189:9	208:13 209:8	151:10 203:1
40:2 42:2 43:21	71:19	special 145:10	210:7 224:11	217:11
45:16 46:4,5 53:5	skeletal 206:22	180:12 218:2	staffing 30:16	stated 6:5 167:18
53:6 59:2 60:1	skeleton 206:6,12	specific 21:5 34:14	51:12 54:5 119:11	198:8 225:19
61:19 70:14,18	skip 154:7	36:20 42:18 75:22	119:12	statement 2:7,10
72:4 87:15,16	SLAC 222:3	86:21 112:8	staffs 68:5	2:17,21 26:15
92:18,20 99:20	sliding 67:5	117:13 127:3	staff's 160:1	102:15 162:13
112:14 113:6,7,10	slight 143:21	129:18 147:16	stages 128:21	172:3 179:2
114:3,7,16 115:14	slip 41:20	158:12 185:8	stakeholder 148:15	183:21 184:7
116:6,9 117:21	slowing 160:11	186:22 188:7,16	212:21	189:8 191:15
141:21 142:9,14	slowly 21:16	195:5 196:6,10	stakeholders	231:5,13 233:1
142:20 143:9,9,13	small 24:16 54:6	198:1,2 205:14	151:17 155:3	statements 2:20 7:4
152:5,9 153:18	112:17 168:21	228:9	178:7 213:1,4,14	16:17 76:2 83:1
168:3 173:21	smaller 152:19	specifically 188:11	stand 101:13	156:21 173:2
174:2 197:12,16	smarter 169:13	specificity 22:8	127:10 218:10	187:7 226:1
197:22 198:9,18	192:9	specified 21:14	standard 20:16	states 1:1 18:9 28:2
198:22 199:2,11	smartly 130:15	speech 25:2	44:2 62:11 110:7	28:10 111:7 165:9
199:17 200:4,11	smoking 189:22	speeches 173:3	standards 16:11,16	165:16 227:2
200:13 201:4	soft 193:7,12	spend 33:5	17:6,16,20,21	statistics 45:11
209:6 211:16	software 111:10,13	spilled 56:19	18:13,15 43:1,22	63:18 65:21
219:13 224:12	solely 18:7 148:9	spirit 29:2 166:6	47:12 71:8,9,11	status 118:8,13
sites 32:15 43:5	solve 20:6 27:16,17	173:4,5 209:13	71:12 72:12 73:3	statute 17:15 213:3
46:9,14,17 47:20	somebody 94:12	split 102:19 175:21	73:4,17 109:14	213:11
50:8 52:21 69:15	96:9 122:21	splitting 142:6	115:7 119:16	stay 179:7
70:6 100:9 106:3	194:18 221:8	spoke 145:12	126:15 147:7	staying 215:19
115:8,22 123:5	somewhat 31:16	spoken 101:15	148:12 176:7	stead 18:22

steering 148:16	107:3 127:7	220:20 221:5,6,15	114:14,17 120:18	82:12 86:19
step 58:12 146:19	147:11,17 162:18	222:15	130:3 179:17	102:11 124:12
stepping 99:14	176:4 195:10	supported 75:9	189:13 192:19	126:14 131:14
steps 43:3 46:7	subjective 65:12	111:14 114:12	193:18 202:2	137:12,13 160:21
153:17	132:15 133:7	supporting 48:21	205:1	168:16 173:1
stockpile 79:11	subjectivity 65:9	111:6 130:7	systematic 28:16	174:10 189:5,8
stories 15:16,20	subjects 7:10 226:6	227:18	32:1 33:15 37:1	208:22 211:1
16:2 17:8 176:17	submit 159:9	supports 11:17	64:16 68:14 130:6	223:8
straight 101:3	submitted 146:4	124:20	systematically 33:6	talking 56:1 63:14
strangling 211:7	Subsequent 44:18	sure 54:16 58:10,12	systems 11:13,18	69:21 89:5 171:14
