

NO. 10-1050, 10-1052, 10-1069, 10-1082 *Consolidated*

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**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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No. 10-1050

IN RE AIKEN COUNTY, Petitioner

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No. 10-1052

ROBERT L. FERGUSON, *et al.*, Petitioners,

v.

BARACK OBAMA, President of the United States, *et al.*, Respondents.

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No. 10-1069

STATE OF SOUTH CAROLINA, Petitioner,

v.

UNITED STATES DEPARTMENT OF ENERGY, *et al.*, Respondents.

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No. 10-1082

STATE OF WASHINGTON, Petitioner,

v.

UNITED STATES DEPARTMENT OF ENERGY, *et al.*, Respondents.

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**PETITIONERS' SUPPLEMENTAL FILING REGARDING MOTION TO  
LIFT STAY AND SET EXPEDITED BRIEFING SCHEDULE**

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The consolidated Petitioners provide this supplemental filing regarding their September 28, 2010, Corrected Motion to Lift Stay and Set Expedited Briefing Schedule (Petitioners' Motion), for which motion briefing has been completed. Developments subsequent to Petitioners' October 15, 2010 Reply to Respondents' Opposition to Motion to Lift Stay and Set Expedited Briefing Schedule (Petitioners' Reply) clearly demonstrate that Respondent NRC is terminating its review of the Yucca Mountain license application without an official Commission vote, rendering this supplemental filing appropriate and necessary.

**I. SECOND SUPPLEMENTAL STATEMENT OF THE CASE**

**A. Status as of October 15, 2010: DOE's Shutdown Activities and NRC's Termination of License Application Review by Chairman over Objections from Two Commissioners.**

Petitioners provide the following supplement to their previously-submitted Statement of the Case, *see* Petitioners' Motion at 1-6, and Supplemental Statement of the Case, *see* Petitioners' Reply at 1-5.

In Petitioners' Motion, Petitioners informed the Court that the NRC has not yet indicated whether the Commission will review the Atomic Safety and Licensing Board's (ASLB's) denial of the Department of Energy's (DOE's) motion to withdraw -- even though such review is the purported basis for the current stay of this action. Petitioners' Motion at 5. Furthermore, despite the denial of Respondent DOE's motion to withdraw by the NRC's Atomic Safety

and Licensing Board, DOE had planned to shut down the Office of Civilian Radioactive Waste Management, the Congressionally-created agency that oversees the Yucca Mountain project, by September 30, 2010. *Id.* at 5-6.

In Petitioners' Reply of October 15, 2010, Petitioners informed the Court that the NRC Chairman has terminated NRC's review of the Yucca Mountain license application without a vote of the Commission, notwithstanding the above-captioned challenges to the lawfulness of DOE's abandonment of Yucca Mountain, and notwithstanding the ASLB's denial of DOE's motion to withdraw its license application for Yucca Mountain. Petitioners' Reply at 2-4. Although two NRC Commissioners moved for full Commission deliberation regarding the termination of the NRC staff's technical review of the application, the NRC Secretary determined that the proposal failed because a majority of Commissioners failed to participate in the matter. *Id.* at 4-5.

**B. New Evidence that a Decision to Terminate Yucca Mountain Has Been Reached Without Commission Deliberation, and that Commission Deliberation Was Prevented by "Inside Baseball"**

Subsequent to Petitioners' Reply, new evidence has come to light demonstrating that the termination of NRC Staff review of the Yucca Mountain license application was a "decision," and that failure to vote on the termination was "inside baseball," in the words of two of the non-voting Commissioners. At a recent "All-Hands Meeting" of the NRC, the Commissioners were directly asked

by an NRC employee why no other Commissioners voted on the proposal for the full Commission to decide the appropriateness of the termination of NRC Staff's technical review of the Yucca Mountain license application. NRC All-Hands Meeting Transcript, October 18, 2010 (attached hereto as Exhibit A) at 16:14-17. Commission Chairman Gregory Jaczko responded that his non-vote "was, perhaps, by and large, inside, I guess inside ... baseball, the exact mechanism that I used to register ... disagreement with [the] proposal." *Id.* at 16:20-25. Commissioner William Magwood, who also did not vote on the proposal for deliberation by the full Commission, responded that he agreed with the Chairman and considered the non-vote "inside baseball." *Id.* at 17:1-10.

The Chairman also stated that the Commission was "embark[ing] on the effort to look at closing out the program" and that "in the coming months ... the staff [will] begin[] to look at what, exactly, is entailed in the closeout procedure." *Id.* at 21:14-15.

Finally, an NRC employee questioned the Commission about the personal betrayal felt by certain NRC employees who "have spent the better part of 30 years, in many cases their entire career here preparing for" the review of the license application, due to the recent decision to terminate NRC Staff review. *Id.* at 39:4-16.

The Chairman responded that:

“I can appreciate concern, and the disagreement with *the decision*. But, unfortunately, that is, I think, where we are. I think there is a lot of work to be done. There is a lot of work *as we begin the process of closeout* that will be needed to be accomplished...”

*Id.* at 39:19-23 (emphasis added).

Finally, an NRC employee asked if the Commissioners “could elaborate on how the agency is meeting its statutory requirements under the Nuclear Waste Policy Act, the law, in light of the recent direction that we're getting ....” *Id.* at 43:22-26. In response, the NRC Chairman stated that “this issue was one that was reviewed very, very carefully by the General Counsel, and it's in 100 percent compliance with all our statutory and legal obligations.” *Id.* at 43:27-44:2.

In addition to the statements at the All-Hands Meeting, the NRC also defended the termination of technical review of the license application in a media release to several newspapers. The NRC media release refers to “[t]he *decision to transition to closeout activities* for the high level waste program.” *Response to Editorial on Yucca Mountain*, Oct. 22, 2010 (attached hereto as Exhibit B) (emphasis added). The NRC media release asserts that the closeout decision is premised on a “budgetary approach” which the Commission approved “almost a year ago.” *Id.* The media release states: “This action is consistent with appropriations law, commission policy, staff delegated responsibilities and ultimately *the chairman's authority* as the agency's principal executive officer.”

*Id.* (emphasis added). The media release also asserts that “[t]he commission declined to revisit this decision in voting earlier this month,” *id.*, but fails to mention that every Commissioner who actually voted sought Commission deliberation on the decision.

The NRC media release further justified the directive to terminate the NRC Staff’s review of the Yucca Mountain license application by stating that: “[t]he Energy Department has decided not to pursue its application to construct a repository at Yucca Mountain and has closed its Yucca Mountain office.” *Id.*

## **II. SUPPLEMENTAL DISCUSSION: A Decision by NRC to Closeout the Yucca Mountain Program Has Been Made.**

It is clear that the NRC has rendered a “decision”<sup>1</sup> to terminate the review of the Yucca Mountain license application and “transition to closeout activities”<sup>2</sup> for the Yucca Mountain high-level waste program. This termination decision has occurred despite the *denial* of DOE’s motion to withdraw the license application by the NRC’s own ASLB. This termination decision has occurred despite the pendency of this action challenging the withdrawal of the license application and the larger issue of the abandonment of the Yucca Mountain project.

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<sup>1</sup> NRC All-Hands Meeting Transcript, Exhibit A, at 39:20.

<sup>2</sup> *Response to Editorial on Yucca Mountain*, Oct. 22, 2010 (attached hereto as Exhibit B).

This Court previously granted Respondents' motion to hold these consolidated petitions in abeyance based on the proposition that the Commission was going to review the ASLB's order denying DOE's motion to withdraw, and the Respondents' assertion that the NRC should be given time to "crystallize" the issue. Federal Respondents' Motion to Vacate Briefing and Oral Argument Schedule and Hold Cases in Abeyance (July 2, 2010) at 2. But the Chairman of the NRC has made it clear that the decision to shut down Yucca Mountain as sought by DOE, has already been made, notwithstanding the fact that the only adjudication of this issue (by the ASLB) held that DOE could not withdraw its license application consistent with the Nuclear Waste Policy Act. Since this Court granted Respondents' requested stay, DOE has shut down its Yucca Mountain office and there is no evidence that the NRC intends to render any further decision regarding the ASLB Order. Respondents have sought to make review by this Court meaningless by dismantling the Yucca Mountain project and ending review of the license application.

### **III. CONCLUSION**

Based on the foregoing, Petitioners respectfully reiterate their request that the Court immediately impose an expedited briefing schedule as set forth in Petitioners' Motion.

RESPECTFULLY SUBMITTED this 25th day of October, 2010.

*s/ Thomas R. Gottshall*

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**CERTIFICATE OF SERVICE**

I herby certify that on the 25th day of October 2010, a copy of the foregoing Petitioners' Supplemental Filing on Motion to Lift Stay and Set Expedited Briefing Schedule was filed electronically using the CM/ECF system, which will provide service on the following parties:

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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ALL-HANDS MEETING

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MONDAY

OCTOBER 18, 2010

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ROCKVILLE, MARYLAND

The Commission met in the Grand Ballroom of the Marriott Bethesda North Conference Center, 5701 Marinelli Road, Rockville, Maryland, at 1:30 p.m., Gregory B. Jaczko, Chairman, presiding.

COMMISSIONERS PRESENT

GREGORY B. JACZKO, Chairman

KRISTINE L. SVINICKI, Commissioner

GEORGE APOSTOLAKIS, Commissioner

WILLIAM D. MAGWOOD, IV, Commissioner

WILLIAM C. OSTENDORFF, Commissioner

ALSO PRESENT

BILL BORCHARDT, NRC

DALE YEILDING, NTEU

PROCEEDINGS

1  
2 MR. BORCHARDT: Welcome to the 19<sup>th</sup> Annual All  
3 Hands Meeting of the Staff and the Commission. I'd like to thank each of  
4 you for attending this meeting, and especially Chairman Jaczko, and  
5 Commissioners Svinicki, Apostolakis, Magwood, and Ostendorff for taking  
6 the time to meet with the Staff, and provide this opportunity to discuss  
7 topics that are of great interest to all of us.

8 In addition to the Headquarters Staff attending this  
9 meeting, the Staff in the Regions, the Technical Training Center, and the  
10 local interim locations are viewing this meeting via video broadcast, while  
11 our Resident Inspectors are receiving the audio.

12 The purpose of this meeting is to facilitate  
13 communications between the Commission and the Staff, and for the  
14 Commissioners to share their perspectives on NRC's accomplishments  
15 and challenges.

16 The Chairman and each of the Commissioners will begin  
17 the meeting with individual remarks. Then the remainder of the meeting is  
18 reserved for questions and answers. There are several microphones in  
19 this room for your use in asking questions. We've also handed our cards,  
20 if you would prefer to write your question. You can pass it to one of the  
21 volunteer staff, and these questions, and additions to the questions faxed  
22 in from the Regions and the sites will be read by our volunteers.

23 Thanks yous go out to all the volunteer readers today,  
24 and they are Nancy Turner-Boyd, Kate Raynor, Tojuana Fortune-Grasty,  
25 and Derek Scully. Also, thank you to the volunteer ushers who are helping  
26 today, our sign language interpreter, as well as the Offices of the  
27 Secretary, HR, ADM, and OIS for their efforts to organize and provide

1 technical and logistical support for today's meeting.

2 Finally, I'd like to recognize officials from the National  
3 Treasury Employees Union who are with us today. NTEU will have an  
4 opportunity to address us near the conclusion of today's meeting.

5 So, it's now my pleasure to turn the meeting over to  
6 Chairman Jaczko.

7 (Applause.)

8 CHAIRMAN JACZKO: Well, thank you for that  
9 introduction, Bill, and I want to extend my thanks to everyone who helped  
10 put together this event, and to everyone who's here in the room, as well as  
11 those who are participating via various electronic or information media  
12 from the Regions, and elsewhere.

13 As an Agency, we don't frequently have the opportunity to  
14 come together in an event like this to discuss the important issues in front  
15 of the Agency. And this really is an opportunity for us to hear from you all.

