

**OFFICIAL TRANSCRIPT OF PROCEEDINGS
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

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

Work Order No.: NRC-1261

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6 PUBLIC MEETING-INFORMATION WORKSHOP ON
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9 REPOSITORY AT YUCCA MOUNTAIN, NEVADA
10

11
12 Clark County Government Center
13 Gold Room, 4th Floor
14 500 South Grand Central Parkway
15 Las Vegas, NV
16

17
18 Thursday, May 4, 2000
19

20 The above-entitled meeting commenced, pursuant to
21 notice, at 8:11 a.m.
22

23 PARTICIPANTS:

24 CHIP CAMERON

25 WILLIAM REAMER

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P R O C E E D I N G S

[8:11 a.m.]

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

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

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

I just wanted to go over three items briefly with you before we get started, and the first is the objectives for the meeting this morning. The second is to talk a

1 little bit about format and ground rules. And the last item
2 is just to give you an agenda overview.

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

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

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

21 In terms of format and ground rules, we have a
22 number of people in the audience today who represent the
23 broad spectrum of interests that might be affected by a
24 repository and may include the citizen and environmental
25 groups, not only from Nevada but also from other parts of

1 the country -- Washington D.C. area. We have state and
2 local government representatives. We have representatives
3 from the potential license applicant -- the Department of
4 Energy. Union and labor interests are here and nuclear
5 industry representatives and citizens as large.

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

16 We are having a transcript taken today so that we
17 not only have a record of comments from the meeting, but
18 because we're presenting some information on various topics,
19 the transcript for those who aren't here might serve as a
20 useful documents in terms of learning about these particular
21 topics. But on that score, in order to have a clear
22 transcript, I would ask that only one person at a time talk.
23 And the most important part of that is so that we can give
24 our full attention to whoever has the floor at the time.

25 So when we do go to you for discussion just, you

1 know, give me the 'hi' sign and I'll bring this up to you,
2 and if you could just state your name and your affiliation,
3 if appropriate for the transcript. And I would just ask you
4 to be concise. We have a lot of topics to cover that we
5 want to get through, and I want to make sure that anybody
6 who wants to have an opportunity to talk gets an opportunity
7 to talk.

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

17 The next topic -- and we'll have discussion after
18 Bill's presentation -- the next topic is going to look at
19 what NRC does, what its responsibilities are when the
20 Department of Energy submits a license application. And
21 Sandy Wastler, who is Chief of Performance Assessment and
22 Integration Section -- in Bill's branch -- from the NRC is
23 going to talk to us on that. We'll take a break -- give you
24 a chance to get some coffee. And when we come back we're
25 going to look at the NRC system and indeed the system

1 generally for making information about the repository
2 available to all of you for use in evaluating the repository
3 process. And we have Dan Graser who is the Licensing
4 Support Network Administrator from the NRC, and Dan is in
5 the Office of the Atomic Safety and Licensing Board Panel,
6 and he works for the Chief Judge of that panel.

7 Final presentation is something that we haven't
8 spent a lot of time on out here in Nevada or in general, is
9 the NRC inspection process and how that might apply to a
10 repository. And we have Dr. Blair Spitzberg with us from
11 the NRC's Regional Office in Arlington, Texas -- and that's
12 NRC region 4. And we'll have Blair tell us about that and
13 have a discussion on that.

14 I would just say as a final note, I mentioned that
15 Dan Graser is with the Atomic Safety and Licensing Board
16 Panel, and that is the NRC's focal point for the hearing
17 process on the Department of Energy -- or on any license
18 application that's submitted to the commission. And that
19 would be the focus for looking at the DOE license
20 application, if indeed there is one.

21 Originally, we were going to put the adjudicatory
22 process -- the hearing process -- on the agenda today along
23 with the rest of these topics. But as most of you know, the
24 commission is right in the middle of debating whether the
25 rules for the hearing processes, in general at the NRC,

1 should be revised, including whether the rules for the
2 high-level waste licensing hearing should be revised. And
3 it's unclear what changes the commission is going to make as
4 a result of their deliberations, and these rules that come
5 out of this will be proposed for public comment. They may
6 or may not include any changes to the repository licensing
7 process. And the commission felt that we didn't want to
8 unnecessarily create a lot of controversy at this point in
9 time if their deliberations did not result in any changes.
10 And I could say a couple more things about this.

11 One is if there are questions about the current
12 hearing process that come up in the context of the
13 presentations today, we will answer those questions for you.
14 Secondly, we will be back out to Nevada to specifically talk
15 about any revisions to the hearing process that come about
16 as part of the commission deliberations.

17 There may not be any changes. And if that's true,
18 we're going to come out and do a session on the current
19 hearing process. But we will be out to talk to you about
20 that. There was a workshop in Washington D.C. on October
21 25th and 26th of citizen groups, governments, utility
22 representatives, on these changes to the NRC hearing
23 process. And that was provided to the commission and to the
24 office of general counsel who drafted the proposed changes
25 to the hearing process.

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

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

9 MR. REAMER: Okay, thank you, Chip. Can you hear
10 me okay?

11 MR. CAMERON: I guess this one isn't tied in
12 either?

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

15 MR. CAMERON: Okay.

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

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

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

23 Anyway, I'm Bill Reamer. I'm Chief of the
24 High-Level Waste Branch for the Nuclear Regulatory
25 Commission. Appreciate all of you coming today. When we

1 start out, what are our goals today in our meeting?
2 Basically, you know, I'm going to start by saying what are
3 our goals for you? And then I'll talk about what are our
4 goals for us. We hope you'll leave the meeting today with a
5 better understanding of NRC's licensing role and
6 responsibilities for this project. We hope you will leave
7 the meeting with a better understanding of how to access the
8 information that's available on this project. Information
9 in power, but if you can't get to it, obviously it's not
10 power for you, so we want to spend time discussing how
11 information can get into your hands.

12 We also want you to leave the meeting with a
13 better understanding of what the staff's role is in this
14 project -- specifically its licensing role. And we also
15 want you to have an understanding of the process we use when
16 we regulate facilities to make sure that they are in
17 compliance with our rules.

18 Now what are the goals for us? The goals for us
19 are to hear -- to listen and to hear what you have to say.
20 If you have comments or questions, please feel free to raise
21 them. We want to have them, want to leave this room with as
22 much understanding as we can of what's on your mind, and we
23 want to respond to the questions that you ask today to the
24 best we can. And if we can't respond, then we'll get a
25 response for you as soon as we can.

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

6 Okay, so who is the NRC? Many of you I recognize
7 from our prior meetings. You've heard this before. You --
8 but when I deal with people, they can introduce themselves
9 to me, and I think I understand who they are, but then I
10 realize I don't. So I'm going to say these points again,
11 and probably I'll continue to say them, because I think
12 they're very important to who we are.

13 We are not a part of the Department of Energy. We
14 are an independent agency. We don't get our money from the
15 Department of Energy. We don't work for the Department of
16 Energy. Our job as a regulatory agency is to protect public
17 health and safety. That's what we do. That's what we're to
18 be held accountable for.

19 Also, we have -- this is -- this is not the only
20 project that we would regulate. We do have experience in
21 regulating other nuclear projects, specifically nuclear
22 power plants, the manufacturer of nuclear of fuel. We have
23 experience outside the commercial nuclear industry in
24 performing a regulatory role, and our responsibility -- our
25 role -- is also a regulatory role.

1 This project is somewhat unusual. Typically, the
2 Department of Energy is self regulated. But not on this
3 project. On this project, they will be regulated by the
4 Nuclear Regulatory Commission, and we will bring to bear in
5 exercising our role our independence, our mission to protect
6 public health and safety, and we'll do this the way we've
7 done it and do it elsewhere. We'll bring the experience
8 that we have to this project if there is a -- if there is a
9 project that moves forward.

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

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

1 We also have the responsibility to comment on the
2 Department of Energy's Environmental Impact Statement, and
3 many of you may be aware -- we have done that. Our
4 responsibilities include commenting on the site
5 recommendation, and that's basically down the road in the
6 next year. We will be working on our comments. I'll have a
7 little more to say on that.

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

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

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

1 responsibility is to evaluate this data and to get to the
2 bottom of it. I also want to hear what the other
3 participants have to say about it."

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

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

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

1 years. They have to analyze that new data and show how it
2 supports safe operation of a repository.

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

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

17 Now, I mentioned the site recommendation. I don't
18 really have a whole lot to say on that today. It is the
19 focus right now of the Department of Energy's project to get
20 to assemble the technical basis for making a site
21 recommendation. Our role in the site recommendation is not
22 to approve or disapprove the site recommendation. Rather,
23 our role is to provide comments in the way of expert advice
24 to the president, expert advice to the congress if there is
25 a recommendation that moves to that level on the extent to

1 which the data that DOE has assembled appears to be
2 sufficient for a license application, if that site
3 recommendation is ultimately approved by the president and
4 the congress.