streaming 5:18	substantial 150:9	59:9 64:6 83:10	14:8 32:8,8 33:10	173:5 204:11
streamline 41:15	217:6	84:7 88:19 89:6	34:7 46:1 80:15	215:19 220:6,8,9
219:20	success 21:4 117:2	95:6 100:17	121:21 123:9,12	221:14
streamlined 193:18	successes 158:17	103:12,17 154:8	123:16 124:5,9	target 193:7,13
streamlining 39:19	successful 10:22	157:22 159:15	125:19 200:20	targeted 32:2
strength 38:8,14	200:12 201:3	160:19 161:7		113:17 152:17
116:6 130:12	successfully 162:1	167:8 174:3,4	T	153:9
strengthen 110:11	sufficient 130:11	175:16 177:22	table 6:17 163:12	targeting 152:10
110:22 164:4	131:10	178:1 180:1 186:6	tailored 115:12	task 49:6
205:18,19 210:18	sufficiently 72:18	186:14 187:12	take 10:20 18:20	tasking 106:11
strengthened 83:11	151:13	196:12 197:7	20:4 22:13 24:17	taught 27:14
162:3	suggest 104:21	199:6 201:10	42:21 46:7 59:2,4	taxing 217:8
strengthening	suggested 162:6	210:16	59:6 61:22 68:21	taxpayers 178:15
11:18 13:3 105:13	suggestion 208:2	surprise 79:20	71:15 94:13 102:8	TA-55 231:21
105:15,16 106:13	suggestions 127:7	surprising 17:13	115:7 130:6,14	232:3
111:3 149:16	129:18	surrounding	133:5 137:2	team 53:5,10 87:14
strengths 30:10	suggests 14:2	227:19 229:13	140:21 144:13	88:8,9 107:21
116:2,15	192:17	suspended 40:17	162:16,19 172:20	168:21
striking 58:4	Suite 1:9	41:10	175:5,14 179:22	teams 15:10 83:6
strong 9:21 19:19	summarize 154:9	suspending 40:8	185:20 187:3	83:12 114:6
24:21 44:17 55:4	summary 68:8	suspension 41:12	191:15 192:4,16	119:18 152:19
97:22 98:17 99:11	Sunshine 5:7	sustain 98:11,12	233:12	167:11,12
180:11,18 208:4,7	supervisors 31:6	sustainable 174:7	taken 37:15 43:3	technical 1:16 4:18
208:12,16	supervisory 31:9	sustained 175:2	52:2 54:4 73:11	7:9 16:16 24:6,17
structural 223:6	supplement 114:5	sustaining 169:22	76:8 81:16 123:4	26:5 30:15 34:21
structure 8:19	200:21	170:4	145:15	37:6 50:19,19
25:14 194:2	supplemental	sustainment 100:4	takes 52:17 157:7	51:21 52:6,7,21
214:10	231:4	synthesized 87:1	180:11	53:19 70:17,20
structured 136:5,8	supplemented 75:8	system 9:18,21	talk 78:17 79:15	78:12,14 105:9
195:17	support 32:14 36:6	13:2 14:1 15:17	81:19,19 84:6	106:5,14 107:22
structures 190:9	39:9,12 50:14	17:3 19:13,18,20	105:17 133:13	108:7,9,11 109:7
studying 110:4	51:17 52:10,16	20:22 21:3 22:6	134:2 135:4,5	109:8 110:4
stuff 61:2 91:1,1	53:22 74:9 86:17	22:18 24:8,15	137:16 175:7	112:16 116:20
178:4 223:14	87:16 106:5 108:8	33:8,16,17 44:11	189:18 215:14	117:6,18 131:7
stymie 19:21	117:4,6 119:10,12	55:4,7 56:6 66:1	223:21,21	139:2 141:22
subject 32:16 33:11	133:2 139:3	71:5 72:20 77:7	talked 55:19 65:3	142:3 179:10