16 I'll do my best to keep my remarks very brief, so we have ample time to  
17 hear from my fellow Commissioners, to hear your thoughts, and, of  
18 course, to hear from Dale Yeilding with the National Treasury Employees  
19 Union.

20 In the more than six years that I've been on this Agency,  
21 or on this Commission, I never lose sight of the fact that our effectiveness  
22 as a safety regulator depends first and foremost on the NRC's skilled and  
23 dedicated Staff, all of you who are here today, and those who are listening  
24 in, or who couldn't be here.

25 We are today a 4,000 person agency with diverse and  
26 talented individuals, contributing in different ways to our Agency's multi-  
27 faceted mission. All of our efforts, whether in the technical, legal,

1 administrative, or other areas support the Agency's overarching safety and  
2 security mission. And in order to continue our track record of success, we  
3 need to remain the type of workplace that both attracts topnotch people,  
4 and also provides them with opportunities to maximize their potential once  
5 they're here.

6 We should all be proud of the fact that for the third  
7 consecutive time, the NRC has been voted to be the best place to work in  
8 the federal government; although this year it was by a mere two-tenths of  
9 a point, so others are catching up. Our goal, however, is not only to be a  
10 great place to work, but also to be a place that does great work. And  
11 during the last fiscal year alone, we performed thousands of hours of  
12 inspections at reactor sites, and material sites, such as fuel facilities,  
13 decommissioning sites, and medical facilities. We took hundreds of  
14 enforcement actions, reviewed over 1,000 licensing actions or tasks, and  
15 issued a dozen proposed rules and even more final rules.

16 We conducted dozens of meetings for the public, and  
17 scores more that were open to the public. I think that's really one of the  
18 hallmarks of us as an agency. And none of these successes could have  
19 happened without the full support from the entire team, those working on  
20 the technology, the financing, the legal aspects, the personnel support,  
21 and more. But these accomplishments are indicative of the Agency's  
22 strong focus on our safety mission, and your hard work day in and day out  
23 to enhance nuclear safety and security.

24 And, as always, we cannot rest on our past successes.  
25 Our regulatory environment will remain dynamic, and we must always stay  
26 focused on our core safety and security mission, the effective oversight of  
27 operating reactors, fuel cycle and uranium facilities, and materials

1 licensees.

2 With a diverse team of seasoned veterans and talented  
3 newcomers, the NRC of 2010 is well-positioned to continue fulfilling our  
4 important mission. Our success will, in part, turn on our ability to take full  
5 advantage of all the talents and perspectives that our team brings to the  
6 table. This means that the Agency will have to continue focusing on our  
7 training programs, knowledge management practices, and, ultimately, our  
8 safety culture initiatives, initiatives like the Open Collaborative Work  
9 Environment.

10 The Agency has much work in front of it, and, fortunately,  
11 it also has a very dedicated staff behind it. That combination has proved  
12 to be successful in the past, and I am very confident that will continue to  
13 be the case in the future. So, I thank you for your attendance at this  
14 meeting, and we look forward to your questions.

15 I will now provide Commissioner Svinicki an opportunity  
16 to make some comments.

17 COMMISSIONER SVINICKI: Thank you very much.  
18 Good afternoon, everybody. I think the mic is picking up. I can hear  
19 myself reverberating back in this very large room.

20 Other than the RIC, this is I think the largest group that I  
21 come before in any given year. And I have had the chance in the last two  
22 and some years to address a lot of the different office All Hands Meeting.  
23 NRR made me prove myself with many other groups before they invited  
24 me, but Mr. Leeds is going to have me before NRR in December, so I  
25 think I finally made the cut somehow, so I'll be doing that. And I've  
26 appreciated those opportunities to talk with a lot of you, and get your  
27 questions in smaller groups. But this is unique, as the Chairman said,

1 because this is our chance really as a large group, and as an agency, and  
2 with all the people that are tuning in to kind of touch base with each other.  
3 So, I struggled a lot with what I might want to talk about today.

4 I should explain something about myself, and I did a lot  
5 under 10 years at DOE, and then 10 years as a staff person on Capitol  
6 Hill. So, I was always one of the people who was in the very back row at a  
7 meeting like this, so the people way in the back, I envy you. I was always  
8 sitting way back there, and that was the kind of person I was. I was  
9 sometimes a little -- I tended to be a little skeptical a lot of times about  
10 management messages, and other things. And it really took a lot to  
11 convince me, and I kind of folded my arms across my chest. So, I thought  
12 what would be a useful thing to hear about if I was still sitting back there in  
13 the back row today, what would I want to hear about?

14 And since this is such a valuable opportunity, I wanted to  
15 talk about something that's been, I think, a theme for the senior leadership  
16 of the agency for this calendar year. So, it's a little embarrassing for me,  
17 because it'll be November pretty soon, and I'm just getting around to  
18 talking about this topic, but it's the Open Collaborative Work Environment.  
19 And the Chairman was mentioning our standing as the best place to work.  
20 Of course, I think associated with that result is our internal safety culture,  
21 and the other focus that we've had on continuing to push ourselves and  
22 improve the excellence of our organization.

23 So, if you take what I just said about being a kind of a  
24 skeptical federal employee, and sitting towards the back of the room, I  
25 received a lot of the Open Collaborative Work Environment materials, and  
26 I did what I typically do, which is to say well, you know, this is interesting,  
27 and I'm sure that this is sort of really relevant, and I'll put this aside for a

1 while, and go on with other things I'm doing day-to-day. But when I finally  
2 did return to the materials, I realized how important the messages are  
3 related to Open Collaborative Work Environment. And I think we all carry  
4 around our own terminology for it, and I think that's some of the  
5 awkwardness is that when I began to look at it, I realized that this is a lot of  
6 the things that I really value about working at the NRC. And I know for the  
7 people on the stage, we'll come and we'll be at NRC for a period of time,  
8 and so many of you will come and spend the majority of your career at  
9 NRC, perhaps. So, I think you've built something really special, and I think  
10 that these Open Collaborative Work Environment themes are part of the  
11 reason why we've been able to achieve the special thing that I think exists  
12 here at NRC. So, these were the messages about it that resonated most  
13 with me, but it said what is an Open Collaborative Work Environment? It's  
14 an environment that values diverse views, alternative approaches, critical  
15 thinking, unbiased evaluations, and honest feedback. And it's an  
16 environment that encourages trust, respect, and open communication to  
17 foster and promote a positive work environment.

18 So, again, I think that it is important that we all feel some  
19 association with this. So, maybe I'm giving a little bit of a testimonial about  
20 how I laid this aside, and wasn't sure that it applied to me. But I think that  
21 if each of us looks at this, we'll find that there's something in here that  
22 resonates, and that each of us can value. And it is interesting that when I  
23 finally got into the section on why is it important, it says, "Open  
24 Collaborative Work Environment engages, empowers, and maximizes the  
25 potential of all individuals at all levels of the organization, and across all job  
26 functions." So, I threw myself in the mix there.

27 Then it says, "Now, more than ever, we need to harness

1 the collective skills that we have." So, I thought that was an important  
2 message. I want to say, I want to, I guess, confess maybe I was a little  
3 late to the game, but as the organizational focus on Open Collaborative  
4 Work Environment continues, I hope that you'll have your moment either  
5 early or late like me, where you can draw some messages from this, as  
6 I've done. And I'm going to be trying to make this a little bit more in the  
7 forefront of my thinking, not just this year, but for the remainder of my time  
8 here at NRC. Thank you.

9 CHAIRMAN JACZKO: Commissioner Apostolakis.

10 COMMISSIONER APOSTOLAKIS: Thank you, Mr.  
11 Chairman.

12 As you know, I've been on the Commission for about six  
13 months now, and I'm still in a learning mode how the 17<sup>th</sup> and 18<sup>th</sup> floors  
14 work. I'd like to take this opportunity to thank the staff, and my fellow  
15 Commissioners for helping me tremendously to understand how the  
16 Commission works.

17 As you know, I was on the ACRS for a while, so I am  
18 fairly familiar with the reactor side of the Agency, but not so much with the  
19 materials side. So, I made it a point to visit several materials licensees in  
20 the last few months, trying to learn more about the issues on that side of  
21 the house.

22 Now, this is my first meeting of this kind, so I didn't know  
23 what the tradition was talking about, but I know that a lot of people are  
24 asking me what my goals are as a Commissioner. I don't know that I have  
25 any goals, but I'll tell you what occupies my energy these days.

26 Ever since risk assessment was introduced to the agency  
27 or the community, we've always struggled with the quality of the risk

1 assessments, the uncertainty evaluations, and how the agency should use  
2 these evaluations, if you can quantify uncertainties, because sometimes  
3 you can't, in its activities. And we have two good examples these days,  
4 GSI-191, and Fire Protection, where there are conservative requirements  
5 imposed on the licensees to account for this uncertainty, but sometimes  
6 these conservative requirements lead to unreasonable results. So, this is  
7 a very challenging and interesting area where we have to come up with  
8 some sort of a solution, if there is a solution, some sort of managing it.

9 Another area that is of great interest to me is to introduce  
10 more risk information in the licensing process. And, as you know, the  
11 Commission issued an SRM recently regarding the staff reviews of the  
12 small modular reactors. And, of course, the Office of Research had issued  
13 the technology-neutral framework in the past, so I hope the experience  
14 from the reviews of the SMRs and the ideas that the staff proposed in the  
15 technology-neutral framework can be the basis for developing a more risk-  
16 informed performance-based licensing process in the future.

17 That exhausts my prepared remarks, so I'm looking  
18 forward to receiving your questions. Mr. Chairman.

19 CHAIRMAN JACZKO: Commissioner Magwood.

20 COMMISSIONER MAGWOOD: Thank you, Chairman.  
21 Let me apologize in advance. I'm sort of either getting over something, or  
22 catching something. I hope it's getting over, otherwise I'll contaminate the  
23 whole Commission, and the meeting could be quite short.

24 Well, when I was walking over here with my Chief of Staff,  
25 Patty Bubar, Patty, where are you? Say hi, there's Patty. I said, "So what  
26 exactly do we do at these All Hands Meetings?" And she said, "Well, the  
27 Commissioners make some initial statements, and then there's Questions

1 and Answers." And I said, "You mean, that's the whole meeting,  
2 Questions and Answers? You're kidding." And she said, "No, no, this is  
3 the way they do things at NRC." And I found that one of the things about  
4 NRC which is different from other places I've worked is that NRC is a  
5 community. And it's, actually -- for those of you who worked at NRC most  
6 or all your careers, you probably don't really appreciate how different that  
7 really is. As you know, I worked a long time at the Department of Energy,  
8 but I've interacted with a lot of other agencies, EPA, and FEMA, and  
9 Department of Interior, lots of different agencies, and agencies I've worked  
10 with and for in the past have tended to have clusters of organizations that  
11 kind of -- they're kind of like fiefdoms, and everyone kind of defends their  
12 turf, and they fight with each other, and they get the best resources they  
13 can to do what they want to do. But this agency is actually quite different.  
14 I mean, not that there aren't some fiefdoms, but for the most part it's more  
15 of a unified whole. It's something that's actually quite unique, and really  
16 quite impressive.

17 In the six and a half months that I've been here, I've seen  
18 that not just here at Headquarters, but really across the country. I visited  
19 all four of the regional offices, and I've had opportunity to meet with many  
20 employees across the country. And I find that no matter where you go,  
21 there's this feeling of community among the employees of the Nuclear  
22 Regulatory Commission, which is really quite an amazing feat.

23 I've also, as I have traveled about, been to many reactor  
24 sites, and other types of nuclear facilities, and I've seen the important work  
25 that's done by the folks in the regions, and by the Resident Inspectors.  
26 And just -- how many people in this room have been Resident Inspectors  
27 in their past? Just show of hands. Okay. And for those of you who are in

1 the regions holding your hands up, I can't see you, so you can put your  
2 hands down now. But let me just say that I think the Resident Inspectors  
3 do something that's really quite unique in my experience in federal service.  
4 These are people who have a lot of personal sacrifice.