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

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

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

21 That license application has to include an
22 evaluation of the safety of the repository. It also needs
23 to include the plans and the procedures that the Department
24 will use to assure safety during the repository operations.
25 And it also needs to address how they intend to continue to

1 oversee to make sure safety is assured.

2 With respect to that evaluation that the license
3 application has to have on safety, DOE must evaluate all the
4 ways in which someone may be subject to radio -- to a
5 radiological -- potential radiological release from the
6 repository.

7 They also need to perform assessments -- safety
8 assessments. These are assessments of the "what if"
9 question. What if this occurred? Then what would the
10 consequence be?

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

15 The first question that the DOE must ask is, "What
16 could go wrong at the repository?" The second question is,
17 "How likely is it that it could occur?" And the third
18 question is, "If it happens, what are the consequences to
19 the public?"

20 Also, the Department has a positive obligation to
21 update their license application they -- based on new
22 information. They can't just bring us a document on a
23 certain date and then say, "That's it." New data is always
24 being developed. They have a positive obligation, if that
25 new data could significantly effect the conclusions, to tell

1 us about that data.

2 And, in addition, they need to come forward with
3 plans about how they intend to monitor groundwater in the
4 license application, which is, of course, the key exposure
5 pathway here.

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

17 I mentioned also that they need to include in
18 their license application their plans for providing
19 continuing oversight of a repository. That would include
20 their plans to mark and control the site and to maintain all
21 the records that relate to what's in the repository, and
22 most importantly, how they intend to monitor the repository
23 performance.

24 Also they're required to come forward with
25 additional requirements that they think need to be imposed

1 on them that seems a little unusual, and also the staff will
2 be looking as well as to what additional requirements may
3 need to be imposed as part of any permission to go forward.

4 So the license application is submitted. The
5 staff's responsibility is to review that license
6 application. I have approximately 40 technical people who
7 work for me. In addition, the NRC staff is supported by a
8 federally funded scientific technical center in San Antonio.
9 It's called the Center for Nuclear Waste Regulatory
10 Analysis.

11 I'd like to take a minute. There are three people
12 who are here from the center. I'd like to introduce them to
13 you, and I'd ask them to stand, please. Budhi Sagar, who is
14 the Technical Director of the center, Gordon Wittmeyer and
15 Mike Smith.

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

21 When we get the license application, the
22 collective staff and the center will tear that license
23 application apart. What are the conclusions that are
24 reached? What are the assumptions that are made that
25 allegedly support that conclusion? What are the data that

1 are used to support that conclusion? We will trace back how
2 the data -- and are those data qualified? Were they
3 collected under a -- an approach to collecting test data
4 that assures that the data are reliable?

5 We can also if we need to request additional
6 information from the Department of Energy, and they
7 basically are required to provide it or give us a reason why
8 it's not needed. We can independently conduct our own
9 confirmatory analysis. We're not just limited to reading
10 the DOE document and deciding whether we agree. We can do
11 our own independent confirmatory technical work to assure
12 ourselves that the conclusions that the Department of Energy
13 has reached, we agree with. And we document the results of
14 our review in a Safety Evaluation Report, which is a public
15 document.

16 There are three kind of general outcomes from a
17 licensing proceeding. One approach is that the license is
18 granted -- that the permission is granted. Another approach
19 is that the permission is granted but subject to certain
20 conditions. For example, DOE you need to do additional work
21 in this area, or DOE you're confined with respect to
22 proposed operations by these following requirements that you
23 have to meet. And of course, the third outcome is denial of
24 a license application.

25 How do you participate? As I said a year ago when

1 we started our meetings on the Part 63 -- proposed Part 63
2 -- what we want to try to create is a dialogue between the
3 NRC and the effected citizens on this project. And today
4 that's surely one of my goals to continue that dialogue.

5 Also, we -- in a more formal kind of way -- seek
6 your comments at -- when we have proposals that we are
7 taking forward. Last year and continuing as I've mentioned,
8 this year we have our proposed regulations that many of you
9 have reviewed and provided a lot of comments to us on. We
10 also are working on other guidance documents, which we will
11 offer to you for comment when they're ripe, most likely some
12 time this summer toward the end of the summer and continuing
13 on.

14 And the third way you can participate is, if there
15 is a license application and a licensing process, it will be
16 a public process and you will have the opportunity to
17 participate in that both informally -- because we will
18 continue these meetings as the project goes forward -- and a
19 more formal way as well.

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

22 MR. CAMERON: Okay, and I would -- Bill covered a
23 lot of ground and so that means that we may have some -- a
24 lot of questions on far-reaching subjects here. Some of the
25 questions may be more appropriately addresses if they're on

1 one of these specific topics when we get to that topic. And
2 I guess, Bill, I'm going to let you serve as my guide on
3 whether something should be answered later on.

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

7 MR. CAMERON: Yeah, and that's in -- in that
8 regard, if you have questions that are really outside of
9 this already broad range of topics or comments, we -- I may
10 ask you to save those until the wrap-up session, but we will
11 hear them. And I saw Judy, did you have a --

12 MS. TREICHEL: Yes.

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

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

24 As far as I know, unless there's something that
25 you missed and didn't tell us that it went final, that is

1 not finalized. There are no rules for Yucca Mountain,
2 because the commission has said 60's gone. But as far as I
3 know, 63 isn't there. And we've watched it over the last
4 weeks during technical exchanges when the Department of
5 Energy says, "We're in full compliance with proposed 63.
6 We're in full compliance with proposed 960." And you've got
7 tremendous numbers of negative public comment on both of
8 those proposals, and we never see what happened with that.
9 We just see that now it's right there.

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

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

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

1 MR. REAMER: This is not the first time I've heard
2 this, and I agree with it. We cannot make Part 63 final
3 until all the comments are responded to. And I try to
4 basically say that at the outset. We have an IOU. We have
5 an obligation to respond to those comments. The number of
6 comments that we received on the regulation was so
7 extensive, that it has taken longer than I wish it would
8 have taken for me and my staff to complete the review.

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

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

20 But I agree with the point, which is that we have
21 an IOU. We have many comments. We need to respond to those
22 comments in the regulation. We need to justify the
23 decisions that we're making.

24 MR. CAMERON: Do you want to add anything to
25 Bill's --

1 MS. KOTAR: I'm Janet Kotar. I'm one of the
2 authors of the proposed Part 63. Perhaps there's a
3 misunderstanding in that I think what Bill is saying is that
4 once rules are in place, this is how the process will
5 operate to help people understand how it would proceed.
6 We're clearly not going to proceed without those rules in
7 place. The commission has them under consideration. The
8 staff has responded to the comments in a draft form. The
9 commissioners have to decide whether they want to go forward
10 with a final rule or not. And we have completed, at this
11 point, our staff analysis and recommendations before the
12 commission.

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

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

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

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

1 gentleman right here, okay?

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

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

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

23 MR. CAMERON: Okay, thanks, Mal. Bill Reamer is
24 indicating that he totally agrees with that. We're going to
25 go to Steve, and then we'll go to you, sir.

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

6 MR. REAMER: The --

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

8 MR. REAMER: Wait, the point --

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

11 MR. REAMER: The proposed Part 63 proposes that
12 that regulation be the regulation that applies.

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

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

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

19 MR. REAMER: There will be an EPA rule at some
20 point.

21 MR. FRISHMAN: -- action on the part of the
22 commission is not --

23 MR. CAMERON: And just so that our transcriber can
24 get this, just let one person finish before the other person
25 talks.

1 MR. REAMER: Sorry, okay, yeah.

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

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

10 MR. FRISHMAN: Okay.

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

13 MR. REAMER: I think so, yeah, and the concurrence
14 will be based on what the commission says when it gets the
15 concurrence package it wants to use. We are expecting that
16 the Department of Energy will give us the citing guidelines
17 for concurrence. The commission has not, at this point,
18 indicated what kind of process it's going to use for that
19 concurrence process. I know you and I talked about that
20 last week. You have a particular interest in that process.
21 Also, it's not indicated me what it's going to use with
22 respect to the --

23 MR. FRISHMAN: Well, let's -- the last time we went
24 through this in the mid-'80s, it was determined that the
25 only basis for concurrence was the rule, because otherwise

1 there is no other basis, and Part 60 is the current rule.

2 MR. CAMERON: Could you hold the microphone a
3 little closer?

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

19 MR. REAMER: My intention was to emphasize the
20 fact that it had to be -- that these various decisions
21 needed to be based on the information that was available at
22 that time. I don't disagree that at the time of
23 construction, the regulation that you mentioned -- Part 60
24 -- and the regulation that was proposed -- Part 63 --
25 requires a commission finding with respect to safety.

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

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

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

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

11 MR. CAMERON: And I think that that's a very
12 extremely important point for people to understand too, so,
13 if it turns out that people aren't clear on this soliloquy,
14 please ask so that we can emphasize that, because it's an
15 extremely important point. Now, Steve do you have a third
16 question?