53:6 54:1 86:1	141:22 164:7	99:20 100:1	76:10 77:3 80:4,6	203:3 226:5

231:19,21	163:21 167:20	88:22 94:17 95:3	184:12 190:5	42:4 50:2 56:13
technically 24:22	180:6 181:21	102:8 108:6	193:2 194:21	60:22 65:15 78:8
26:9,21 218:7	189:18 190:5	150:17 166:20	199:13 205:11,17	86:2 100:7 101:11
technically-capable	192:22 193:2,4	168:15 174:9	206:2,9 208:11	102:20 104:5
11:3	195:7 198:8 201:1	182:16 183:7	209:10,15 210:3	105:2 109:17
technologies 46:6	203:7,19 215:13	186:21 189:14	210:13 212:18	110:19 123:5
216:15	218:18 220:21	197:7 205:2	213:3 226:12,16	125:6 126:2
technology 190:10	225:7,12,14 228:6	209:18	226:22 227:17	133:22 134:2
194:13 216:13	232:17	things 57:4 59:20	thinking 60:13	139:10 140:8
tee 90:12	testing 118:17	60:10 62:1 65:5	88:21 128:3	154:6 160:2
teleconferences	TEWA 230:9	66:22 68:13 71:9	142:10	166:17 167:12
36:15	Texas 10:3	72:22 78:6 81:18	third 16:9 110:14	171:7,14 172:16
tell 47:16 68:12	thank 14:16 19:7	89:11 91:17,19,20	117:11 149:22	173:9 188:12
100:8 170:22	19:10 23:4,7 27:3	101:13 169:14	153:9 160:8	194:21 205:3,6
174:22 193:20	27:7 29:5,7,17,20	170:12 171:10	190:21 225:9	209:10 219:21
196:12 210:7	54:10,14 65:18	175:11 182:18	third-party 44:11	221:11 225:11
215:20 221:19	69:11 74:15,17	185:18 191:2,8	Thirty 187:5	226:3 232:4
229:14	82:4,7 86:4,8,13	196:22 199:7	Thomas 1:19 29:12	233:13
tells 79:22	89:20 93:12 97:11	201:19 203:18	thorough 21:15	timely 5:8
tempered 191:3	97:14,16,17,19	205:8,10 209:19	187:20,21 191:20	times 3:9 15:13
temporary 41:12	103:21 104:1,6,7	214:2	thought 55:6 56:2	17:9 19:4 45:10
ten 84:11 144:13	104:13,14 105:5	think 16:6 54:22	85:19 98:21 103:4	63:22 101:16
165:17 166:8	121:9 122:13	57:15 60:16 62:9	103:8 123:9,10	119:8 140:13
188:14 219:18	123:6 126:8,9,11	63:6 64:1,13	136:22 193:11,12	165:15 169:9,16
tend 66:10 78:22	127:1 129:9,11,13	65:15 67:10 68:15	193:15	169:19,20 173:13
79:1	130:17 131:13	69:2 70:15 71:15	thoughts 19:12	173:18,20 176:20
tendency 60:8	133:11 134:5,8,10	72:5 74:12 75:19	62:8 128:17	177:21 181:14
term 100:20 212:21	139:6,8 140:9,21	77:3 81:6,17 82:8	three 16:7 96:21	195:6 197:5
terms 14:7 121:19	140:21 144:11	84:14 85:6,16	106:22 110:10	TIMOTHY 1:16
123:10 125:10	145:9 157:13	86:5 88:2,17,18	112:13 127:6	title 6:15
128:2,22 131:6	161:15,18 164:18	90:10 91:3,15	138:17 146:22	titled 23:20
136:11 170:6	180:7 181:12,16	92:2 96:22 97:10	152:3 169:8	today 4:10 9:11
178:19 186:22	181:17 188:18,20	100:15 101:2,13	196:19 202:7	16:20 25:10 26:19
204:20 206:4	195:1,3 202:13	102:4,10 103:21	203:2 214:11	54:11 56:3 63:14
210:17 216:8	203:14 204:2,3,4	104:12 118:2	220:11	96:3 97:18 102:11