5 For those of you who have done this, I congratulate you,  
6 and thank you for what you've done. And for those of you who are  
7 currently Resident Inspectors, my special thanks. I think you're doing  
8 extremely important work, unheralded work, and work that I'm afraid most  
9 people in the country have no idea that you do, but I recognize it, and I  
10 honor it.

11 But even for those of you in the room who have not been  
12 Resident Inspectors, you also continue to impress me. All the interaction  
13 I've had since being here, I constantly find myself surprised by the level of  
14 intellect, the commitment, the integrity, and the absolute passion you have  
15 to protect the public health and safety. And the quality of the employees  
16 here at the NRC I think are the reason that when I have traveled overseas  
17 in the last several months, I've been to Japan, I've been to Spain, I find  
18 that people overseas view the NRC as really sort of the center point of  
19 understanding what it means to be a good regulator. You're held up on a  
20 very, very high pedestal by your peers overseas, and you should know  
21 that.

22 I get a lot of questions from people as I travel around  
23 about how is NRC affected by the Gulf oil, the spill in the Gulf. And I think  
24 that they're actually surprised when I say well, the truth of the matter is that  
25 NRC was really held up as a high example of what a regulator should be  
26 doing, not as another regulator who's off-track and needs to be corrected.  
27 I had several conversations in Congress, and really universally, it was how

1 can we make the people who do deep sea oil drilling look more like NRC,  
2 look more like the nuclear industry than they do today? So, we are a high  
3 example.

4 So, there's a lot that this Agency should be proud of. And  
5 I noted this morning in the "Washington Post," and I'm sure many of you  
6 saw this article about a new poll that came out, and I'm just going to read  
7 the lead-in from the "Washington Post" this morning. It said, "More than  
8 half of Americans say they think federal workers are overpaid for the work  
9 they do, and more than a third think they are less qualified than those  
10 working in the private sector," according to the Washington Post poll. "Half  
11 of those say the men and women who keep the government running do  
12 not work as hard as employees of private companies." Well, let me say  
13 that for the people who feel this way, they clearly have never visited the  
14 Nuclear Regulatory Commission, because I think if they did, they would  
15 have a very, very different impression.

16 We live in a very uncertain time in many ways. We have  
17 economic issues, there's complicated things happening in foreign policy.  
18 We live in a time of change and evolution. And I think the country is  
19 changing, as it always has, and the nuclear industry, in particular, is  
20 changing, as it never has before. We face these challenging times, but I  
21 think because of the people we have in this hall, and the people across the  
22 country, we have the tools needed to face those changes. The collective  
23 talent and energy of the people in the Nuclear Regulatory Commission I  
24 think are up to any challenge put before them. I'm proud to be part of this,  
25 and I'm looking forward to the next five and a half years, excuse me, four  
26 and a half years, don't want to extend myself prematurely, the next four  
27 and a half years with great anticipation. Thank you very much.

(Applause.)

CHAIRMAN JACZKO: Commissioner Ostendorff.

COMMISSIONER OSTENDORFF: Thank you, Mr. Chairman.

It is a real pleasure to serve with my colleagues here on the Commission. I'm very pleased to be here working with these guys, and Kristine, excuse me, but also with the NRC Staff. I was very honored to have been confirmed and sworn in by Chairman Jaczko in early April.

I am new to the nuclear industry as far as the commercial side. I'll just give you a little bit of -- I'm going to date myself here, but I see Jim Wiggins, he may date himself, as well. Over 31 years ago, I was a Lieutenant JG on U.S.S. George Bancroft SSBN-643-Gold, on a deterrent patrol in that ballistic missile submarine. I was in the radio room. At that time, I was reactor controls assistant, and I saw a very low data rate VLF signal coming in talking about an incident at a nuclear power plant outside of Harrisburg. So, that was in the spring of 1979. I watched the Three Mile Island accident evolve, and the lessons learned from that event. I watched over the last three decades industry take actions. I watched, more importantly, you as NRC staff here at Headquarters and out in the Regions, the Resident Inspectors take actions to make us all safer. And I think that slope is positive. It's been very impressive, and I think you all ought to feel very good about the role that you played as regulators in making us safer.

Every day as a skipper of a submarine, I went back in the engine room and talked to Lower Level Louie. Well, who is Lower Level Louie? It's that person who you can reach out and touch, and say how's it going? Covered in sweat, covered in oil, been taking logs the last six

1 hours, and if I could go out and reach Lower Level Louie, and say how's it  
2 going? I got my chance to take my barometer, take the pulse of that  
3 individual. And by corollary, I've had a chance during my six months here  
4 to take the pulse of many of you here in this room, and out in the regions.

5 Having worked, this is my 15<sup>th</sup> job since 1976, not  
6 counting training assignments in the military, so I've been around a lot of  
7 different organizations in uniform, wearing khakis for many years, a  
8 submarine officer, been around the Department of Energy, the House  
9 Armed Services Committee, two jobs in the private sector, and I will just  
10 tell you in comparison, in the context of those other places where I have  
11 worked, that I could not be more impressed with, nor pleased with you, the  
12 NRC staff. I think your diligence, your commitment to work is just  
13 outstanding. We may have some disagreements, and some of you may  
14 know that I'm kind of blunt and candid, at times, but I think we are able to,  
15 as Commissioner Svinicki said, be open, have disagreements, but also  
16 understand where each other stands, and I think that's really important.  
17 And I applaud you, and my fellow Commissioners for allowing us to have  
18 an environment in which we can do business in that fashion.

19 I will close by saying I want to thank each of you for what  
20 you do for the nuclear industry safety, and also for your service to our  
21 country, and I look forward to your questions. Thank you.

22 (Applause.)

23 CHAIRMAN JACZKO: We will start with questions. I  
24 think if we can start, we'll start on the left, and we can alternate  
25 microphones on the left and the right, if we have -- or if we have anyone  
26 who's got a question to begin.

27 AUDIENCE PARTICIPANT: What progress do you see in

1 the development of small modular reactors, and what safety concerns do  
2 you have with such facilities?

3 CHAIRMAN JACZKO: Well, perhaps I'll start, and,  
4 obviously, anyone who wants to jump in, please do. I'll just say, I think  
5 certainly from the Agency's perspective, I think we're in a pretty good place  
6 to deal with the things that are coming on the near term horizon.

7 I, generally look at small modular reactors in terms of  
8 three groups, the PWRs, the high-temperature gas reactors, and what I  
9 call the more non-traditional reactor types. And I think those generally  
10 follow along a consistent time line, so I think each of those has its own  
11 unique safety issues, and safety challenges. And I think we're working to  
12 make sure we're in a position to address those. Other comments?

13 COMMISSIONER MAGWOOD: Let me just offer this. I  
14 agree with the Chairman's comments about the small modular reactors, as  
15 a general matter. I think that one of the things that's going to be very  
16 important for us as an Agency is to be able to determine what the basic  
17 framework for regulating these reactors will be.

18 As the industry is moving forward in developing their  
19 concepts, very important for them to be able to understand what they're  
20 dealing with when they come, when they bring their concepts to us,  
21 because there are going to be very, very difficult questions that we have to  
22 have answers for. I don't want to get into the details right now, but there  
23 are some questions that depending on what the answer is, some of these  
24 concepts may find themselves to be economically unviable. The sooner  
25 that the industry knows whether these concepts are viable or not, the  
26 better, I think, because it would be sort of a waste of resources for both  
27 sides if we were to go down this path, and discover well, sorry, you can't

1 do that, and it's not going to work. I'd like to be able to answer those  
2 questions soon.

3 With that said, from a technology standpoint, particularly  
4 for the light water systems, as the Chairman mentioned, it seems to me  
5 that most of the technologies are things that we've been talking about in  
6 one form or another for quite some time. I don't know that they present  
7 any particular showstoppers, but I think at the end of the day, the NRC's  
8 challenge is probably going to be more on the economic side than the  
9 regulatory side. So, things we can't help them with very much, but I think  
10 that's going to be the challenge, and I look forward to seeing what they  
11 bring to us.

12 CHAIRMAN JACZKO: Okay. We'll take one from the  
13 right.

14 AUDIENCE PARTICIPANT: Recently, Commissioner  
15 Ostendorff proposed to continue work on the Yucca Mountain Safety  
16 Evaluation Report. Commissioner Svinicki voted for this measure. Why  
17 did the remaining three Commissioners not vote at all?

18 CHAIRMAN JACZKO: I can, perhaps, take that question,  
19 then if others want to chime in.

20 Certainly, in my view, this decision was more of a  
21 management decision than a policy issue for the Commission. And, for  
22 that reason, it was, perhaps, by and large, inside, I guess inside the 18<sup>th</sup>  
23 floor, or 17<sup>th</sup> floor baseball, the exact mechanism that I used to register  
24 that disagreement with Commissioner Ostendorff's proposal. I did that in  
25 the form of not participating. I don't know if others would like to comment.

26 COMMISSIONER APOSTOLAKIS: Yes. Originally, I  
27 viewed -- as you know, or perhaps know, I've had to recuse myself from all

1 adjudicatory matters related to Yucca Mountain because of prior work I  
2 had done for Sandia.

3 Originally, I viewed Commissioner Ostendorff's COM as a  
4 budgetary matter, so I felt I could vote on it. In fact, my staff and I had a  
5 draft vote, and we were debating it when we received the motion from  
6 Aiken County and the two states that touched on adjudicatory issues.  
7 That was Friday evening, as I recall, at which point I chose not to  
8 participate any more.

9 COMMISSIONER MAGWOOD: I think I would agree with  
10 the Chairman. There was a little bit of inside baseball with this, but I think  
11 that the principal thing I would say about it is that it's -- I think it's still a  
12 matter of some discussion among the Commission. I don't see this as  
13 something where -- clearly, there's areas where Commissioner Ostendorff  
14 and I agree, there's also areas where we disagree. I think that's a  
15 conversation we're still having, so I guess I'll just leave it at that.

16 COMMISSIONER OSTENDORFF: I don't think you had a  
17 question for me. I'm glad to take one, if you have one.

18 (Laughter.)

19 COMMISSIONER SVINICKI: I'd just like to say, and I  
20 think that my position on it was reflected in the question, but one of the  
21 reasons I was thinking about Open Collaborative Work Environment, and  
22 again the health of having an organization where people can have  
23 differences of opinion, is just this kind of issue. Now, the trade press will  
24 take this difference and they'll say what they say about it, but what I would  
25 communicate to you is that you have five very strong opinionated  
26 individuals on this stage. We work together on items where we disagree,  
27 we work together on items where we agree. And, in my view, there's a full

1 commitment to getting the important work of the agency done, so yes, we  
2 are going to have differences, but it is not in many cases nearly as  
3 sensationalized, or interesting as the trade press would like to make it.

4 COMMISSIONER OSTENDORFF: Chairman, I would  
5 like to --

6 CHAIRMAN JACZKO: Sure.

7 COMMISSIONER OSTENDORFF: I will say something.  
8 No, I think it's healthy to the organization to have that question. I'm going  
9 to put aside my personal position on it, which is well known and  
10 documented on the website. I will say that my colleagues here at this  
11 table have all engaged with me personally in a very professional, civil  
12 manner. They've engaged in a collegial manner, and I'm grateful for that,  
13 so I'd like to make sure that that's out in front. And, as I said before, I'm  
14 blunt and candid, but I'll tell you that I have respect for my colleagues.  
15 They've had different views on this than I have, but we've been able to do  
16 that, and to disagree in an agreeable manner. And I think that's very  
17 positive.

18 CHAIRMAN JACZKO: Thank you. Go back to the left  
19 side, or I guess the right side, depending on where you're sitting.