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

18 MR. CAMERON: All right, Janet.

19 MS. KOTAR: Janet Kotar again. I just want to not
20 leave the impression, however, that it's all over with
21 construction authorization. It is quite possible that a
22 construction authorization can be granted, and the amendment
23 to allow receipt, possession and disposal is not granted, at
24 which point that process is now over. That has happened,
25 and it could happen here. That is -- these are discrete

1 decisions that must be taken and before the Department can
2 proceed to receive emplaced waste. And likewise was closure
3 and with license termination.

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

6 MR. FRISHMAN: Yes.

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

9 MR. FRISHMAN: My next one goes to, I guess a
10 follow up on what Janet said, although I had planned it
11 earlier. On your slide 14, you say that there are possible
12 outcomes from the licensing process. Let me ask, in the
13 NRC's history and in the agency's history, has there ever
14 been a denial of a license for major facility such as a
15 reactor or independent spent fuel storage?

16 MR. REAMER: There have been major facilities.
17 There was a proposed enrichment facility that, at least the
18 initial decision, was not to grant the license. There have
19 been reactor facilities that had been abandoned. You may --
20 you may view this as non responsive, but I would disagree
21 with you. There's a facility in Ohio -- a reactor facility
22 that was abandoned 95 -- 97% complete, abandoned because of
23 questions -- quality questions the commission raised. True
24 there was no denial of the license, but there's also no
25 nuclear facility.

1 There was a facility that was abandoned in
2 Michigan -- a reactor that was more than 50% complete --
3 that was abandoned again because of questions the technical
4 staff raised about the analysis that supported the footings
5 for the reactor. That project is not operating because of
6 the technical staff questions and the decision of the
7 project proponent not to pursue it.

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

13 MR. REAMER: Okay, well that --

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

22 MR. REAMER: Well, throughout pre-licensing,
23 you'll see the questions that we ask. You'll see the
24 responses that are made. I hope you'll keep asking the
25 question about where is this project going. If NRC

1 expresses that it's satisfied with some particular technical
2 aspect of the process, you'll ask, "Why is that? We need to
3 know why the NRC is signing off on this portion of the
4 project." So it's a fair question.

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

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

9 MR. REAMER: Well, I just -- as I said, there are
10 nuclear projects that have not been completed -- a great
11 amount of money has been spent on them, they've been nearly
12 done -- and they were not completed because of quality
13 assurance breakdown issues. I think the answer is yes.

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

17 DR. BOSS: Dr. Jacob Boss Consultants.

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

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

1 Second question is, if I may, is a comment close
2 to the public hearing -- the EPA. At Yucca Mountain, we're
3 going to have a very serious issue which has not been
4 addressed properly, the issue of compressed mixtures. I'm
5 not going to go to heavy metals, but in the beginning, going
6 to have corrosion of the canisters, which release heavy
7 metals. And then you'll have a proposed -- which might
8 accelerate the rate of corrosion because of the property --
9 chemical properties. When we start later on is the
10 question, "What would the effect on human health, risk
11 assessments, of the radio nucleides which are going to be
12 released through corrosion. The view of the literature --
13 those issues has not been addressed at all. And it's a very
14 serious issue. We don't know what would be the effect of
15 rate of cancer -- decrease or increase. The only
16 information which I have found in the literature, which I -
17 - exposure of -- and the -- effect.

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

24 My last question is, does NRC can direct the Yucca
25 Mountain project or -- to conduct research of those issues

1 because those -- the issue which remains are very serious
2 issues. Thank you.

3 MR. CAMERON: Hey Bill, I think you have three
4 questions. One I think was sort of a general question about
5 how risk assessment is integrated. And then there was a
6 second question specifically about release of radio
7 nucleides with corrosion, and then I think a follow up, very
8 important question that you alluded to is that, what can NRC
9 do in -- where there are questions? What can NRC require
10 the Department of Energy to do?

11 DR. BOSS: Particularly what is the concern about
12 the risk assessment on the complex mixture effect on human
13 health. That is a very key issue.

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

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

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

25 MR. REAMER: Well, the DOE -- if indeed what you

1 say is correct, the issue is neglected -- then DOE will need
2 to identify and have a plan to develop the issue to get the
3 information and to integrate it into its safety case. And,
4 you know, that's a very general answer. We -- no issue can
5 be ignored that has the potential to significantly effect
6 the performance of the repository. When I laid out the --
7 what the Department of Energy's license application -- like
8 any license application of any applicant must include -- it
9 has to include what could go wrong, how likely is it, and
10 what are the consequences if it happens.

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

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

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

25 MS. JOHNSON: They don't have to respond back, but

1 it's one more chance to -- my understanding is one could
2 look at it from a legal sufficiency point of view and also
3 to say, "Well, this is what we said, and this is how you
4 responded, and we agree with that or we disagree with that."

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

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

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

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

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

25 However, the process that congress has created for

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

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

12 MR. REAMER: That's correct.

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

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

19 MS. JOHNSON: But it is for transportation?

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

23 MR. CAMERON: We're going to go to -- for one
24 clarification here, but just let me point out that it is
25 unclear -- it's unsettled yet -- whether a transportation

1 issue could not be raised as a contention in the licensing
2 area, okay? So if this -- we're in a -- we're in an
3 unsettled area here, I think. Jana?

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

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

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

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

20 MR. REAMER: You need to be a participant in the
21 proceeding, which is -- the term we use for that is "party".

22 MR. CAMERON: And there are certain rules that
23 govern whether a person or an organization can be admitted
24 into the hearing process that are based on what type of
25 potential injury you might suffer from the repository being

1 sited. Usually related to proximity.

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

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

13 MS. KOTAR: I don't want to leave the impression
14 that the EIS is the only place where transportation and the
15 regulation of transportation safety is addressed. We have
16 significant responsibilities as an agency for safe
17 transportation in coordination with Department of
18 Transportation. And I'd like Rob Lewis from our Spent Fuel
19 Projects office to address that. I don't want people who
20 are less familiar with the details of the hearing process to
21 walk away thinking that we either, you know, do thumbs up or
22 thumbs down on the , and that's the end of the
23 transportation question. There are other mechanisms whereby
24 the transportation of spent fuel in this country and the
25 transportation of other radioactive materials area

1 addressed. So, Rob --

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

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

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

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

9 MR. LEWIS: We will be reviewing outside of the
10 licensing process. We will be reviewing other design that's
11 used to transport spent fuel to Yucca Mountain using our
12 regulations that are in part -- part 71, which is our
13 regulation that applies with any transportation that we
14 regulate.

15 MR. CAMERON: Okay, thanks, sir, for bringing that
16 to our attention, Rob. Abby, do you have another -- another
17 question?

18 MS. JOHNSON: Bill, my final question addresses
19 something on your slide 13. You said that if you have some
20 questions that you might then do some confirmatory analysis.
21 And I guess this is a half a comment and half a question.
22 My observation of how things have gone at the DOE side of
23 the house for years is that confirmatory analysis is based
24 on funding and a schedule of priorities. And so I'm
25 wondering does the confirmatory analysis depend on dollars

1 on or me? I don't understand the connection between what
2 this process is and what you're going to be able to afford
3 to do.

4 MR. REAMER: Dollars is always an issue, but the
5 main focus will be whether the areas where the safety case
6 may be -- what do I want to say -- kind of critical parts of
7 the analysis that we feel -- important parts of the anal --
8 of the Department of Energy's analysis where we feel it
9 makes sense to go behind and to confirm -- to do the
10 separate analysis. That's the kind of way I'd like to see
11 the decision be made. We're talking very abstract right
12 now.

13 But actually a lot of, you know, independent
14 analysis is being done by the NRC right now. It's not
15 commonly known, but the group that I talked about earlier --
16 the Center for Nuclear Waste Regulatory Analysis -- the
17 three individuals that I asked to rise -- I would urge you
18 to talk to them, because a great deal of independent work is
19 being done by the NRC right now.

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

22 MR. BECTEL: I've got a couple of -- I'm Dennis
23 Bectel for -- Nevada -- a couple of questions actually
24 related to what Abby had asked. With regard to the EIS
25 process, NRC made some statements to your comment on the

1 draft document on transportation, you know, but more needs
2 to be done. And what I was wondering -- and I asked this
3 back there -- what happens if DOE doesn't do those things?
4 What was the recommendations by NRC and others do not appear
5 in -- final? Is that an indication that it may not be a --

6 MR. REAMER: Adoptable?

7 MR. BECTEL: Adoptable, right.

8 MR. REAMER: For example. Yeah. Of course the
9 comments that we made were -- you know, many other entities
10 made the same comments. You all are more aware of that
11 probably than I. As I understand it, there's a process that
12 will play out with respect to review of the EIS. Any EIS is
13 subject to -- once it's finalized -- judicial review,
14 meaning the Courts. If someone wants to raise a challenge,
15 they can raise a challenge. The Courts will look at that
16 and reach a conclusion. So that to the extent that comments
17 that have been raised by any participant have not been
18 adequately responded to, and they find their way into the
19 litigation, there is the possibility that the EIS could be
20 set aside by the Courts. Are you with me so far? Okay.