terribly 172:7	205:7 207:20	123:7,14 124:7,20	three-day 108:13	131:18 204:11
Test 61:19	211:10,12 212:15	128:19 129:8	three-quarters	205:16 206:9
testify 226:18	215:11 220:15	131:19,21 132:8	55:17	209:19 210:14
testimony 6:8	225:3,6,8,17	133:8 136:2,14	throat 211:6	225:7 226:18
23:10 29:14 54:15	226:17 232:4,15	142:6 147:18,22	throw 229:15	228:7
56:19 97:18,20	232:16,17 233:15	150:16 158:9	tied 59:20,21	today's 5:3 8:1
103:22 105:4	Thanks 64:12	161:19 162:4,11	tiger 15:10	104:17 231:2
112:8 121:10	175:19	162:22 163:16,21	Tim 4:19 203:3	toes 89:8
129:14 134:11	theirs 180:9	164:9 171:13	time 6:21 7:7 15:4	told 80:21 163:1
137:12 140:22	theme 165:14	174:10,16 175:13	15:18 18:2 20:4	172:19 174:22
143:22 144:2,11	thing 59:8,17 68:12	177:17 178:7,20	21:8 22:14,15	188:9
145:7 146:5	68:19 83:16 88:17	180:2 183:8	23:3 29:6,11 33:5	Tom 165:7

tool 20:9 118:10
 219:10,13 220:3
tools 190:10
top 177:18
topic 9:3 79:18
 220:19
topical 197:6
topics 113:21
 120:21 167:22
total 16:9 44:20
 45:4 50:1 61:18
 63:17 223:15
TOTB 227:17
touch 60:17
touched 161:20
toxic 227:21
track 49:21 50:2
 59:2 70:13 98:17
 182:1
tracked 49:22
 217:3
trades 49:8
traditionally
 165:19
train 35:16
training 16:12 26:5
 34:17 66:20 100:4
 108:10,12,16
 111:11 120:9
 158:20 177:18,20
 212:9
transactional 33:16
 47:6 55:22 122:17
 166:2
transcript 5:13,18
transferred 25:15
 44:1
transition 43:4
 45:1
translate 91:15
transparency 44:9
transportation
 48:9
Transuranic
 107:14
travel 60:10
travesty 201:7

TRC 45:4,6,7 63:18
 95:13
treatment 20:13
 33:9 107:17 117:9
tremendous 161:11
trends 153:11
Tribal 230:8
tried 130:6
trips 67:20
trough 24:3
true 56:10 96:3
 168:22
truly 48:20 195:14
 195:21 196:3
trust 208:5
try 76:14 86:17
 89:15 112:3
 123:17 133:5
 142:22
trying 86:20 88:8
 129:1 136:11,15
 193:5 210:18
 218:14 219:20
turn 99:3
turned 224:7
twice 87:19 165:18
 169:10 192:4
two 57:13,16 58:12
 66:22 67:6 70:5
 76:14 89:11 90:20
 94:5,18 96:21,21
 100:9 111:12
 127:20 135:4
 141:17 169:6
 172:13 175:21
 189:2 196:19
 205:20 219:20
 220:1,3 228:2,13
two-and-a 110:9
two-day 78:2,5
 79:9
type 44:12 122:18
 136:18 162:8
 166:9
types 60:18 88:15
 116:16 120:19
 124:14 132:8

164:1 166:2
typically 64:3 94:1
 143:15 152:19

U

ultimate 28:10
ultimately 40:13
 42:13 57:19 76:15
 77:12 82:17 89:9
 89:15
unable 104:17
unambiguous
 129:4
unaware 159:7
unbeknownst
 158:21
uncertainty 102:3
unchanged 47:2
unclarity 85:22
unclear 21:11
uncomfortable
 96:16
underpin 17:16
Unders 223:21
understand 9:17
 29:1 76:5 86:22
 101:14 102:9
 104:13 121:12
 135:1,2 147:20
 154:17 156:1
 163:17 170:14