20 AUDIENCE PARTICIPANT: Will the Agency increase the  
21 availability of short-term loaner laptops for employees to use for telework  
22 or alternate work environments? In addition to that, is there a plan and  
23 time line to provide employees with loaner laptops for telework?

24 CHAIRMAN JACZKO: I'll be happy to take this one, and  
25 I'm going to turn to my cheat sheet. Bottom line, the Loaner Laptop  
26 program is really part of the effort to really enhance our Work From  
27 Anywhere capability. And as we look long-term, that and also the Mobile

1 Desktop program, which is an opportunity to have your desktops replaced  
2 with laptops, are both efforts I think, ultimately, to support this Work From  
3 Anywhere. I know that's an initiative that Darren has started, and the rest  
4 of the folks in Information Services. I see Pat Howard here. Pat's probably  
5 the -- Pat's more of, perhaps, the roadblock than anything else, but a lot of  
6 those issues have been worked through, and I think in a very important  
7 way. So, this is something that we're working on. The deployments  
8 began the end of last month, and it's something we'll continue to make  
9 more available to people as resources allow; ultimately, with the goal of  
10 trying to achieve this idea of Work From Anywhere. I don't know if anybody  
11 had any other comments.

12 COMMISSIONER MAGWOOD: Let me just add one  
13 thing. I'm going to be -- I'm going to follow Commissioner Ostendorff's  
14 example, and be blunt and honest about one thing here. I was an extreme  
15 skeptic about telework, coming from other places. And really, when I  
16 heard that there was a big telework program here at NRC, I was -- to say I  
17 was skeptical was probably being very kind. But as I've interacted with  
18 people who are actually taking advantage of telework, and talk with people  
19 about how they're using it, and how effective it's been, I'm sold. I'm on  
20 board. I think it's a great program. I think it's very effective. I think you're  
21 using it the way that it was intended to be used, and so whatever support  
22 you need from me as a member of the Commission to continue this, Mr.  
23 Chairman, I'm on board. I just want to say that.

24 AUDIENCE PARTICIPANT: This question is from Region  
25 I. What options are being pursued to produce medical isotopes in the near  
26 future to eliminate America's reliance on foreign sources?

27 CHAIRMAN JACZKO: Bill, do you want to take this?

1 COMMISSIONER MAGWOOD: Well, there's several  
2 options, and there's actually some initiative that is underway at the  
3 Department of Energy to provide grants to look for solutions. Right now,  
4 there's a combination of things that are going on, including trying to  
5 convert some of the existing research reactors at universities to produce  
6 medical isotopes, but there are also industry initiatives underway to  
7 develop new reactor-based technologies, and actually some non-reactor  
8 technologies to develop, particularly, molybdenum-99. But all these things  
9 are still in the pipeline. There's nothing that really solves the problem in  
10 the near term.

11 That said, I think that it's something that has finally  
12 reached -- gained the kind of attention nationally that it's deserved for a  
13 long time. For some of us who were involved in this years ago, it was  
14 always very frustrating that we were sort of voices in the dark saying  
15 there's a big problem coming down the line here. But now I think it's got a  
16 lot of attention. There's resources, so, hopefully, as we go forward in the  
17 next several years, there'll be some solutions, as well.

18 AUDIENCE PARTICIPANT: Thank you. For more than a  
19 decade, previous Commissions have provided resources and supported  
20 the High-Level Waste program as it developed and elaborated a Public  
21 Outreach program to interact with stakeholders. And key to that effort was  
22 to communicate a message that NRC was an open, and transparent, and  
23 independent regulator. And, as part of that, a key message was that the  
24 public and stakeholders would have access to the scientific and technical  
25 work that staff would do in evaluating a license application for a proposed  
26 repository at Yucca Mountain when it was received.

27 I am troubled by the fact that with the recent Commission

1 decision, we are breaking faith with that promise that we made to  
2 stakeholders, many of whom are taxpayers and rate payers, who paid for  
3 our work, and that they will not have access to the findings, the technical  
4 findings that staff has made, and that are ready to be released as Volume  
5 III of that work. And I would ask the Commission here today what we  
6 should say to those stakeholders, and rate payers, and taxpayers when  
7 they ask why can't they have access to that work; understanding that it is  
8 not complete, is not part of a final hearing process decision. They  
9 understand that, because we spent so much time explaining the hearing  
10 process, and explaining what a final decision would have to represent.

11 Thank you.

12 CHAIRMAN JACZKO: Well, I can begin. Of course, if  
13 anyone wants to add, feel free.

14 I think as we embark on the effort to look at closing out  
15 the program, I think that's an effort that will take some degree of time. I  
16 suspect that as we begin to look at the kinds of things that we will make  
17 public, and I do believe, as I've talked to many of the staff who work in  
18 NMSS, that we should make a lot of information public, and that involves a  
19 good degree of the technical information, and the technical review work  
20 that the staff has undertaken and completed.

21 I think, my personal views are that there is probably  
22 certain information which, at this point, is not complete, and wouldn't be  
23 appropriate for publication as part of some kind of information provision, or  
24 information document. But, again, I think some of those issues, where that  
25 line is, what is exactly the things that shouldn't be provided, and what  
26 should be provided, I think that's something that will be more fleshed out in  
27 the coming months as the staff begins to look at what, exactly, is entailed

1 in the closeout procedure.

2 So, I think there's -- the bulk of the information will be  
3 made public, and I think that's a good thing. I think it's appropriate for  
4 people to know the work that we've done as an agency. And I think that  
5 that will bear itself out in the future.

6 AUDIENCE PARTICIPANT: When will that be, sir?

7 CHAIRMAN JACZKO: I'm sorry? When?

8 AUDIENCE PARTICIPANT: When will that be, sir?

9 CHAIRMAN JACZKO: Well, I think over the next couple  
10 of months we'll be looking at putting together a time line for all the work  
11 that needs to be done to do the closeout.

12 AUDIENCE PARTICIPANT: Thank you.

13 COMMISSIONER SVINICKI: I would just add to what the  
14 Chairman has commented on, that my view was different in my vote in  
15 support of Commissioner Ostendorff's COM. I indicated my personal view  
16 that the best way to memorialize the staff's work would be to publish  
17 Volume III of the SER with the findings, so I -- it's my hope that as the  
18 Commission looks more closely at the staff's recommendation on the  
19 appropriate scope of closeout activities, as the Chairman has mentioned, I  
20 hope that we'll continue to analyze this particular question. That's my  
21 personal view.

22 AUDIENCE PARTICIPANT: In your opinion, what is the  
23 biggest non-technical threat to the nuclear renaissance, some examples  
24 being politics, economy, and workforce issues.

25 CHAIRMAN JACZKO: Well, I'll share my opinion first.  
26 Then, of course, any others like to chime in. And, again, these questions  
27 are always difficult, because it's very tempting to want to get in the middle

1 of a lot of these interesting discussions. Of course, as a safety regulator,  
2 our job, fundamentally, is to be dispassionate about, ultimately, what  
3 happens with some of these designs, or some of these applications.

4 But from what I see in my position, I would say that the  
5 biggest challenge, if you will, to potential -- really to the construction of the  
6 license applications that we're really reviewing right now is financing. That  
7 seems to be the biggest difficulty that the utilities are struggling with, as  
8 they look at following through on licenses that we may issue in the next  
9 several years. That's my sense of what the biggest challenge is.

10 COMMISSIONER OSTENDORFF: I'd like just to -- I  
11 agree with the Chairman on the financing piece. I'd just like to provide  
12 maybe a couple of other thoughts. If you go back to prior to the economic  
13 downturn and look, let's go back maybe three to four years ago, and one  
14 looked at what was being considered as far as major policy debate issues  
15 with respect to carbon emissions, carbon cap and trade, global warming,  
16 climate change, that whole umbrella of issues that might have an impact  
17 on oil, coal, or even gas-fired electricity generation, that there was quite a  
18 momentum back in 2006 to take action in those areas. Then the advent of  
19 the recession, became no longer feasible to consider at that point in time.

20 I bring it up, because it's not clear to me that a lot of the  
21 utilities that are looking at making strategic planning investments for the  
22 long term will be able to effectively do so until there's a more coherent  
23 energy policy that brings those into play.

24 A second pragmatic factor, I grew up in Louisiana, so  
25 natural gas is a big issue in that state. And you look at all the shale gas  
26 reserves that have exploded in this country as far as the increase in  
27 reserves, so the price of natural gas has gone down so much that it's

1 making, I think, utility executives in my discussions with them really think  
2 twice about nuclear until they have a longer term view of what those price  
3 considerations may be. Those are my thoughts.

4 COMMISSIONER APOSTOLAKIS: I agree with the  
5 Chairman, it's financing.

6 COMMISSIONER MAGWOOD: Well, I think that -- and,  
7 clearly, financing is one of the issues that I think characterizes how many  
8 plants get built, and who builds them. I think that's a better way of looking.  
9 I don't see financing, in and of itself, as being a barrier of particular size,  
10 because it depends on the situation you're talking about. For example, my  
11 experience, and I think this is playing out in some of the things you see in  
12 the press today, financing is a much larger issue for a merchant power  
13 plant than it is for a utility plant. It's simply a different conversation.

14 So, I think the current economic situation clearly has  
15 affected the schedule that some utilities are on as far as their thinking, but  
16 I think that really the biggest non -- if you want to consider it to be a non-  
17 technical threat, and I think this is the context you meant it, is really what  
18 happens overseas, quite frankly. I think that when you look at the speed  
19 and the breadth of the spread of the application of nuclear power plant  
20 technology in many countries across the world, I think we have to look at  
21 that with a little bit of trepidation, because there are some countries who  
22 are now saying they want to build nuclear power plants, but don't have the  
23 expertise, don't have the infrastructure, don't have the discipline in the  
24 regulatory sense to really assure safety I think in a way that satisfies most  
25 of us. So, I think that the old adage that we've heard for many years, a  
26 nuclear accident anywhere is a nuclear accident everywhere, applies. And  
27 I consider the biggest threat to be the possibility of nuclear accidents, or

1 nuclear problems in overseas reactors. If that were to happen, almost no  
2 matter what the technology is, no matter what the circumstances would  
3 be, I think it would have a devastating impact on any plants any utility  
4 would build in the United States, so that's what I consider to be the biggest  
5 threat.

6 AUDIENCE PARTICIPANT: Can you comment on NRC  
7 efforts at the policy level to learn from the challenges and effectiveness of  
8 other regulatory agencies?

9 CHAIRMAN JACZKO: Well, again, I'll start with some  
10 thoughts of my own. I think, as Commissioner Magwood alluded to, this is  
11 something I think that happens, in particular, in the international area.  
12 And, in fact, that question is very appropriate right now, given that we are -  
13 - a good portion of our staff right now is working hard with a team from  
14 IAEA to look at our program in what's called an International Regulatory  
15 Review Service Mission, to take a look at how we stack up to the  
16 international ideas of what a good nuclear regulatory body should be.

17 That program is a good opportunity for us to learn from  
18 other regulators, to hear their thoughts about how we do things well, areas  
19 where they think we could make improvements. So, that is certainly one  
20 area right now where we're involved in that kind of dialogue, is on that  
21 international area. As Commissioner, I think, Magwood touched on,  
22 domestically, there has been a lot of discussion about regulatory agencies,  
23 and how they function best. And I think that's been an area in which we  
24 have been providing information more than we have been receiving  
25 information, but I think it's in our best interest, as an agency, to make sure  
26 that when all of that dust settles, that we don't take a good look at some of  
27 the things that went wrong with the Department of Interior, with the Mine

1 Safety Health Agency, to see how their failures may provide lessons for  
2 us, because I think as one of our strong oversight members in Congress  
3 always says, "If it isn't perfect, then we should be working to make it  
4 better." And while we are a very, very good agency, we're not yet perfect,  
5 so I think we can always look to make things better. Other comments?