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

24 MR. BECTEL: My second question is with regard to
25 the confirmatory analysis also and that -- what would

1 actually trigger something, I mean, your voice in that
2 issue. What would trigger NRC's decision to proceed ahead
3 with that?

4 MR. REAMER: I think it's kind of a global view of
5 the analysis from where we want to put our resources to
6 check it. It's -- and of course we're very interested in
7 those portions of the analysis that are most important to
8 safety and repository performance, so that would guide a
9 decision as to where to do independent analyses. But I'd
10 urge you as well to follow up with the folks from the center
11 who are here and ask them, how do you make your decisions
12 right now? How do you make your recommendations to the
13 staff about where you like to put your resources. And I
14 think you'd get some sense of -- some relevant information
15 from that as well.

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

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

1 that.

2 My second comment is, I think it's really not
3 right for you to be referring to rights that exist under the
4 formal hearing process when NRC is working very hard to take
5 the right away from the citizens of Nevada and other people
6 across the country. I know we're not supposed to talk about
7 it today, but I think it's real important that the people in
8 this room I understand that the reason that it's not being
9 talked about is because the NRC is trying to say that only
10 informal hearings will be held on Yucca Mountain. And that
11 means that there will be no right to contend or anything
12 else. It will be just like this session. You'll be able to
13 say what you think, but it will have no legal basis.

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

22 My question is with regard to the license
23 application. I'm curious to know if the construction
24 authorization is granted, if the DOE would like to build an
25 ISFSI outside of the mountain, does it need to apply for a

1 separate license for that, or could it be built under the
2 general construction authorization license as a, you know,
3 ISFSI separate from the actual repository.

4 MR. CAMERON: Bill, before you answer, does -- I
5 guess one thing is that you might want to tell people what
6 an independent spent fuel storage installation is. And I
7 can't even pronounce the acronym, so I'm not going to try to
8 do that. But, Amy, I'm inferring from your comment on
9 transportation that you meant that the draft EIS doesn't
10 adequately address transportation rather than there not
11 being anything in the EIS?

12 MS. SHOLLENBERGER: That's correct.

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

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

20 But, again, if you go back and take a look at -- I
21 think this is important for people to try to understand this
22 more at this point because it's the only information that's
23 out there -- is if you go back and take a look at the
24 transcript of that October 25th and 26th workshop, you'll
25 hear people making the comment about the fact that the high

1 level waste rules should not be changed in terms of the
2 hearing, and you'll hear rationales for that, and also you
3 get you an idea of what when Amy referred to as informal
4 versus formal hearing, you get an idea about what the
5 differences are between those two concepts and what the
6 difference is between the existing formal hearing process
7 that is in place for the repository now and what the
8 commission might be considering in this changes.

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

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

20 An independent spent fuel storage installation is
21 a facility the purpose of which is to store fuel for a
22 specified period of time. A license typically for an
23 independent spent fuel storage installation would be granted
24 on the order of 20 years. There is under commission
25 regulations the ability for someone to ask to renew that

1 license. If the department wanted to construct an
2 independent spent fuel storage installation, they'd need to
3 file a separate license application to do that.

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

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

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

12 MR. CAMERON: Yeah. Go ahead.

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

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

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

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

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

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

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

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

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

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

12 MS. SHOLLENBERGER: But that's only if we get a
13 formal hearing.

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

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

17 MR. MURPHY: How we proceed certainly depends on
18 whether or not we get a formal hearing; no question about
19 that. But whether or not we get -- but it's -- I think I'm
20 correct in saying that there is still the potential -- a
21 strong potential that the parties will be able to somehow
22 subject to some procedural rules litigate the question of
23 the adopt- -- the NRC's adoption of the DOE EIS before the -
24 - team or before when everybody conducts the licensing
25 period.

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

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

18 MR. CAMERON: Right.

19 MR. MURPHY: Would you agree with -- or some or
20 between?

21 MR. REAMER: Yeah. Right. Right.

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

24 MR. CAMERON: It's the official public record
25 would be part of either process. There will be an official

1 public record that will be certified, for example, to the
2 courts if anybody wants to challenge the agency's decision.

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

13 MS. SHOLLENBERGER: That's a huge change. That is
14 not a small change.

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

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

17 MR. CAMERON: Let me not say that it's small in
18 terms of important. Okay? That's not what I meant. What I
19 meant it could be just one single change like that, and as
20 Amy vociferously pointed out, that's an important --

21 MS. SHOLLENBERGER: Yes.

22 MR. CAMERON: -- change. Okay?

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

1 Judy?

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

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

9 MR. REAMER: Right. There needs to be a final
10 design -- reference design, and there are various terms that
11 people use, but there needs to be a design -- at least this
12 is my view and this is what I'm telling the Department of
13 Energy -- we must have in our -- in the license application
14 a design that we can review, a design that the technical
15 analysis supports.

16 There -- you know engineers will tell you that
17 it's important that as projects get built that there be
18 flexibility to modify the design, and NRC rules, rules
19 typically -- and I'm not talking about 63 -- NRC rules
20 typically say that design changes are permissible during
21 construction provided first there is an analysis of that
22 design change and a decision made as to whether it makes --
23 it raises any new safety issue that hasn't been reviewed.
24 If it raises a new issue, typically the rule says you must
25 have NRC approval in order to make that design change if it

1 raises a new safety issue. And NRC approval means everyone
2 gets involved.

3 If the decision is made that it does not raise a
4 new issue, the change does not raise a new issue, then that
5 must be documented in records. We must be informed of that.
6 And we have the right when we inspect that facility to look
7 at that document and decide basically whether we agree,
8 disagree with the decision.

9 MR. CAMERON: Okay. And we're going to go to this
10 gentleman here, and then to Kevin Kamps. and final comment
11 on this session from John. And then we're going to move to
12 the next presentation which is going to cover some of the
13 same ground. And if we need to come back at the wrap up for
14 questions that were raised, we'll do that. But let's take
15 these final three and then move on.

16 Yes, sir.

17 UNIDENTIFIED MALE VOICE: And hold the
18 microphone --

19 DR. MICHEL: Okay. My name is Dr. Robert Michel.
20 I am ex -- France and I also working with the ABA who does -
21 - and I don't understand why you chose the site of the Yucca
22 Mountain close to the neighborhood site where there was 928
23 home. It is very -- and the -- toxic location for -- clean
24 up. But I don't know why this was the worst location that
25 you have this site to put these deposits because it is

1 really pollutant with -- pollution which puts out --
2 residue.

3 I've personally visited this site, I've personally
4 visited the Yucca Mountain from 1980 to 1999, I was -- I
5 assisted to -- an explosion from -- or from the -- location
6 -- and I know that's very -- pollutant location. This one
7 is -- permitted location of the -- because it's testing --
8 the Yucca Mountain is just next door to the test site. Why
9 do you -- give -- and -- was to follow the -- and I -- want
10 to change -- and I don't know. This --

11 MR. REAMER: Yeah. Well, there's a long history
12 that the -- why was this site chosen. Of course, strictly
13 speaking it has not been chosen as the repository site; it's
14 been identified by the Congress as the site to be
15 characterized, and that's in the statutes. And if there are
16 questions that are technical questions that pertain to the
17 pollution that you're referring to that could impact how
18 that repository performs, then we will have to review those
19 questions in any license application to assure that the
20 repository will perform safely.

21 Now, you mentioned the EPA standards. The law
22 says that the commission must -- the commission's rules must
23 be consistent with the EPA standard. Now, EP- -- the final
24 EPA standard. EPA has proposed a standard, but they have
25 not completed their process. The NRC has filed comments and

1 we disagree with some aspects of the EPA standard, but
2 ultimately it's EPA's decision on what standard to issue and
3 the law says that NRC is to be consistent with that
4 standard.

5 So that -- I think that was your second question.
6 Did that respond?

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

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

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

10 All right. Kevin?

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

13 And I had I guess just a comment and maybe a short
14 question.

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

1 In Michigan in the early '90s when the public
2 wanted to be involved in the decision at Palisades about dry
3 cask storage, there were no licensing hearings, no
4 adjudicatory process, no cross-examination, no discovery.
5 This was the first plant in the country where this took
6 place and there was a litigation. Public interest groups,
7 environmental groups, even the state attorney general of
8 Michigan argued against the immediate loading of these casks
9 and sought an injunction in federal court.

10 And in that injunction proceeding, the NRC and the
11 utility company, Consumer's Power Company, assured the judge
12 that if there were a problem with the casks, that they would
13 simply reverse the process of loading and unload the casks.
14 And this was a major concern to the public because these
15 casks had never been used anywhere, they hadn't been full
16 scale tested. But the judge went along with that line of
17 reasoning and allowed -- and disallowed the injunction, the
18 casks were loaded, and just a year after that, the fourth
19 cask that was loaded in the summer of '94 proved to be
20 defective.

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

1 And so I'm just -- I'm perplexed that at Yucca
2 Mountain it would not requ- -- that it would require a
3 separate license proceeding. I'm just confused about the
4 contradiction.