 190:3 199:2,16
 202:19 203:9
 223:2 224:13
understanding
 35:18 53:12 79:22
 85:16 127:4 181:7
 188:5 197:14
 204:16,18
understood 76:1
undertaken 13:3
 115:21
unfortunately
 104:10 119:3
uniform 35:17
 53:12 163:22
uninformative

66:13
unintended 148:20
 186:7
unintendedly 161:8
unions 150:13
unit 20:13
United 1:1 111:6
 227:2 230:9
university 222:5
unjustified 232:8
unnecessary 125:7
 229:2
unpredictable
 39:11
unquote 21:6
unrealistic 187:19
unstable 228:21
unusual 35:7
update 94:14
updates 94:9
UPF 83:7
upgrades 45:22
Upper 10:8
ups 227:20
uranium 20:12
 83:7 107:10
urgency 160:11
 190:20 191:1,3
urgent 147:6
usability 148:10
use 12:3 30:10 33:4
 43:21 44:10 50:6
 66:21 93:15,20
 96:11 99:3 125:20
 133:8 148:13
 184:1 200:20
 210:15 216:2
 222:11,22
useful 126:10
useless 215:6
uses 49:19 53:3
utilities 66:20
utility 138:18
utilizing 168:13
 169:13 174:18
utmost 125:4
U.S 114:10

V

validate 11:22
valuable 27:21
 116:13 162:11
value 28:8 45:20,22
 52:19 64:19 70:14
 81:17 82:21 148:3
values 65:4
vandalism 222:7
variety 33:3,11
 74:9 80:9 82:13
 115:13 116:16
 153:2
various 60:2 74:8
 128:8 130:2
 178:19
variously 185:10
vary 31:16
vein 223:8
velocity 107:22
 141:18
ventilation 72:20
verbal 81:6
verbally 103:13
verbatim 5:13
verification 32:5
 99:19,22
verify 11:22 208:5
version 183:11
versus 71:5 188:1
vested 32:20
veterans 170:21
Vice 1:12 14:14,16
 65:18 66:4,9,18
 67:2,8 69:4,7 71:7
 71:22 72:7,11
 73:9,12,20 74:15
 126:8 130:17
 140:11 175:19
 176:10,15 177:3,6
 177:10 180:5,22
 181:5,19 182:7,9
 182:13,21 211:12
 212:2,12 213:17
 214:18 215:3
video 5:14,17,19
 6:2

view 9:8 38:15 41:6 56:14 57:4,13,16 74:6 76:9 80:22 92:2 119:22 122:6 181:4 206:21	205:10,18,19 206:14 210:2,6 212:15 213:2 217:11 218:11	weakness 38:15 57:15,16	179:19,20,22 180:1 185:15	162:14 163:16 164:18 165:4
viewed 210:10	wanted 138:1 183:7	weaknesses 30:10	186:12,12 189:22	168:19 169:3
viewing 5:20	186:21 194:16	56:14 116:3	196:22 201:11	170:8 175:4,17
views 9:12 145:22 213:8	201:16 204:8	117:20	208:11 210:17	176:16 183:1
vigilance 197:1	220:19	weapons 5:11	219:10,20 220:1,8	188:19 200:2
vision 151:10 200:3	wanting 89:6	227:4,13	220:9 221:14,15	202:21 204:4
visit 199:3 224:6	124:12	website 6:3 185:22	224:3,4,9,14	205:7 207:15,20
visits 142:14,20 143:9,9 152:20 153:18	wants 62:10 202:15	WEDNESDAY 1:5	229:19	209:17 211:10
vital 9:6 11:19	War 172:2,11	week 78:4 86:11	we've 16:9,10	215:9,12 220:17
13:11 32:8 33:10	warming 191:10	94:11 96:22 97:1	18:18,19 55:20	225:6 232:16,21
34:7 53:13 147:5 159:3	194:13	weeks 94:18 127:20	56:13,15 57:17,17	wins 185:10,17