6 COMMISSIONER OSTENDORFF: I'd like to add, I agree  
7 with the Chairman's comments. I spent a lot of time looking at the space  
8 programs when I was working for the Congressional staff, and I look at  
9 how NASA does business as a technical agency on decision making. I  
10 agree with the Chairman's discussion on looking at what's happening in  
11 the Coal Mine, offshore oil rig industries. I think the EPA also offers us a  
12 lot of opportunities to learn, as does FERC. And I think all of us -- I'm sure  
13 all of us spent some time making sure we have appropriate situational  
14 awareness of what's happening across all federal regulatory agencies, as  
15 it might apply to us, making sure that we're consistent as policy makers,  
16 not just within the NRC, but also in the mind set of how the federal  
17 government approaches things.

18 In some cases, that consistency has not been there in  
19 other agencies, and I think we're able to sit back and say well, wow, we've  
20 done this pretty well. We can always improve. We don't want to become  
21 complacent, but I think that situational awareness of what's happening  
22 elsewhere is vitally important to the NRC.

23 CHAIRMAN JACZKO: This side.

24 AUDIENCE PARTICIPANT: How is the NRC sharing our  
25 lessons learned and regulation oversight framework with other federal  
26 agencies in response to the BP spill in the Gulf?

27 CHAIRMAN JACZKO: Well, again, we have been asked,

1 certainly, in the inter-governmental process to provide information to the  
2 Department of Interior, to other federal agencies about our regulatory  
3 approach, and how those could be applicable to the predecessor to the  
4 Minerals Management Service at Department of Interior. It's also, actually,  
5 an issue that came up in a Congressional hearing, where we all testified,  
6 so in that setting, certainly the Commissioners have shared their thoughts.  
7 Those are just some of the ways in which we're doing that.

8 AUDIENCE PARTICIPANT: In light of the two recent  
9 fatalities adjacent to the NRC, what efforts will be pursued to build a tunnel  
10 or overpass to connect Three White Flint?

11 CHAIRMAN JACZKO: This is, certainly, an issue of, I  
12 know, significant interest, and it's been of interest to me, personally, since I  
13 became Chairman to see how we would deal with issues of pedestrian  
14 and vehicular safety.

15 About four or five months ago, I sat down with Ike  
16 Leggett, who's the County Chairman, or County Executive, thank you, for  
17 Montgomery County. It takes a team sometimes.

18 (Laughter.)

19 CHAIRMAN JACZKO: And to sit down and figure on how  
20 we are going to best insure pedestrian and vehicular safety. So, we  
21 created a task force, signed a Memorandum of Understanding with the  
22 County to make sure that not only when we have a new building, but in the  
23 process of building and the construction activity, that during that process  
24 we're able to insure and maintain pedestrian safety. And one of the first  
25 fruits of that effort, are the efforts you'll see over the next couple of months  
26 to move the current crosswalk that exists right now in Marinelli connecting  
27 our side with the side with construction, that crosswalk will be moving, and

1 there'll be additional construction done to insure that's a much safer path  
2 to get across the street there.

3 The long-term, perhaps there will be a time when we  
4 have a greater construction, some type of underpass or overpass. Right  
5 now, the estimates for doing that, and the difficulty of doing that made it  
6 impossible to do in the near term with the construction of the building. The  
7 estimates are on the order of about \$10 million to construct such a pass,  
8 whether it's an underpass or an overpass. They each present tremendous  
9 technical challenges with the design of the building, and with the current  
10 design of our existing building, so that may not be an option for us in the  
11 future. But, fundamentally, the process we have I think in place right now  
12 working with the County will be a very strong process, I think, to ultimately  
13 insure pedestrian safety. And we certainly are taking a look at the  
14 incidents that have happened, if there's anything that we can learn from  
15 those to better insure the safe passage of people back and forth between  
16 the buildings. I don't know if anyone has any comments.

17 AUDIENCE PARTICIPANT: How can risk-informed  
18 approaches be brought into environmental assessments of abnormal  
19 releases to the subsurface?

20 CHAIRMAN JACZKO: George, do you want to take that?

21 (Laughter.)

22 COMMISSIONER APOSTOLAKIS: I don't know.

23 (Laughter.)

24 COMMISSIONER APOSTOLAKIS: But somebody ought  
25 to look into it.

26 (Laughter.)

27 CHAIRMAN JACZKO: Anyone else have any thoughts?

1 COMMISSIONER OSTENDORFF: Well, I think we have,  
2 I think looking down here at the front row, the Senior Leadership Team, I  
3 believe, is reviewing, the Groundwater Contamination Task Force led by  
4 Chuck Casto, when we come back to the Commission later this year, I  
5 believe, with some recommendations and policies. And I would anticipate  
6 that in the context of that effort, we'll have a chance, as a Commission, to  
7 listen to the staff's recommendations, and, perhaps, take a good look at  
8 what might be some ways of better using risk to inform those activities.

9 COMMISSIONER SVINICKI: I would just add to that by  
10 saying we're like any government agency, or department, and we have the  
11 authority that's been given to us under law, so that's part of what makes  
12 this so challenging, is just because we wouldn't, necessarily, run a plant  
13 that way, that doesn't, necessarily, give us the authority to go in and  
14 impose a requirement. So, I think that's what's made this really a struggle  
15 to deal with, and address this issue, so I'll look forward to the staff's really  
16 creative thinking on this point.

17 COMMISSIONER MAGWOOD: Yes. I think  
18 Commissioner Svinicki's comment is very much on the mark. That said, I  
19 think that the -- I guess my reaction to the question is to some degree that  
20 may be the wrong question to be asking, because I think as sort of what  
21 the predicate -- what Commissioner Svinicki has mentioned is the fact that  
22 the risk presented by these -- by tritium releases, we're all assuming you're  
23 focused on tritium releases, really presents a risk to the public, which is  
24 somewhere between zero and very small. It's not a high-risk at this stage  
25 from the releases we've seen.

26 But the reason I think it might be the wrong question to be  
27 asking is because the public is not comfortable with that answer. That

1 doesn't mean we have an immediate solution to it, but I think we have to  
2 recognize that when people buy a farm a few miles away from a nuclear  
3 power plant, they have a right to expect that the groundwater is not  
4 contaminated by tritium. And having government scientists tell them that  
5 these levels of tritium don't hurt you is not a very satisfying response from  
6 the government. So, I think that we have to look at this both as a  
7 dispassionate regulator, but also with an understanding that the public is  
8 expecting some kind of response from the government on something they  
9 think is a threat.

10 And I think one of the big challenges that I've seen since  
11 we've been here is to figure out what should the government response be?

12 And, of course, the Chairman has launched a task force, which has given  
13 some thinking to this, and the Senior Staff here before us, is looking at this  
14 now, and giving a lot of thought to it. So, I do think that is something that  
15 we should have some response to, but exactly what that response is at  
16 this point, I don't think that there is a clear answer, but I'd really like to think  
17 there is one. Yes, I'm looking at you guys.

18 AUDIENCE PARTICIPANT: Is it true that Calvert Cliffs  
19 has pulled its application for a new reactor plant? If so, do we expect to  
20 see other utilities reversing their decision to build a new plant?

21 CHAIRMAN JACZKO: Well, there's been a lot of  
22 information in the press about the status of Calvert Cliffs 3, and I think as  
23 Commissioner Svinicki said, sometimes the details may not be as  
24 interesting as the media sometimes portrays them to be.

25 From our perspective, as an agency, we've received no  
26 indication from the licensee or the applicant in that case to change our  
27 work on the application, so we'll continue reviewing that application.

1 I think one of the interesting issues with the change in the  
2 regulatory process that we've created is that our licensing is no longer,  
3 necessarily, an opportunity to actually operate. It's more of an option to  
4 construct, so many utilities right now are availing themselves of the option  
5 to pursue licensing so that they would have the option to construct at some  
6 later point, if many of the factors that my colleagues here on the  
7 Commission have discussed work out in their favor. So, right now, we  
8 haven't received anything that has changed our plans for reviewing that  
9 application.

10 AUDIENCE PARTICIPANT: We are currently undergoing  
11 an IRRS review of our reactor program. Are there any plans or  
12 discussions for an IRRS review of the Materials program?

13 CHAIRMAN JACZKO: Certainly, when we looked at the  
14 IRRS mission, our program is extremely large, and, in particular, relative to  
15 a lot of other countries. So, the focus for the agency right now was really  
16 on the reactor program, so that piece of the mission right now, or the  
17 mission is just focusing really on that piece of the review.

18 There is a likelihood that there will be a follow-up mission  
19 to look at review findings. And the possibility exists for us to, again, do an  
20 additional mission in the future that would look more broadly. We didn't  
21 deal with the New Reactor program as well, and the Materials program,  
22 also. So, I think those are opportunities in the future, but it is a very  
23 resource-intensive activity to prepare for and, ultimately, to go through one  
24 of these missions. So, it's certainly something that I've had discussions  
25 internationally with people at the IAEA about the possibility of additional  
26 missions, but I wouldn't suggest that that's something that would be  
27 beneficial to do too quickly, because of the resource needs of the mission.

1 AUDIENCE PARTICIPANT: Would the Commission  
2 comment on how strategic or creative initiatives by employees could be  
3 recognized, similar to how day-to-day metrics are measured and  
4 rewarded?

5 CHAIRMAN JACZKO: I think it's certainly a very good  
6 idea, and I've talked a little bit in some speeches I've given about the  
7 importance of strategic thinking. And I think we are very, very good as an  
8 agency, I think, in day-to-day work, and executing. I think where some of  
9 our opportunities for growth would be are in the areas of some more  
10 strategic thinking. So, I would certainly be interested in suggestions for a  
11 way that we could recognize that kind of work. But I think that, as  
12 Commissioner Svinicki alluded to, and as others have alluded to, the Open  
13 Collaborative Work Environment, the open door policies that we have,  
14 these are all opportunities for employees to bring issues to the attention of  
15 the senior managers or the Commissioners. I have an open door every  
16 Monday from 3 to 4, except if I'm not in town. I can't tell you how many  
17 days it has been since I've had someone come to my open office, but it is  
18 fewer, or more than I would like. So those opportunities exist, I think, for  
19 people to come forward with those ideas, and that kind of thinking.

20 COMMISSIONER OSTENDORFF: I would just add, if I  
21 could, that -- let me speak just how I get information, and others may have  
22 different ways, but I read the daily notes, I read when Bill Borchardt puts  
23 out his EDO notes, and Jim McDermott puts on his online from HR, I find  
24 those very helpful. And I think to the extent, those are just a few  
25 examples, I know there are more in the organization, but I think it's  
26 important to provide, especially for managers and supervisors, to provide  
27 the opportunity for the people that work for you to have that visibility,

1 because everybody benefits from seeing what's going on. I think we all  
2 learn when those good ideas are shared effectively.

3 AUDIENCE PARTICIPANT: Following the issuance of the  
4 President's Veterans Recruitment program, what is your position of the  
5 hiring of enlisted veterans of the Navy Nuclear program, particularly those  
6 who do not possess a Bachelor's degree?

7 CHAIRMAN JACZKO: Well, we've made a real concerted  
8 effort, the NRC sits on the Veterans Employment Council, which is chaired  
9 by the Director of OPM, John Barry. And I think that's a very good  
10 program to really help stimulate the importance of looking at veterans as  
11 not only individuals that have provided a tremendous service to the  
12 country, but as individuals who can continue to provide tremendous  
13 service to the country in different capacities. So, as we look at  
14 opportunities to increase the potential of veterans who are in our  
15 workforce, that's certainly I think an area that we should be exploring, is to  
16 look at enlisted individuals who may not have a Bachelor's degree,  
17 certainly. And we have to, of course, follow -- I'm looking for Jim  
18 McDermott somewhere up here. We have to follow, of course, whatever  
19 requirements we have in place about hiring, but I certainly think that there  
20 should be ways to incorporate that into the process. And Jim is nodding  
21 as I'm saying that, so I think that's a good thing.