5 And a second question I had from earlier was you
6 mentioned that the groundwater pathway is the primary source
7 of contamination or exposure to the public. So my question
8 -- and it gets back to what you just said about disagreement
9 with the EPA -- why does NRC not want to have a separate
10 protection standard for groundwater if it's the primary
11 pathway of exposure?

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

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

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

24 First choice is they can have what we call a
25 general license which means there's no separate license

1 review just for the independent storage facility, but it
2 only applies if you have an existing reactor license.

3 And there's a second option. You can apply for a
4 specific license which does have a license review process
5 and that involves all the stuff we're talking about. And
6 DOE is I think what we're trying to speculate here is that
7 DOE would be subject to the specific licensing process if
8 they wanted to operate in --

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

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

11 Okay. We're --

12 MR. KAMPS: Would have the license. Of course
13 if --

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

18 John?

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

21 MR. CAMERON: Oh. But you -- do you have an
22 answer for it?

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

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

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

1 MR. CAMERON: He could ask it again.

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

3 MR. CAMERON: Okay.

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

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

20 MR. CAMERON: Okay.

21 John?

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

24 First, in -- regarding the discussion around the
25 point that Judy brought up about part 63 and the fact that

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

13 Also on the issue of also related to that, it
14 mentioned -- it was mentioned that in terms of the
15 determining or resolving the part 63 that the DOE's site
16 guidelines would then come to the NRC and there would be a
17 concurrence process. One, I don't think the public really
18 understands what this concurrence process is all about and
19 there's a lot of questions around that. I think that
20 Nevadans probably generally think the concurrence process
21 is, well, whatever the DOE gives you, let's make it work.
22 That's kind of what it looks like to a lot of us here in
23 Nevada. It's sort of a wait-and-see policy. This 63 is
24 kind of hanging out there in the wind until DOE finally
25 decides what will make Yucca Mountain work and then we'll

1 just -- so that -- and then the NRC will just kind of go
2 along with it. That's kind of what it looks like to
3 Nevadans. So I'd like that to be addressed somehow is what
4 the concurrence process is and that it really is an
5 independent rule making. And we understand that there needs
6 to be some consistency in the rules.

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

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

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

24 And, Bill, there's --

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

1 MR. CAMERON: -- the concurrence process, the
2 transportation issue, and others. Go ahead.

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

18 But in any event, it's a pending issue we owe
19 response on that.

20 The part 963 concurrence process. Well, the last
21 -- the last time the commission concurred in citing
22 guidelines was in 1984. There were guidelines that were
23 issued by the Department of Energy, the commission had a
24 concurrence process. One of the conditions of that -- of
25 the concurrence was that any change to those citing

1 guidelines would have to be brought back to the agency to
2 the NRC again for concurrence. That's basically where we
3 are right now. We don't -- I don't really have any more
4 information to give you on the concurrence process.
5 Presumably the department of energy will at some time give
6 the commission the proposed 963 guidelines and the
7 commission will speak to its -- how it's going to be conduct
8 concurrence.

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

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

14 The statutes are basically what describe the
15 commission's role in this project. Remember I said
16 typically the Department of Energy is self-regulated.
17 Hanford, they're a low level waste facility at the NTS,
18 other facilit- -- they are not regulated by us. This is
19 different. This project we are regulating. The statute
20 describes our role. It says we are to regulate storage,
21 meaning -- and storage under the law means disposal. It's a
22 little weird, but that's the way it's been interpreted. So
23 the law says we are to regulate disposal.

24 It also says we are to certify packages. And so
25 the lawyer's answer is that's what we've been told to do and

1 that's what we do. The simple answer is that's I think why
2 transportation is not part of the repository licensing
3 proceeding because it's not disposal.

4 MR. CAMERON: Okay.

5 MR. REAMER: Rob was --

6 MR. CAMERON: Rob, do you have something to add
7 there?

8 MR. LEWIS: Just real briefly.

9 The one thing to keep in mind, too, is that maybe
10 we're painting a little bit of an improper picture. In any
11 license application that NRC reviews and maybe eventually
12 issues a license, transportation is not typically addressed
13 in the application. And there's a basic reason for that:
14 because in transportation, we're allowing facility -- we're
15 allowing material -- radioactive material to leave the
16 facility and enter the public domain -- the highways, and
17 the railroads, and the aircraft. And the -- what we do is
18 we look at the sum of all the radioactive materials'
19 transportation and that is occurring at any one time and
20 determine the overall impact.

21 Now, there is estimates that there are like three
22 million shipments of radioactive materials a year, some
23 estimates are even higher, but I guess what I'm trying --
24 and the DOT has the primary authority to regulate that --
25 the material that's in commerce, whether it be radioactive

1 material or other hazardous material.

2 So I guess all I'm trying to say is that Yucca
3 Mountain is not unique in that transportation is not part of
4 the license application. And there's not a chapter on
5 transportation in the license application because all the
6 other licenses that we have at NRC for the power plants and
7 the hospitals and everything else also is that process.

8 MR. CAMERON: Okay.

9 MR. HADDER: Transportation --

10 MR. CAMERON: Thank you.

11 MR. HADDER: -- scenario is a lot different,
12 however, is it not? For a power plant, you're -- because
13 you're just basically talking about transportation of the
14 new fuel to the plant is a lot different beast than spent
15 fuel.

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

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

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

22 MS. TILGES: Yeah, I do.

23 My name is Kalynda Tilges, Citizen Alert. I
24 wasn't going to ask any questions, but I have to at this
25 point.

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

5 MR. REAMER: Correct.

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

9 MR. REAMER: Yes.

10 MS. TILGES: So why wouldn't the transportation
11 process be part of licensing the cask design then?

12 MR. REAMER: Because there's the -- they're two
13 moons. They're two separate -- sorry. They're two separate
14 proceedings; they're two separate matters. One matter is
15 this repository. The separate matter is a particular cask
16 design. Rob comes from the office that reviews the cask
17 design and that's handled in a distinct -- by a distinct
18 process. The public is involved in that as well, but it's
19 separate.

20 MS. TILGES: Well, then what is it that you look
21 at to approve the cask design if it's not how it performs in
22 --

23 MR. REAMER: Oh, I agree that we do look at how it
24 would perform in transportation. I think we are in final
25 agree- -- I mean I think we agree. I understand what you're

1 saying. The cask would be reviewed with respect to
2 transportation conditions and how it would perform under
3 those conditions.

4 MR. CAMERON: Okay. We're going to move on to
5 Sandy now, but I think -- Bill, you want to do one last
6 thing, but I think that our discussion really emphasized one
7 thing here is that we need to be much clearer in describing
8 what our responsibilities are to consider and regulate all
9 aspects of transportation. Because it is -- and it is
10 confusing and I don't think that we're really, clearly laid
11 that out yet, and I think we need to note that for the
12 future.

13 MR. HADDER: I don't think that's an accurate
14 summary.

15 MR. CAMERON: Well --

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

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

25 MR. CAMERON: Well, and just let me say that I

1 wasn't trying to summarize everything in the world in terms
2 of transportation, John. Okay? All I was saying is that at
3 a minimum what we need to do and -- is to let the public
4 know clearly what the responsibilities of the NRC are for
5 regulating transportation.

6 MS. SHOLLENBERGER: But we understand that and we
7 don't agree is what we're saying.

8 MR. CAMERON: Okay. Well, that's fine. That's
9 good.

10 MR. HADDER: My comment was only that this is
11 going --

12 COURT REPORTER: These comments don't get
13 transcribed --

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

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

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

21 MR. CAMERON: Okay. We're going to come back and
22 give you the opportunity to say that again. All right?

23 Sandy?

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

25 MR. REAMER: Yeah. I wanted to introduce one more

1 person if I could. Bob Latta. Bob is a new arrival to our
2 on-site office. Right now we have three people in the
3 office. I think two of the three are here: Bill Belke and
4 Chad Glenn (phonetic). And Bob would be an addition to the
5 office.

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

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

1 So Bob comes from a -- our nuclear reactor
2 regulation office, he's -- has over 15 years with the NRC,
3 he's served as a resident inspector as a nuclear power
4 plant, he brings extensive background in dealing with local
5 concerns, public issues, and interacting with people
6 one-on-one in the vicinity of a nuclear facility, he knows
7 the importance of listening, just as Chad and Bill
8 understand the importance of listening and hearing what's
9 being said, and making sure that those concerns are relayed
10 back or responded to on the spot depending upon what they
11 are.

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

14 So, Bob Latta?

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

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

1 government regulations.

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

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

11 Thank you.

12 MR. CAMERON: Thank you, Bob.

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

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

18 All right. Sandy?

19 MS. WASTLER: Thanks, Chip.

20 I hope everyone can hear me. I wanted to thank
21 Bill for the information he's provided between the questions
22 asked by the audience this morning and Bill's presentation.
23 I think we've touched on quite a bit of the information that
24 I'm going to be presenting in my slides today. But I
25 believe a lot of this is very important, so it's worth a

1 second view.