vividly 67:13	warned 147:21	172:13	77:3 80:6 82:12	186:4
volume 148:8	warrant 36:7 38:7	week's 117:8	82:13 101:15	wish 6:13,19
vulnerability 161:8	warrants 231:22	weigh 214:19	107:8 108:3,10	126:12 232:19
	Washington 1:9	weight 49:14 65:22	111:2,12 126:13	wishing 7:2
	71:6 87:4	welcome 6:6 29:11	163:21 165:14	witness 144:14
	wasn't 63:13	105:3 144:22	167:2,3,4 168:6	145:1 160:21
	124:17 171:18	145:8 225:20	169:16,17,18	225:9
	188:7,10 197:19	welcomes 122:22	174:9 189:5 197:5	witnesses 180:8
	waste 20:13 107:14	well-considered	198:18 210:13	187:7 224:1
	107:17 117:9	19:19	217:5 218:5 222:8	Women 230:9
W	wasteful 232:9	well-noticed	wheel 20:5	wonder 73:3
W 1:13	watch 18:22 76:7	230:21	wholesale 192:16	133:15
Wagner 101:7	230:8	went 25:21 133:12	wide 28:9 132:6	wondering 132:19
waited 99:10	watching 70:19	135:15 144:18,19	wider 153:2	190:14 215:15
169:19	95:7	189:21	widespread 15:5	word 99:3 103:5
waiting 175:3	water 29:18	weren't 138:12	willing 229:11	words 66:15 91:15
197:2 215:6 221:8	Watkins 15:10	West 107:13	winning 56:6	91:16 212:15
walk 114:16	way 10:7 39:18	we'll 43:3 68:22	Winokur 1:9,12	213:13
walk-downs 114:19	76:9 79:1 84:11	88:11 90:13	4:3,4 19:7 23:4	work 9:6 21:18
want 54:17 57:1,14	84:17 85:12 96:11	108:17 129:5	27:3 29:7 54:14	31:3,6 32:12,21
58:17 59:12 60:20	108:5 119:4 136:4	145:17 197:8	54:17 55:13 59:9	42:4 45:13 47:18
63:12 64:9,20,21	136:8,9 137:3	198:15 199:19	60:4,15 62:7	52:14 58:9 61:16
75:10 84:21 85:1	138:5 145:14	200:19	63:12 65:14 74:17	61:18,18,20 68:2
88:17 93:6,9	164:7 168:14	we're 47:14 56:5	86:4,7 97:13,16	79:11,12,12 85:10
98:22 103:21	169:13 172:16	60:19 61:2,21	101:12 102:7	102:1,22 111:14
105:3 123:12	173:7 192:9,10,10	71:18 74:11 84:15	103:2,15,19 104:3	112:3 124:16
136:6 162:15	193:21 194:4,7,8	95:6 97:5 120:3	104:7,12,15 121:9	131:19 133:20
163:13,14 164:3	195:16 208:20	125:1 134:19	122:8,13 123:6	155:4 218:9,15
170:8,11 171:3	214:5,16 216:6	140:20 144:13,15	124:11 125:13	221:21 223:15,18
173:21 174:2,4	218:10 222:21,22	150:18 160:11	126:5,22 129:10	224:10 229:17
175:1,6 179:11	229:3	161:6 167:6,8,12	134:7 139:10	232:2
186:6 191:9	ways 84:16	168:7,9,10,12	140:10,16,20	worked 21:13,16
196:10,12 197:7	weakened 164:7	169:12 170:1,3,5	141:3,6 144:10,21	45:12 106:19
198:13 202:16		170:6 174:17	145:17 156:3	161:22 163:8
		178:12 179:18,19	157:11 161:16	194:1 197:18