22 AUDIENCE PARTICIPANT: Is NRC considering a  
23 reduction in its budget for office and corporate support efforts to divert  
24 more resources to direct mission requirements?

25 CHAIRMAN JACZKO: Well, again, I can give you my  
26 thoughts on where I think the Commission is, and where the Agency is in  
27 looking at these issues.

1 As we reviewed the budget, it became clear that over  
2 time, and I think in a perfectly natural way, we evolved to have a slightly  
3 higher amount of our budget resources going to overhead activities in the  
4 corporate support area, in particular. Some of that was, I think, a reflection  
5 of the increase in the agency, and the need to manage that increase, and  
6 the need to do that quickly. So, for instance, many offices developed  
7 resources within their offices to help out with the hiring of new employees  
8 and new individuals, as we ramped up in a very, very quick manner. So,  
9 as we go forward, we probably have to reexamine that, and take  
10 consideration of the right balance, and the right efficiencies there.

11 I wouldn't, necessarily, say that it's simply an effort to free  
12 up resources for other programmatic work. I think, in my view, it's really  
13 been more of an effort to, perhaps, just rebalance and put resources  
14 where they can be better used. But I think, fundamentally, a lot of this -- it  
15 also requires us to really make sure that if we're doing more of those kinds  
16 of corporate support issues from an agency-wide perspective, that we  
17 have the right programs in place, and we have the right kinds of leadership  
18 and management in those areas to make sure that those programs are  
19 effective, and can be done more on an enterprise basis, rather than an  
20 individual office basis. So, those are some of the things we're looking at.  
21 But I view this as more of just a natural cycle, as we had a period of  
22 expansion, now we're in a period of more stable growth. It's time to  
23 reexamine these things in that light.

24 COMMISSIONER APOSTOLAKIS: I must confess that I  
25 am extremely skeptical of things like Lean Six Sigma, or something like  
26 that, and other things that I have seen over the years proposed. I know  
27 Bill Borchardt disagrees with me. This is probably a minority view, but my

1 position is that I really must be convinced, and it will take a lot of  
2 convincing, to convince me that these are worthy of extensive support.  
3 Maybe I haven't managed a large organization, so maybe that's why I  
4 don't know, but I am very skeptical.

5 AUDIENCE PARTICIPANT: What is the status of White  
6 Flint III? Is everything going as planned, so far?

7 CHAIRMAN JACZKO: I'd rather not say, because then it  
8 will jinx it. But right now, they are in a period of excavation. They're close  
9 to completing excavation, and then we'll begin pouring concrete for the  
10 garage. I actually had an opportunity to tour the site last week, and they  
11 are certainly making progress. Right now the biggest challenge is the  
12 weather. That provides probably right now the greatest degree of  
13 uncertainty in the schedule. But, again, I would say that the team we have  
14 in place there has done an excellent job to oversee that operation. I think  
15 it's -- the contract team and the main contractor, and Elcor, who's the  
16 owner of the building, ultimately, probably have met their match in having -  
17 - building a project for the NRC, because we have lots of engineers, lots of  
18 people who do project management, so they'll have lots of excellent  
19 people looking over their shoulder and making sure that project stays on  
20 schedule, and, ultimately, on budget.

21 AUDIENCE PARTICIPANT: When will the Commission  
22 vote on whether DOE can withdraw the Yucca Mountain application?

23 CHAIRMAN JACZKO: That is an issue, it's an  
24 adjudicatory issue in front of the Commission, so it's not one we can really  
25 discuss in this kind of forum, because of the nature of that proceeding.  
26 But it's certainly one I know, again, I think as Commissioner Svinicki said  
27 earlier, it's a very important issue, and the Commission is working very

1 hard on it. And beyond that, we can't really get into too much detail.

2 AUDIENCE PARTICIPANT: There are some who think it  
3 would be a really great public relations move to put solar panels on the  
4 roof of Three White Flint. What do you think?

5 CHAIRMAN JACZKO: I don't -- it is not currently anything  
6 that we have budgeted, and I think right now I've not seen any proposals,  
7 specifically, to do that. I will say that the agency has done quite a bit in  
8 efforts to enhance energy efficiency of the building. There are quite a few  
9 efforts ongoing in that way to improve our energy use, and not just with  
10 electricity and other systems, but just in general, our resource use. So, I'm  
11 fairly pleased with where we are on those issues. I don't know if anybody  
12 has any comments.

13 COMMISSIONER APOSTOLAKIS: Yes. I'd like to see  
14 solar panels on the roof of Building Three, and small modular reactors on  
15 One and Two.

16 (Laughter and Applause.)

17 CHAIRMAN JACZKO: Any other comments?  
18 Commissioner Apostolakis, I'll tell you, it might take a Lean Six Sigma  
19 review to get there.

20 (Laughter.)

21 COMMISSIONER APOSTOLAKIS: And I may go along.

22 CHAIRMAN JACZKO: This side.

23 AUDIENCE PARTICIPANT: Why does NRC have so  
24 many non-supervisory GG-15 positions in the corporate support offices?

25 CHAIRMAN JACZKO: I would -- perhaps, Bill, I don't  
26 know if you want to take a stab at that one. I'm not --

27 (Laughter.)

1 CHAIRMAN JACZKO: I'm not sure of the ratios that we  
2 have there, and if the ratios there are any different than what we have in  
3 other areas. It's certainly, again, an issue that we do need to look at, in  
4 general. We have, certainly, kind of had an increase in grade over time,  
5 where we are seeing more and more non-supervisory 15s. I'm not aware,  
6 necessarily, that's just an issue in corporate support, but it's something  
7 that does exist in other areas. Some of that is a reflection of longevity of  
8 people in the workforce, as they stay here and they receive their  
9 appropriate grade increases. They do get into those kinds of positions.  
10 But I'm not aware of specifics in corporate support, but it's certainly  
11 something we can get more information and provide an answer on the  
12 website, or something.

13 AUDIENCE PARTICIPANT: Are there some specific  
14 things you believe we should be doing to improve knowledge  
15 management, and enhance knowledge transfers?

16 CHAIRMAN JACZKO: Well, I think we have a very good  
17 program right now I think in knowledge management, and in the area of  
18 knowledge transfer. But it is a challenge, without a doubt. There,  
19 ultimately, I think is no real replacement for the experience that we lose  
20 with many of our very experienced employees. We can try and duplicate  
21 that, and provide alternate ways to capture that knowledge through oral  
22 history video recording, these kinds of things, but it is a difficult task. So, I  
23 think it's an area we'll continue to work on. Marty Virgilio has been  
24 particularly taking the lead on our knowledge management initiatives, and  
25 we can, again, perhaps provide more information, a detailed answer about  
26 some of those areas. But I don't know if anybody else has any thoughts or  
27 comments.

1 COMMISSIONER OSTENDORFF: I'm going to make  
2 one comment on that, because I think it's a great question, and I think it's a  
3 very important question for this group of people here. And I'm going to  
4 provide just one bullet point, and I realize I don't have personal knowledge  
5 as to whether this is occurring or not. I think it is occurring, but I would just  
6 tell you never -- my point is, never underestimate the importance of  
7 providing new employees or younger employees the opportunity to work  
8 alongside more experienced employees on a project. I think just the  
9 osmosis by being directly engaged and seeing how meetings are held,  
10 visits out in the field are conducted, what questions are asked, that is just  
11 invaluable. And while trying to capture on a database or in a knowledge  
12 center appropriate lessons learned is a good thing, it's often not a  
13 satisfactory substitute for having trained by doing, by bringing a young  
14 person into the organization, and letting that person be part of a team  
15 doing something important.

16 AUDIENCE PARTICIPANT: The Commission --

17 CHAIRMAN JACZKO: I'm sorry.

18 COMMISSIONER MAGWOOD: I'm sorry. I just wanted to  
19 add one little thing to that. I think that -- first, let me say that I have been  
20 briefed on what we've done so far with knowledge management, and it's  
21 actually pretty impressive. I think it goes much further than I've ever seen  
22 in other organizations. One thing I would add, though, is that one area  
23 where I think we probably could improve is in tapping the experience of  
24 people who have already retired from the agency. There's a -- one of the  
25 things I found about, and this is probably true for people in all disciplines,  
26 but retirees really would like to be involved. They would like to play a role,  
27 they would like to be helpful, and if we can find a way to make -- to give

1 those people an opportunity to help in knowledge management, I think we  
2 ought to look more for ways to do that, because I think they would love to  
3 play, if we could find the right field for them to play on.

4 AUDIENCE PARTICIPANT: The Commission recently  
5 completed its vote on waste confidence. In that vote, it expressed a view  
6 that repository capacity will be available, when necessary, and that it  
7 expects that that capacity can be developed within 25 to 35 years based  
8 upon a review of international experience. As you know, the regulatory  
9 responsibility for reviewing an application for a repository is a first-of-a-kind  
10 enterprise, and a number of our employees were recruited to this agency  
11 specifically for that purpose, and have spent the better part of 30 years, in  
12 many cases their entire career here preparing for that. Some of them  
13 have done everything that has been asked of them ahead of schedule,  
14 have done it under, shall we say less than ideal circumstances, and is  
15 there anything that you would like to say to those of us who feel personally  
16 betrayed by the Commission's recent decision? Thank you.

17 CHAIRMAN JACZKO: Well, I'll certainly say my own  
18 thoughts here. I can appreciate, as I've talked to the staff in NMSS, in  
19 particular, about the decision, and the movement we had going forward. I  
20 can appreciate concern, and the disagreement with the decision. But,  
21 unfortunately, that is, I think, where we are. I think there is a lot of work to  
22 be done. There is a lot of work as we begin the process of closeout that  
23 will be needed to be accomplished, and I hope that staff will continue to  
24 demonstrate the professionalism that I think they've demonstrated  
25 throughout this process, and to work on the things that do need to be  
26 worked on as we go forward. Other comments?

27 COMMISSIONER SVINICKI: I'm sorry. I will just chime in

1 to say, I think in reading the vote record on waste confidence, what I would  
2 hope that people could see is that there was a lot of thoughtful evaluation  
3 of the history of the agency's activity in this policy area. There were a lot  
4 of, not just my own, but I'm aware of other really substantive engagements  
5 between the Commissioners and staff in briefings and other discussions  
6 that they held as they began to try to dig into the issue, and formulate their  
7 view on it. I agree with the Chairman that there is a tremendous amount of  
8 expertise, and since we were just talking about knowledge management,  
9 there is a lot that can be applied to the activities that the Commission also  
10 directed as a companion to their waste confidence rulemaking, which is to  
11 position the agency, no matter how the policy debate comes out between  
12 the Congress and the Administration, this agency needs to be prepared in  
13 a technical capacity to support various options for the Nation. And I think,  
14 in my personal view, I think that the Commission tried to honor that work,  
15 to apply it in ways that were effective going forward, given that the policy  
16 debate will really be engaged by others.

17 AUDIENCE PARTICIPANT: When will the NRC  
18 discontinue the Chairman Paper process? Is there a plan this year to  
19 increase the dollar threshold to reduce the administrative burden on staff?

20 (Applause.)

21 CHAIRMAN JACZKO: We are working on a process to  
22 have that issue come in front of the Commission in the next several  
23 months. I don't want to speak for any of my colleagues, and I'd ask them  
24 not to make any judgments too early. But, ultimately, when I -- I sat at this  
25 meeting several years, and seen this question come up multiple times. My  
26 answer has changed depending on where I sit.

27 (Laughter.)

1 CHAIRMAN JACZKO: But when I looked at the problem,  
2 one of the challenges that I saw was that I think we've always tried to  
3 answer the question of what should the right threshold be. I looked at the  
4 problem to see what really should our entire acquisition and contracting  
5 process be for really 21<sup>st</sup> century contracting process. So, we are nearing  
6 the end stages of that review, and I think so far what I'm seeing coming out  
7 of that I think is a really comprehensive change in how we go about doing  
8 acquisitions, in a way that I think will make it more effective and efficient for  
9 the staff, and, ultimately, will save us money.