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

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

20 All of you are I'm sure aware of the Nuclear Waste
21 Police Act. And there's a couple of things in there that
22 impact the licensing process. Like it has been said
23 previously, the process that is going to apply to the high
24 level waste repository is the same process that we would
25 apply to the other areas that we regulate, but the Nuclear

1 Waste Policy Act did provide some changes. And I just was
2 going to point those out.

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

13 And lastly as was discussed here is a difference
14 in the process for the final environmental impact statement,
15 which in this particular instance we are to adopt to the
16 extent practicable.

17 I just want to touch on pre-licensing consultation
18 a little more. And the goal here is for early
19 identification and public discussion of safety issues. And
20 it allows us to make sure that DOE understands where the
21 concerns are so that we will basically -- so DOE can focus
22 on preparing a complete and a high quality license
23 application.

24 As was -- Bill had mentioned, our licensing
25 philosophy and really the paramount goal that's driving all

1 of our licensing is public -- protecting public health and
2 safety. And DOE and the NRC have two different roles for
3 that in this process. DOE is solely responsible for the
4 safe use of nuclear materials, and NRC must assure that DOE
5 complies with our regulations.

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

13 Our other role is to assure compliance with the
14 regulations. We review an application -- if -- oftentimes,
15 as many of you maybe aware, our review plans, our guidance
16 documents while they're for the staff benefit, many times
17 licensees will look at it and say, okay, this provides
18 guidance to a potential -- for our potential license
19 application, so we know what kind of information the NRC is
20 going to be looking for for us to demonstrate compliance.
21 So they will use this guidance as well.

22 And it is just that; it's guidance. If a licensee
23 in any type facility we license decides that they would like
24 to use a different approach, then we have the responsibility
25 for reviewing and examining that approach -- excuse me --

1 and make sure that it meets the NRC's regulations.

2 The other thing that we're required -- that is
3 part of our requirement is the inspection process. And this
4 is where we determine the implementation of a program while
5 an an -- license application you might see the operating
6 procedures, this is how a licensee (phonetic) is proposing
7 that they will operate the facility. The way we determine
8 that this is carried out is through our inspection program,
9 and Blair Spitzberg is going to be talking a little later in
10 more detail about the inspection program.

11 DOE has its own responsibilities in our regulatory
12 process. One, they need to provide a high quality
13 application that demonstrates compliance with our
14 regulations. But the burden is solely on DOE to show that
15 the action that they're proposing is safe, that they
16 demonstrate compliance that the regulations are met, and
17 they ensure that -- the continued compliance with those
18 regulations. When we need additional information to do our
19 evaluation, that they provide us that additional information
20 when requested, and we keep -- and that they keep detailed
21 records of all their activities.

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

25 Some of the principles of good regulation that we

1 try to apply across the board of all our facilities:
2 obviously protective. That's our main focus; protection of
3 public health and safety. We want to be efficient. We want
4 to manage our regulatory activities to the best of our
5 ability. We want to be clear. We want to make sure what we
6 say when we ask questions, when we state our position, that
7 it's clearly understood what we want and that it could be
8 easily applied or easily determined. And that we're
9 reliable, we're consistent, that we consistently apply our
10 regulations.

11 As Bill mentioned, this is a multiple stage
12 licensing process. We've had some discussion about that.
13 And I'd just like to reiterate what Bill said; only the NRC
14 can authorize construction of the -- a repository, only NRC
15 can amend the license to authorize operation and receipt of
16 waste, only NRC can amend the license to authorize permanent
17 closure, and only NRC can terminate the license.

18 In general, our review objections are three. One,
19 to support the commission's construction authorization
20 decision, to determine completeness of the application, to
21 determine DOE's compliance with our regulations and document
22 that within the first 18 months of the three year period for
23 construction authorization, and to develop -- write our
24 safety evaluation report.

25 Basically there's three types of reviews that go

1 on. The first is an acceptance review. And I'll touch on
2 each of these separately, but it kind of asks the question
3 is the application complete. And if you're familiar at all
4 with most -- any of our licensing, this is often called a
5 docketing review. The second portion is a safety review;
6 determine if all requirements have been met. And then an
7 environmental review; what extent can the NRC adopt the
8 final environmental impact statement.

9 On the licensing acceptance review, I mean what
10 we're doing here is verifying that all the information
11 that's required, for example, in the regulation is provided
12 for, and does it contain sufficient technical data to
13 support the assertions made by the applicant, in this case,
14 DOE, and whether it complies with our LSN requirements.
15 This is not a detailed technical review. Now, if the
16 application is accepted, if we find that all that
17 information is there and it's -- they provide sufficient
18 technical information, that's when the three year clock
19 starts ticking.

20 The safety review is the detailed technical review
21 and the frame work for that, as we've spoken, is part 63 and
22 will be the Yucca Mountain review plan. Our scope is to
23 make sure that we evaluate all the technical issues that
24 affect safety, we want a sound technical review and -- to
25 determine the acceptability of the proposal, and to assure

1 that there's demonst- -- that the applicant demonstrates
2 compliance with our regulations. And the Yucca Mountain
3 review plan and past practice is the guide and focus of this
4 review.

5 And then as we've discussed previously, we have
6 the environmental review and the final EIS will be a part of
7 the license application. There will be an opportunity for,
8 as Mal had mentioned, possibly issues being raised in our
9 hearing process, but the issues that are resolved during the
10 NEPA process will not be re-litigated during our hearing
11 process unless there's additional information -- new
12 information provided if there is a substantially different
13 case being presented than was presented in the environmental
14 report.

15 The documentation of the -- during the licensing
16 review is our safety evaluation report and this basically
17 documents the results of the staff's technical review of the
18 license application. Now, during this process, during this
19 18 months that we'll be -- we will be involved in this,
20 we're going to have opportunity to issue questions. If we
21 get an application and as soon as the application comes in
22 the door, we start looking at and starting writing our
23 safety evaluation report, because there's going to be areas
24 where we will automatically be able to answer the questions.
25 We can look at the information, they've provided the

1 information, so we can write out the sections that -- for
2 this particular section of the regulations the applicant has
3 provided a demonstration of compliance. And others are
4 going to be more technical detail. And in some areas there
5 may be gaps. Maybe they didn't address a particular issue.

6 And so as we write this document, what we find are
7 holes where we don't have enough information to reach a
8 conclusion. And what we do at that point is we issue what
9 we call requests for additional information. And as been
10 mentioned, DOE is required to provide us the information
11 that we need to fill in those gaps. And basically the
12 safety evaluation report is a basis for the staff's
13 recommendations to the committee.

14 And, again, as Bill discussed, there's really
15 three -- only three options that's available to the
16 commission in this process: to grant a license, to grant a
17 license with conditions, or to deny a license.

18 With regards to the final decision, the ultimate
19 responsibility or the burden of proof is on DOE. The
20 adequacy of DOE safety case, not the NRC's safety review, is
21 the focus of the decision that will be made.

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

1 MR. CAMERON: Okay. Let's go to Dennis Bechtel
2 first.

3 Dennis?

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

5 What -- on slide 14 you mentioned issues resolved
6 during NEPA will not be issues in licensing. What
7 constitutes a resolution of the issues?

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

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

12 MS. WASTLER: In the EIS process --

13 MR. BECHTEL: Great. Great.

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

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

25 MS. WASTLER: It was not resolved in the EIC

1 process?

2 MR. BECHTEL: Yeah.

3 MS. WASTLER: Then it would not resolved from
4 our --

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

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

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

11 MS. WASTLER: That had been approved?

12 MR. BECHTEL: Yeah. Well, I mean it was -- the
13 EIS --

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

16 MR. BECHTEL: Right.

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

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

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

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

9 Sandy, you heard what Steve's -

10 MS. WASTLER: Yes.

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

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

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

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

21 MS. WASTLER: If it is not -- it's not allowed
22 under our current regulatory -- and I say if because I'm not
23 clear on that point personally -- but if it was not allowed,
24 then it would not be closed. We have to look at it to see
25 whether we can adopt it, and if the EIS that is there is in

1 -- not in compliance with our regulations, then we could not
2 accept it; we could not adopt it. So we would -- it would
3 not be a complete application. It would be something that
4 would end up being litigated.

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

7 MR. CAMERON: Okay. Thanks, Steve.

8 Judy?

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

22 And for many things, there's a thank God sort of
23 thing, and particularly in the case of a repository, the
24 last thing that the citizens of Nevada want to see is the
25 NRC assisting or consulting or being in any way helpful for

1 the preparation of a complete and high quality license
2 application, because in so many cases, there's a very clear
3 belief that that site is a loser, it's a dog. And all it
4 would be doing is putting some real nice wallpaper on a
5 structurally insufficient house.

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

18 And that's where -- if this -- if you're here to
19 listen to us and to find out what some real problems are or
20 to train the new guy on the ground, that -- this is going to
21 be one of the bases for it. And I'm not sure that it's even
22 important that you respond. We're just -- we know, and we
23 see it, and that's the way it's set up, and it's lousy.

24 MR. FRISHMAN: Could I just add one point to that?
25 This -- the verbiage that you're using -- complete and high

1 quality license application -- do you recall where that
2 comes from?