worker 5:10 10:16 23:12 59:21 66:6 92:12 220:10,14	108:17 109:1 131:16 159:2 160:6,7,8,9 165:20,22 166:4 167:5 169:5 190:21,21 191:7 197:6 228:2	10 16:22 10th 82:2 86:12 105 2:12 107 161:6 163:20 11 179:5 11th 165:6 11:18 144:18 11:27 144:20 11:30 144:16 1189 20:16 12 1:6 159:14 185:17,17 186:9 186:11 202:1 12th 7:15 179:13 191:21 233:3 12/20/07 3:20 12:48 233:18 120-some-odd 70:2 121 2:15 130 105:20 135:8 14 2:6 140 3:9 140-or-so 78:15 145 2:18 15 127:5,10,21 145:12 160:22 206:22 207:10 150 111:11 156 3:12 157 3:14 159 3:16 16th 13:14 160:17 162:17 165 2:19 18 37:3 18th 13:17 183 3:20 185 3:22 19 16:8,13 1954 7:22 233:9 1983 172:16 1988 16:7 181:13 1990s 18:16 56:16 77:5 176:17 1993 219:6 1994 208:20	<hr/> 2 <hr/> 2 3:14 110:11 132:1 132:7,9 2.7 45:7 2.9 45:7 20 10:17 15:12 16:9 18:18 54:21 170:22 171:15 20th 183:11 2003 9:13 2004 8:5 10:21 23:14 24:10 25:3 25:5 231:6 2004-1 8:9 226:19 2005 227:7 2006 105:12 2007 21:12 45:2,5 149:8 183:11 184:1,6 188:1,2 189:6 2007-1 111:22 2008 149:10 2009 13:17,20 45:14 227:10 231:11 2009-1 131:17 215:5 2010 1:6 5:5 7:15 13:14,15 45:5,9 149:11 187:1 188:2 191:7 233:3 21 187:3 22 151:16 22nd 5:5 13:20 226 2:20 226.1A 11:9 23:20 120:15 233 2:21,22 24 158:1 179:3,6 185:17 25 145:12 151:19 166:19 180:10 212:4 29 2:7	30 170:22 171:15 187:4 300 1:9 33 45:3 <hr/> 4 <hr/> 4 2:5 4.1 45:12 40 45:17 167:11 410 128:12,12 413.3 126:15 414.1C 120:14 420.1B 20:18 422.X 126:15 425.1 126:15 450.4-1 120:17 450.7 28:9 <hr/> 5 <hr/> 5th 147:17 155:8 50 12:22 21:6 55:15 145:15 163:1 167:11 204:20,21 54 2:9 55 231:19,22 56 45:8 <hr/> 6 <hr/> 60 6:3 625 1:9 6967 231:7 <hr/> 7 <hr/> 73 163:20 <hr/> 8 <hr/> 8:30 133:21 8:59 4:2 824 220:9,10 830 16:22 835 16:22 <hr/> 9 <hr/> 90s 67:15 9212 83:18 99 73:22
worker's 92:14 workforce 11:3 46:17 92:11 102:13 175:9,10 218:4 working 42:15 55:8 97:6 105:13 107:21 212:16 221:15 227:21 workload 80:5,9,11 works 20:18 51:6 work-related 28:12 worn 27:10 worried 60:5 160:8 worry 66:10 73:1 worse 89:5 worthwhile 22:1 worthy 195:14 wouldn't 56:10 137:6 193:10 write 188:11 writing 198:13,16 199:21 written 18:16 30:2 30:4 81:8,11 103:13 143:22 144:2 145:7 146:4 180:6 181:20 188:7,11 193:4 208:21 214:4 218:18 225:14 wrong 14:7 65:5 66:16 121:14 173:15 174:6 209:16 wrote 165:8 <hr/> Y <hr/> year 39:22 41:22 69:20 80:15	years 10:18 16:7,10 18:18 26:1 30:20 39:18 45:18 54:21 59:4 84:11 98:16 106:22 110:10 111:12 119:1 151:16,19 160:5 160:20 166:19 169:6,12 170:22 171:15 196:19,19 198:4 212:5 217:4 yesterday 84:5 110:19 180:8 181:3 yielded 116:19 York 3:9 15:13 17:9 140:13 176:19 181:13 younger 218:5 youth 217:21 227:3 230:10 youth-led 227:1 Y-12 20:12 <hr/> Z <hr/> z 72:21 zero 28:11,12,13 Zuni 71:13 <hr/> 0 <hr/> 0660 138:16 068 45:5 07 156:19 158:18 164:15 08 158:18 <hr/> 1 <hr/> 1 3:12 8:6 10:22 105:22 231:18 1,500 207:11 1.02 45:4,8	<hr/> 3 <hr/> 3 106:1		