10 So, a piece of that will likely be a proposal that will be  
11 coming from the CFO, or the EDO, or from me to the Commission to  
12 modify how we look at the Chairman Paper process. So, that's planned  
13 for the next couple of months, and I briefly mentioned it, I believe, to all of  
14 my colleagues on the Commission, that that's something they should be  
15 looking out for. But, please, if anybody has any comments.

16 AUDIENCE PARTICIPANT: In France, they are leaning  
17 towards building medium-size reactors, for example, 600 megawatts. Will  
18 the United States be considering a policy regarding reactor size change?  
19 Why, or why not?

20 COMMISSIONER MAGWOOD: I think that if I --  
21 hopefully, I'm answering the right question, but I think that what you might  
22 be referring to is the fact that the French company, Areva, has been  
23 working with a Japanese company, Mitsubishi, to develop a medium-size  
24 reactor technology. I forgot what they call it, the names of these European  
25 reactors are always hard to remember, usually named after Greek gods or  
26 something. And Commissioner Svinicki has provided the information, the  
27 name is Atmea. And I can't imagine why I would have forgotten Atmea,

1 but that reactor, in comparison to a lot of the other technologies available,  
2 is a medium-sized reactor. But my understanding from talking to people in  
3 France, is they are building that more for export purposes, as opposed for  
4 use in France, under the theory that for some small countries with less  
5 developed infrastructure, a medium-sized reactor is somehow easier to  
6 manage than a larger reactor. It's a theory I think that has yet to have  
7 been rigorously proven, but I think that what you'll find in most developed  
8 countries is that bigger is generally seen as better when it comes to  
9 economies of scale, certainly no reflection on small modular reactors that  
10 have certain different applications, and different economic models. But I  
11 think if you look at European countries, you look at Asian countries,  
12 certainly look to what U.S. utilities are talking about, they're generally  
13 sticking to the larger plants right now, with a live interest in what small  
14 modular reactors might bring.

15 AUDIENCE PARTICIPANT: What is the vision for  
16 technology improvements, and does one of the new Commissioners plan  
17 to take up the challenge personally?

18 CHAIRMAN JACZKO: That's a fairly open-ended  
19 question. I think, I would take on part of it, and again turn it over to my  
20 colleagues. I think a fundamental organizing principle for what we want to  
21 do with technology infrastructure here is the Work From Anywhere idea.  
22 That is, I think, really the foundation for how we should be able to operate  
23 in the 21<sup>st</sup> century.

24 With that comes a lot of challenges, the least of which,  
25 perhaps, are the budget resources needed to fully implement that kind of a  
26 vision. But I think it's important for us to have that kind of vision, and  
27 certainly, for me, as I work to develop budgets and present them to the

1 Commission, it's important that we not lose sight of the technology,  
2 because when you get behind in the technology curve, it's very, very  
3 difficult to catch up. And we don't, necessarily, always want to stay at the  
4 cutting edge, but we want to stay current to the extent that we can to  
5 insure that we provide the right kinds of tools for our staff to do their jobs.  
6 So, that's certainly an important goal for me to continue to make progress  
7 in that area, and it will be a challenge, though.

8 COMMISSIONER SVINICKI: I just – well this is  
9 gratuitous, but we experience the same challenges, because we rely on all  
10 the same IT systems as every other NRC employee. And I struggle, I  
11 know we have a lot of security requirements, but sometimes rationalizing  
12 the various requirements, and why on a trip outside of the country, I could  
13 not get my loaner laptop air card to work. I did much better with my  
14 personal iPad. I just forwarded the emails to a personal account, and read  
15 them on there. So, some of these things seem like solvable challenges,  
16 but I share the frustration of many folks when you find yourselves trying to  
17 work remotely, and struggling with technology challenges. But as the  
18 Chairman said, we can't, necessarily, stay on the cutting edge, but when  
19 you find that your own personal devices that you just have purchased with  
20 your own money and carry around serve you so much better than what we  
21 get from the agency, clearly, that's frustrating to everybody.

22 AUDIENCE PARTICIPANT: Good afternoon. I was  
23 interesting to see if you could elaborate on how the agency is meeting its  
24 statutory requirements under the Nuclear Waste Policy Act, the law, in  
25 light of the recent direction that we're getting in budget space, as well as  
26 from EDO?

27 CHAIRMAN JACZKO: Well, I'll answer that this issue was

1 one that was reviewed very, very carefully by the General Counsel, and it's  
2 in 100 percent compliance with all our statutory and legal obligations. I  
3 know -- perhaps, Commissioner Ostendorff may want to comment. I  
4 mean, there is, perhaps, a disagreement on the Commission, but,  
5 certainly, from the standpoint of the General Counsel's office, there is no  
6 ambiguity there.

7 COMMISSIONER OSTENDORFF: Thank you, Mr.  
8 Chairman. Again, I'm grateful that we have an environment in which we  
9 can openly in front of lots of people express a difference. I really respect  
10 you for providing the opportunity.

11 I'm going to say this. My two documents, October 6<sup>th</sup> and  
12 October Memo were released last Thursday. They're available for you to  
13 read. I still to this day having read the Office of General Counsel memo,  
14 still stand by my two memos from two weeks ago, and believe my  
15 experience working in Congress as a staff person, working as the Principal  
16 Deputy Administrator in NNSA, and having had significant interface with  
17 other people with appropriations experience, believe that the direction that  
18 I was trying to achieve via my COM was the appropriate direction of the  
19 agency. Having said that, I respect that the majority of my colleagues do  
20 not agree with me, so we continue on.

21 COMMISSIONER SVINICKI: And I would just like to say  
22 for purpose of clarifying, for any of those following this issue closely, that  
23 the Agency General Counsel did release his interpretation, at least I got it  
24 on Friday, and I would just say that even having reviewed his  
25 determination, I stand by my vote in support of Commissioner Ostendorff's  
26 COM.

27 AUDIENCE PARTICIPANT: What is the Commission's

1 view of the NSPDP program? How do you see the program in the future?

2 Example, do you see it modified, eliminated, et cetera?

3 CHAIRMAN JACZKO: Again, my sense is the NSPDP  
4 program is a very good program, and it works very well. The biggest  
5 challenges we may see, just looking out in the future, would simply be the  
6 size of the program, as we enter into a period in which we may not see the  
7 same kinds of growth in budget and staff that we've seen over the years.  
8 We may have to look over time at having a smaller group, perhaps, of  
9 individuals in the NSPDP program. But I certainly have heard nothing that  
10 would indicate to me that the program is not an extremely successful  
11 program, and a great opportunity for recent college graduates to come into  
12 the agency, and really begin to contribute right away when they get here,  
13 and gain some valuable experience as they do their rotations in other  
14 areas of the agency.

15 COMMISSIONER SVINICKI: I would just add to that and  
16 say when I've addressed university groups, that just describing the  
17 NSPDP program has been a tremendous recruitment tool. And I started  
18 two and a half years ago, where there was more hiring going on, and we  
19 flattened off, so it's almost something that I include in remarks with a little  
20 bit of trepidation, because I hate to get -- you will often have a number of  
21 students come up to you afterwards, and they're so intrigued and enticed  
22 by the program, it's really peaked their interest in NRC, so I think it's great.  
23 And as a recruitment tool, I found it very effective.

24 AUDIENCE PARTICIPANT: The design of Three White  
25 Flint North has a mostly glass facade. What is being done to harden the  
26 design against an Oklahoma City-type attack? Also, what is being  
27 considered to dampen the sandwich wave impacts of a truck bomb

1 between the building on Marinelli Drive?

2 CHAIRMAN JACZKO: The building -- I think there has  
3 been a slight change, that the building will have less glass than I think  
4 some of the initial designs portray. But the building has gone through  
5 review, working with the Department of Homeland Security, it will meet the  
6 highest standards appropriate for that building, and that includes looking at  
7 a variety of the issues that you discuss. Those design features will be put  
8 in place with the very specific design that's going on now, as well as  
9 external features that will help deal with the kinds of incidents that were  
10 talked about. I don't want to go into the specifics here, but it is something  
11 that is being reviewed as part of the design, and it's a requirement, and it  
12 will meet the various highest levels of requirements to deal with all those  
13 types of external threats.

14 AUDIENCE PARTICIPANT: Have the Commissioners  
15 interacted with the Blue Ribbon Commission of America's Nuclear Future?  
16 Do you have any insight into what they may recommend?

17 CHAIRMAN JACZKO: I have not had any direct  
18 interaction. I think at the staff level, we've had interaction providing  
19 support on various of the subcommittees, and technical information, as is  
20 requested. I don't know if the others would like to comment.

21 COMMISSIONER SVINICKI: I have not had any direct  
22 involvement. I have inquired, as our staff has presented technical  
23 information at some of the subcommittee meetings, I've asked of NMSS  
24 and others if there was anything that came out of that, any request for  
25 additional support, but I've not directly been involved in anything.

26 COMMISSIONER MAGWOOD: Just very informally, but I  
27 think what I would offer about it so far is, I think the Commission is really,

1 the Blue Ribbon Commission is really just now gaining steam. They've  
2 been organizing themselves a lot over the last few months, and I think  
3 they've been educating themselves on some of the basics of the issues.  
4 And I think at this point, what they're mostly doing is going on site visits  
5 and just gathering more information, so it's really very early to start thinking  
6 about what their conclusions will be. I really look at this as really the first  
7 step of a long process. So, of course, we're all just looking forward to  
8 seeing what they come up with.

9 COMMISSIONER OSTENDORFF: I, personally, have  
10 not, but I have been very well kept up-to-date by Kathy Haney in our  
11 periodic meetings about the status of her staff's engagement, and I'm  
12 encouraged by the level of engagement that that group has with the  
13 Commission. I think it's very important going forward.

14 AUDIENCE PARTICIPANT: As we continue to reduce  
15 risk in operating reactors, how do we identify new or unanticipated sources  
16 of risk, and what can we do to avoid complacency in our regulatory  
17 programs and operations?

18 CHAIRMAN JACZKO: We had a whole Commission  
19 meeting about that last week, I think, and talked about a lot of these  
20 issues. Again, I think this is a very difficult issue, and one that we'll be  
21 faced with as new plants, in particular, become -- have inherent design  
22 features that make them safer, or have lower risk profiles. It will be very  
23 interesting, I think, to see how those issues play out in the future, and how  
24 we, again, maintain the kind of oversight to insure safe operation.

25 One personal view of mine is that I think as time goes on,  
26 that we will be dealing more with human performance issues as more of a  
27 driver to overall licensee performance, as some of the technology aspects

1 of the reactors become better understood, and better defined. But one  
2 valuable tool I think that we have seen recently is the value of the  
3 operating experience program. That has really provided a good insight  
4 into the kinds of challenges that continue to be out there, and a wakeup  
5 call that we can't let anyone become complacent in this area, that there  
6 are challenges, and we need to continue to focus on them.

7 COMMISSIONER APOSTOLAKIS: Yes. I think looking  
8 at the history of LWR, the current fleet risk assessment is very instructive.  
9 Way back, the reactor safety study dismissed the so-called external  
10 events, earthquakes, and so on. And then the industry sponsored Zion  
11 and Indian Point PRAs came along in the early '80s, and they said these  
12 are very important contributors to risk, so that was a relatively major  
13 change in the risk estimates.

14 Then later on, a few years later, we had the recognition  
15 that the contribution to risk from low power and shutdown operations is of  
16 the same order as the risk at power, so that was another change. And  
17 then, of course, we had the continuous evolution that took place as a  
18 result of operating experience, and the collection of that experience that  
19 the NRC staff has been doing over the years.