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

9 MS. WASTLER: You've raised --

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

13 But let's go to Bill Reamer.

14 MR. REAMER: I just want to say I agree with the
15 sentiment both of what Judy and Steve have said, that the --
16 you know I sit up there and talk about independence and that
17 we will rigorously review, but you know the -- we have to be
18 careful that we don't give the impression to people that we
19 are joined at the hip here with the Department of Energy and
20 we both want this project to go forward. That is not my
21 sentiment, that is not what is intended by the statement.
22 It's much more don't give us a dog because that's going to
23 prolong the review, stack issues to the end, lead to a
24 process I think is far worse than a process that gets the
25 issues out on the table as soon as possible so that everyone

1 can see them and deal with them.

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

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

6 Let's go right here.

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

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

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

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

16 MS. WASTLER: Until -- I would -- until the issues
17 are resolved. I cannot see that we would be able to adopt a
18 final environmental impact statement because we don't have a
19 final decision. So we would have to wait until that --
20 those issues are cleared up in the courts before we could go
21 forward.

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

24 MR. CAMERON: Well, I think that that's correct.
25 If the EIS is in litigation as inadequate under NEPA, that

1 certainly the NRC is not going to be in there thrashing
2 about trying to decide whether it's going to adopt it. If
3 that was the question, Marta.

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

7 Amy?

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

10 I don't understand why if the DOE gives you a dog
11 so to speak why would you not just deny the license? Why
12 would you say, oh, well, let us help you figure out how to
13 make this better? If I -- you know if I send in my
14 application for a college or a graduate school and it's --
15 and words are spelled wrong, they don't send it back to me
16 and say, "Hey, why don't you run your spell check." They
17 send it back to me and say we don't want you in our school.
18 And it should be the same for DOE.

19 I also have a question and I'd love to hear your
20 response to that, by the way. But I also have a question.
21 And that is I'm a little bit confused about this licensing
22 process. I'd like to know where in this process how does
23 the consideration report and the sufficiency review and the
24 notification to the state and other affected parties, where
25 does that all fit into this process?

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

3 MS. WASTLER: Okay.

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

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

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

13 MR. CAMERON: But I mean does that explain -- I
14 think that you had some other questions about how does the
15 sufficiency review -- Bill talked about it -- interact with
16 the DOE recommendation; is that --

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

19 MR. CAMERON: Get this on the record.

20 MS. SHOLLENBERGER: If my understanding is
21 correct, there's a thing called a consideration report that
22 the NRC is supposed to produce. There's a thing -- that's
23 DOE.

24 MS. WASTLER: That's DOE.

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

1 MS. WASTLER: Yes. The next --

2 MS. SHOLLENBERGER: Could you just go through that
3 whole process?

4 MS. WASTLER: Okay. At this point, we're
5 considered in pre-licensing -- called the pre-licensing.
6 The next step or mandated interaction that we have is the
7 site recommendation.

8 All right. We -- our responsibility is to review
9 DOE's site characterization (sic) -- site recommendation
10 consideration report. I believe I have that acronym
11 correct. And we're going to look at that as defined in the
12 Nuclear Waste Policy Act to determine whether -- let me --
13 Janet, correct me if I'm wrong -- it's -- we look at in
14 depth -- I'm forgetting the quote. Our responsibility with
15 regards to reviewing the -- it's at depth site
16 characterization --

17 MS. KOTAR: Yes.

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

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

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

22 At that point, we will review their -- that
23 document, and at this point I believe we're supposed to get
24 that report in May of next year. And by November of '01,
25 we're to provide our comments. Our comments with all the

1 site recommendation documents and the final EIS make up the
2 site recommendation that the secretary, Department of
3 Energy, will give to the President to make -- for the
4 decision on whether to go forward with the license
5 application.

6 MR. CAMERON: Amy --

7 MS. SHOLLENBERGER: Well, can I ask you another
8 question?

9 MS. WASTLER: And there is in that process an
10 opportunity I believe it's also the state and has the
11 responsibility to also provide comments that are part of
12 that package.

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

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

19 MS. SHOLLENBERGER: Yeah. I just want to ask if
20 the way -- if I understood what you said correctly, that all
21 of that happens before the license application, but if the
22 final EIS is not going to be adopted until well into the
23 license application, how can the final EIS go to the
24 President with the site recommendation before the license
25 application happens? That's what I'm confused about.

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

3 MS. KOTAR: The law, not our regulations, but the
4 law requires that the site recommendation be accompanied by
5 a final EIS and NRC's comments as Sandy indicated on very
6 narrow issues. We're asked only at that juncture to comment
7 on the adequacy of site characterization at depth and on the
8 waste form proposal, not -- you know a final safety judgment
9 about you know how that waste form will perform and how --
10 make the safety evaluation report that we're required to
11 once the license application comes in. But we're basically
12 -- we're asked to tell the Congress have they done enough to
13 get to the point of submitting a license application.

14 I did want -- what?

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

17 MR. CAMERON: This is --

18 MS. WASTLER: No. No, no.

19 MS. KOTAR: No. No. No.

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

24 MS. WASTLER: I think I'd like to be clear because
25 it --

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

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

4 MR. MURPHY: Yeah. Yeah. I think -- and I do it
5 myself a lot of times in this program -- we tend to confuse
6 or overlook the confusion between NEPA and Nuclear Waste
7 Policy Act with respect to EISs.

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

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

24 MS. WASTLER: Well, it's a supp- -- it would be a
25 supplement.

1 MR. MURPHY: Or a supp- -- well, either your own
2 or a supplement. But the question is -- but you know the
3 final answer is not is there an NRC EIS or is there not an
4 NRC EIS. The question is can the NRC adopt DOE's EIS. If
5 it can't, then it has to produce its own document which may
6 with respect to impacts have an entirely different analysis
7 than DOE's. And in that case, licensing becomes a lot more
8 interesting.

9 MS. WASTLER: Chip?

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

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

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

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

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

19 MR. CAMERON: Okay. Thanks, Janet.

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

22 MR. FRISHMAN: Sandy, the elusive language that
23 you're looking for what you have to do in the -- with the
24 recommendation is -- and this is out of the act,
25 "Preliminary comments of the commission concerning the

1 extent to which the at depth site characterization analysis
2 and the waste form proposal for such site seem to be
3 sufficient for inclusion in an application."

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

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

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

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

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

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

17 MS. WASTLER: We're going to provide preliminary
18 --

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

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

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

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

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

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

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

14 MS. WASTLER: Okay. Our comments --

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

16 MS. WASTLER: Our comments on that review will be
17 like a snapshot in time. What we're going to do is use our
18 -- the regulations and a review plan to look at at depth
19 site characterization and the waste form and use that to say
20 where is DOE at. And our comments are going to be based on
21 that. All right. So that when they come in, it'll be the
22 area -- define the areas where they need additional
23 information in those particular areas should they come in
24 with a license application that they have to provide
25 additional information in.

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

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

11 MS. WASTLER: If they did not, we would go back
12 and say we can't -- you know we could partially accept the
13 application and go back and say you need additional
14 information in these areas like we told you at the SR, or we
15 could reject the whole thing, depending on how deficient it
16 was.

17 MR. FRISHMAN: Okay. Well, you have just
18 confirmed my suspicion, which is when you say it is
19 sufficient in this preliminary view about seems to be, that
20 you're never going to look back. That if it -- if you say
21 it's sufficient at a site recommendation in your acceptance
22 review and your safety review, you're not even going to
23 review it -- to review that earlier decision to find out.

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

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

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

7 But go ahead, Sandy, you wanted to respond to
8 Steve and --

9 MS. WASTLER: Well, I was just going to say that
10 we -- when the license application comes in, we are going to
11 look at all aspects. If they -- if we've made in the SR --
12 if we've reviewed the information that was there and we said
13 we had a problem or didn't have a problem in a particular
14 area to relate it to our responsibility of the SR, when the
15 license application comes in, we'll also review the
16 information to make sure that the same information that was
17 provided that we made our decision on is there.

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

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

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

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

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

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

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

13 MR. REAMER: You know I think I agree with it.
14 You know not knowing everything you made behind it, I think
15 I agree with what you're saying. It's not -- it's part of
16 pre-licensing. You know we've had a lot of discussions with
17 you, Steve, and with the state. The concern is that
18 pre-licensing not resolve in a position or resolution that
19 is binding, that is somehow fixed for the licensing process,
20 and you know we agree with that. The pre-licensing
21 resolution of issues is not binding; it's not binding on the
22 state, it's not binding on the staff as well.

23 MS. WASTLER: Can I just continue to say , Steve,
24 that that's where I was going when I said we will look at
25 the license application because that is the document that we

1 will be looking at. You're right. Once SR, we make our
2 comment, that's it for that document.

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

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

9 MS. WASTLER: -- made conclusions on the SR, we
10 will be looking at the license application as a separate
11 document.

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

15 MS. TREICHEL: I disagree with Janet, but that's
16 okay.

17 MR. CAMERON: Okay. So noted. Judy Treichel
18 disagrees with Janet Kotar in terms of the analogy between
19 the DRE booklet and the NRC.