20 Personally, I don't think that you will have such a major  
21 change, or significant change in the risk estimates for the current fleet.  
22 The PRAs for the current generation of reactors have been done around  
23 the world by governments, by private organizations, so I think to find  
24 something that nobody had ever thought of is extremely unlikely.

25 Now, for new reactors, though, these are new designs,  
26 we get very low estimates of their core damage frequency, and large  
27 release frequency. We don't have any operating experience, we don't

1 have the benefit of many diverse groups doing risk assessments on these  
2 new designs, so there, I mean, if history is to teach us anything, I would  
3 expect some changes, maybe not in the very near future, but in the next  
4 several years.

5 I just am very skeptical of the numbers we see now will  
6 survive. But the key word you mentioned is unanticipated. I mean, it  
7 reminds me of a question that ACRS asked a staff member years ago, tell  
8 us what you know about the things you don't know.

9 (Laughter.)

10 AUDIENCE PARTICIPANT: In light of the "Washington  
11 Post" article highlighting negative perceptions of federal employees, does  
12 the Commission see a role for itself to educate Congress and the public on  
13 our value to public health and safety?

14 CHAIRMAN JACZKO: Well, I think, and I think as  
15 Commissioner Magwood touched on in his opening remarks, I think  
16 general trends about the federal workforce, I don't think represents specific  
17 views of the NRC. In my dealings with the public, with other government  
18 officials, I almost always hear incredibly positive comments made about  
19 the professionalism of the NRC workforce, and that includes licensees,  
20 almost everywhere you go internationally, as people have talked about.  
21 So, while I think there may be some very general comments about the  
22 federal workforce, I don't think that they are specifically reflective of views  
23 of the NRC.

24 In direction answer to the question, I think, yes, it's very  
25 appropriate for the Commission to weigh-in with anyone that they need to  
26 about this agency, and the good work of the people who are here. And so  
27 I think that's certainly a very important role, and I certainly will let the

1 Commissioners speak for themselves, but I feel very comfortable saying  
2 on behalf of the Commission there's a strong sense that we have a very,  
3 very good workforce here. Anyone wants to comment, specifically?

4 AUDIENCE PARTICIPANT: Does the Commission have  
5 a view about the multiplicity of communication vehicles we use? Are we,  
6 unnecessarily, adding to information overload?

7 CHAIRMAN JACZKO: Again, please, anyone jump in. I  
8 don't have any specific views on this. But I would say that this is a  
9 comment that I've heard from others, and it's something I'm sensitive to.  
10 We do have a lot of different vehicles for communicating information, Yell  
11 Announcements, the EDO's Updates, I have a blog, other Commissioners  
12 have other means of communicating. We have email announcements, so  
13 we do have a large number right now of announcements, I think. So, I  
14 think this is something that's worth looking at to see that we're doing this in  
15 a coordinated way, and not overloading with information. Of course, if you  
16 add to that the number of surveys that we do, there is a tremendous  
17 amount of communication that we do right now. And I think that's a good  
18 thing, but we want to make sure that we're not doing too much. So, this is  
19 something I've heard quite a few times now. It may be something we need  
20 to take a look at more specifically.

21 COMMISSIONER SVINICKI: Some of this has to do,  
22 though, with -- it's highly individual, in my view, as some people are avid  
23 consumers of information, go home and log on to their PCs immediately  
24 and start consuming other information. So, some of it is a product of the  
25 age we live in, and so I thought it was interesting. I don't know if Margie  
26 Doane is here. I wasn't going to name her, but I'm going to anyway.  
27 Okay. So, we -- she and I were meeting, and she said, "Oh, you asked

1 some questions about the OIP Weekly Report," and she said, "I was just  
2 so thrilled that somebody is reading it." So, there is -- I am, actually -- I will  
3 speak only for myself. I'm reading these things. I guess a better way to  
4 look at it is, I know it's time consuming to have to provide periodic  
5 informational status reports, you might be avoiding some kind of briefing  
6 request that I would have, so it may be that it avoids other work. I think, as  
7 the Chairman said, we always need to be able to look at whether we're  
8 creating too many parallel paths, but I am an avid consumer of the Daily  
9 Note, the Look Ahead, things like that. I don't think I could do my job  
10 without those vehicles, so please know that they are read directly by me,  
11 and I'm a consumer of all the various organizational reports and  
12 newsletters you put out, as well. So, I just say that only for myself.

13 CHAIRMAN JACZKO: We'll take one more question, and  
14 then we'll give Dale an opportunity to make some remarks.

15 AUDIENCE PARTICIPANT: How does the Commission  
16 assess risks associated with having foreign assignees at the NRC, or with  
17 other international interactions?

18 CHAIRMAN JACZKO: Any individual that comes,  
19 whether they're a foreign assignee, or any other contractor goes through a  
20 significant review that includes many different federal agencies  
21 participating. So, any individual that comes meets all of those  
22 requirements in order to be able to come here as a foreign assignee.

23 Well, again, I want to thank you all for the questions, and  
24 we'll now turn to Dale Yeilding to make some remarks on behalf of the  
25 National Treasury Employees Union.

26 (Applause.)

27 MR. YEILDING: Please, please. Thank you, Chairman

1 and Commissioners.

2 Just a few comments on maybe reflecting on the past  
3 year, and some of the current event situations the union is facing. I'll try to  
4 be brief, I know we've been here for an hour and a half.

5 I'd like to give commendations to NRO, who piloted the  
6 NewFlex Program, and, of course, that schedule was put into the collective  
7 bargaining agreement a year ago. The union has seen minimal problems  
8 with implementing these flexible workplace schedules. I don't think we've  
9 filed a single grievance, maybe one or two, for some strange anomalies,  
10 but would like to congratulate both supervisors and employees for working  
11 together to get the mission done, yet work on these varied flexible  
12 schedules that we have.

13 I'm not sure the good news was reflected with the \$10  
14 parking increase in the announcement that went out. The union was  
15 actively involved in negotiating that \$10 increase, which wasn't much  
16 considering that parking in Headquarters had been \$60 for so long, but  
17 along with it, we negotiated the pre-tax aspect of paying for parking, which  
18 is finally now going to be implemented by the Department of Interior that  
19 does our paychecks, so if you're in the 28 to 33 percent tax bracket,  
20 without getting into details here, \$60 or \$70 being pre-tax will save you  
21 anywhere from \$17 to \$20, so marry that with the \$10 increase, and it  
22 might be a little bit more digestible.

23 Three White Flint, several questions on Three White Flint.  
24 The union has been involved in -- pre-decisional involvement with all the  
25 aspects of Three White Flint. We haven't had to really get down to  
26 traditional negotiations, because everything seems to be being resolved in  
27 what we call the Occupancy Team Committee, which NTEU has

1 representatives from each office going into Three White Flint, and we've  
2 been fairly successful in our issues dealing with the size of offices, window  
3 offices. We've got I think one-third of the offices in Three White Flint are  
4 going to be up in the neighborhood of 95 square feet, when we find here in  
5 the One White Flint, and Two White Flint complex, we have a few hundred  
6 square foot offices, but the majority is 80 square feet, so I think the agency  
7 is doing a tremendous effort insuring that Three White Flint has all the  
8 amenities of our other two buildings, all the flexibilities. We'll probably talk  
9 a little bit at a later time about the day care center, and the fitness center,  
10 whether or not they have to be expanded after we build Three White Flint,  
11 but those are some issues that are down the road.

12 The Chairman signed a partnership charter with our  
13 National President, Colleen Kelley, a few weeks ago. It's a charter that  
14 implements the President Obama Executive Order from last year. How  
15 much of a change, probably take a little bit too long to talk about that here  
16 at this meeting, but we hope to have individual offices more involved in  
17 staffing plan changes and reorganizations at only the discussion level, and  
18 not the negotiating level. So, with that, I would encourage folks that have  
19 not been involved in partnership in the past, to consider joining your office  
20 Partnership Committee, and get involved in a one to two hour meeting  
21 once a month to talk about issues affecting your office, not necessarily  
22 policy issues affecting all of the agency that we'll be handling on the office  
23 level, but staffing plan, reorganization, office moves, things of that nature  
24 are going to be handled in that environment.

25 Just to get into current events. This is, obviously,  
26 Appraisal Month. Some folks maybe already have had their appraisal. A  
27 couple of the changes that were implemented last year in the collective

1 bargaining agreement was that we're marrying the appraisal to the award  
2 process, so we may say that the appraisal process is somewhat  
3 subjective, but the award process was also getting those subjective  
4 allegations years ago. But now your performance award that hopefully  
5 happens next year, will be directly tied to your appraisal score, so it makes  
6 all the more importance of working towards getting an accurate and true  
7 appraisal.

8 Two notes dealing with some litigation, and some  
9 grievances we've had dealing with awards, one positive, and one negative.

10 I'm happy to say that we've been in negotiations for a while dealing with a  
11 shortfall in the award amount that was issued to employees last year. In  
12 the collective bargaining agreement, we prescribed a certain percentage,  
13 and reached agreement with the agency, and when the agency did the  
14 calculations, they were close to a half million dollars short, and we just  
15 signed an agreement this week dealing with those 1,675 employees that  
16 received an award in November of last year, will be receiving about a 13.3  
17 percent supplement, 13.3 percent of the award, boiling down to about  
18 \$300. So, that was a success, and I'm glad we were able to work that out  
19 with the agency.

20 The bad news is, there's a litigation going on that we are  
21 not in agreement, and that's the fact that your award is supposed to be tied  
22 directly to your performance; yet, numerous offices have elected to not  
23 give an award to someone that has earned and achieved a promotion for  
24 the year. So, we're in current litigation on that, and I'm basically making  
25 that statement now, rather than talking about it after we resolve the issue,  
26 hoping that the same situation doesn't happen again this year.

27 If someone is a high performer for a whole year period, and they

1 earn and deserve a promotion to a higher grade, that should not affect  
2 whether or not they receive a performance dollar cash value award. It may  
3 affect the computation on the amount of it, but not the fact whether they  
4 receive it.

5 So, thank you very much, and I'd like to just end by  
6 saying we have openings both in the partnership arena, and the  
7 stewardship arena for anybody that would like to get involved in labor  
8 relations. You can talk to me, or Larry Pittiglio. We'll stick around here in  
9 the front of the auditorium after. Thank you very much for this opportunity.

10 (Applause.)

11 CHAIRMAN JACZKO: Well, again, on behalf of the  
12 Commission, I want to thank everyone for coming; obviously, the  
13 Commissioners for all their insightful answers, and thank everybody for all  
14 their hard work and dedication to this agency. We will see you next year.

15 (Applause.)

16 (Whereupon, the proceedings went off the record at 3:15  
17 p.m.)

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# Response to editorial on Yucca Mountain

**McClatchy-Tribune News Service**

**Published Friday, Oct. 22, 2010**

The U.S. Nuclear Regulatory Commission responds to an editorial from the Seattle Times that MCT moved Oct. 20:

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The editorial, "NRC Chairman is Bending Rules in Yucca Mountain Proceeding," lacks facts and context.

The decision to transition to closeout activities for the high level waste program was not unilateral or political. The commission approved this budgetary approach for Fiscal Year 2011 almost a year ago. When Fiscal Year 2011 began Oct. 1, that guidance was put in place after review by NRC's General Counsel. This action is consistent with appropriations law, commission policy, staff delegated responsibilities and ultimately the chairman's authority as the agency's principal executive officer. The commission declined to revisit this decision in voting earlier this month.

As a safety regulator, beginning to move to closeout activities for the program was a decision about the best use of limited resources. The Energy Department has decided not to pursue its application to construct a repository at Yucca Mountain and has closed its Yucca Mountain office. The NRC's approach will ensure the extensive data gathered during the application review is fully preserved. A plan is now being developed to determine the form and schedule for publication of comprehensive public documents.

Finally, these actions are separate from our hearing process. The administrative actions the agency has taken are simply a matter of efficient resource management and good government.