20 MS. JOHNSON: Abby Johnson, Eureka County.

21 On your last slide, it's called decision. I don't
22 get it and I just need you to go over it again so that I can
23 understand it. The first bullet says addressed only issues
24 admitted for consideration, and I looked back through all
25 your slides and I didn't see the word consideration used

1 anywhere else. Can you explain what that means?

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

7 That the -- there are -- the parties involved in a
8 hearing will submit the issues that they feel are not --
9 where DOE has not met their responsibility for demonstrating
10 compliance with specific -- and the board will admit those
11 issues and I'm -- turn to the lawyers as far as what their
12 criteria is for whether they're admitted or not into the
13 hearing. But it's only those issues that go through the
14 hearing process.

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

17 MR. CAMERON: Let's find out if Abby still has
18 further questions.

19 MS. WASTLER: Did that answer your question.
20 That's what I --

21 MR. JOHNSON: Well, I think this goes back to the
22 original request for this meeting which really was focused
23 on the hearing process. And so the blank looks that you see
24 on my face, and the huhs, and I don't get its are because I
25 am personally extremely unfamiliar with that process, I have

1 very little knowledge, and I need that knowledge.

2 And so I realize that there's some you know rock
3 and hard place situation about why you guys can't really
4 talk about this stuff and do a training session on that -- I
5 don't really understand it, but I'm not pushing it. But
6 there have been sort of been you know hints and allegations
7 about the hearing process, and that's the part that we don't
8 quite understand yet. And so I mean I still really don't
9 get it, but I can tell you that I'm not going to get it
10 between now and when take a break.

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

16 If you have a question I guess with regard to the
17 hearing process that exists in the current regulations, I
18 don't --

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

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

21 MR. CAMERON: I think that we said that we would
22 try to clarify anything about the current process. And I
23 don't know if you're going to understand it any better
24 before the break after Murphy gets done or if it'll be
25 worse, but we're going to go to him. And I think that we

1 thought that we could try to give answers to questions that
2 came up in the context of all this other stuff. But I think
3 it's becoming apparent that we really need to do and will do
4 an in depth just on hearing process for everybody, for those
5 of you who might want to participate in it assuming that
6 there is a license application.

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

10 Mal?

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

18 A good example, say Nye County raises contentions,
19 has -- takes issue with the Department of Energy's
20 information with respect to saturated zone flow and
21 transport and you know some other technical issue, but does
22 not raise any issues about vulcanism. We can't then go --
23 get to the hearing, and when the evidentiary phase starts,
24 and say, oh, incidentally we've got an expert on vulcanism
25 who's going to be our next witness. You know the Court will

1 say, just as the Court would say in -- an administrative law
2 judge would say if we were trying to license a barber shop,
3 no, you didn't raise that issue; we're not going to let you
4 litigate it.

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

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

20 MR. CAMERON: Okay. Thanks.

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

24 Thank you.

25 (Recess)

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

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

14 MR. GRASER: Absolutely.

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

16 (No Audible Response)

17 MR. CAMERON: All right.

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

21 The licensing support network is a system that is
22 intended to make available the relevant documents that the
23 various participants are going to have -- are going to make
24 available for general search and retrieval. The system is
25 called out in an NRC rule. It's 10 CFR, Part 2, Subpart J.

1 And that rule requires the availability of this system and
2 the availability of the documents, and the rule also covers
3 the electronic availability of the official docket of the
4 proceeding.

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

19 The system is going to be available via the
20 Internet, very similar to going to something like Yahoo or
21 some other site. And all you would need to access that
22 system would be a standard web browser on a computer PC
23 device where you have some level of Internet service,
24 Internet service provider, where you have some level of
25 access to the Internet. And the system is intended to be

1 operational by July of 2001.

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

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

16 As I said, the access is intended to be through
17 the Internet and we intend to have the system operational
18 starting sometime in July of 2001. The system is intended
19 to be available throughout the duration of the licensing
20 proceeding. So even though the initial loading of the
21 system will be fairly labor intensive up front, that
22 activity should steady out and those repository collections
23 stabilize, and then the documents would just be maintained
24 and made available for the duration of the license
25 proceeding.

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

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

20 As a result of early negotiated rule making for
21 the development of 10 CFR 2, Subpart J, a number of parties
22 have had long-term commitment and involvement with the
23 activity. Includes State of Nevada; affected units of local
24 government; NCAI, National Congress of American Indians;
25 Nevada Nuclear Waste Task Force; U.S. Nuclear Regulatory

1 Commission obviously; the Department of Energy obviously,
2 and also a coalition representing the nuclear industry.

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

15 The next slide is with permission of the Las Vegas
16 Review Journal. This is particular cartoon has been posted
17 in my office for about the last five years. And it's kind
18 of difficult to read it even in the handouts and on the
19 overhead, but the two fellows that are buried down there in
20 the pile of paper, at the tail end of the question there
21 they're asking what we have to figure out is where are we
22 going to store all of this paper. Well, the answer is we're
23 not going to store paper. The data is going to be available
24 electronically, so we don't have to worry about storing the
25 paper. What we do have to worry about is figuring out how

1 to get to it in an electronic environment.

2 I've included a couple of examples of what a
3 centralized site might look like. And if you have an
4 interest in pursuing this, I'd recommend to you that the
5 National Library of Medicine has an excellent site. And if
6 you have an opportunity to go to that site in fact you can
7 see what a portal location would look like, the fact that it
8 characterizes different collections of materials, covering
9 different subject areas, provided by different aspects of
10 the National Library of Medicine.

11 And on the second chart, there is -- or the second
12 overhead associated with this, there is a representation of
13 what a screen would look like after you've conducted a
14 search. And it will tell you here are a number of documents
15 that are responsive to your request. You would be --

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

17 MR. GRASER: Pardon?

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

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

23 But generally the intention of the system is that
24 once you have been pointed to the fact that a document
25 exists out there, if you clicked on the object you would be

1 linked to the actual document. And if it's not text, you
2 would actually be linked to the image version. Images would
3 be appropriate for things like maps or engineering drawings,
4 or whatever the case may be.

5 So moving along, the basic functions of the system
6 here is to provide some mechanism for sharing the access to
7 the collection of materials that's out there. As I said,
8 it's a large collection of documents. It's a very diverse
9 collection of documents. It has a lot of technical
10 disciplines and it has a lot of technical jargon, a very
11 rich vocabulary, because it uses the vocabulary found right
12 in the documents that are being searched.

13 The system is intended to provide timely and
14 effective access, search, and retrieval. This is
15 particularly important because these would be the sorts of
16 materials that participants would want to access in
17 preparing their contentions. And contentions is one of the
18 subjects that was mentioned in the morning session. And
19 given a limited amount of time to do that, you want to make
20 sure you have an adequate resource that gives you the
21 availability to the information when you need it.

22 The documents will be structured so that there are
23 unique identifiers. You will be able to identify whose
24 collection a document came from; you would be able to focus
25 in on any key words that may have been assigned to a

1 particular document. If the document has a DOE document
2 number identifier, or a contract number that you're
3 particularly familiar with, you'd be able to drill in on
4 those aspects of retrieving all of the information
5 associated with those sorts of concepts.

6 The system is going to impose a uniform numbering
7 capability across all of the participant collections. This
8 is important, because this would be the number that the
9 official docket would use to identify the document from
10 whoever's collection it came from. Once the LSN is --
11 becomes aware of that document, the unique identifier that
12 would then be referenced throughout the rest of the course
13 of all the proceedings would be the number that's being
14 assigned by the licensing support network.

15 The documents that are out in that system in fact
16 are documents that may be included as exhibit material, or
17 the participants may want to include them as part of the
18 overall evidentiary materials that they want to submit and
19 have entered into the docket. So ideally, we do not want to
20 be dealing with paper. We want to take the electronic
21 version that's sitting out in the LSN environment and move
22 it electronically into the Nuclear Regulatory Commission, an
23 electronic version of that document directly into the
24 official docket, if the document in fact is accepted for
25 inclusion into the docket.

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

6 One of the responsibilities assigned to me as the
7 LSN administrator is to insure that the documents that are
8 floating around out there on the Internet are as they were
9 originally put out. So that if you found it two years ago
10 and you come back to it two years later it'll still be the
11 same document that was there two years ago; that if you
12 found it two years ago it hasn't disappeared in the
13 meantime; and that nothing gets added to that collection
14 that you're not able to access in the interim.

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

25 As I mentioned, the system is intended to perform

1 over at least a three year licensing time frame. That has
2 been alluded to. There's also a option for -- not a option,
3 but there -- accommodations can be made for up to an
4 additional year.

5 As part of -- the next slide. As part of the
6 overall approach to using automation in the licensing
7 process, the licensing support network is only one piece of
8 it. It's an up front piece of it. The back end pieces of
9 it will include, as I said, this electronic docket. And NRC
10 is currently looking at automating the courtroom
11 environment, so that if we begin the process electronically
12 we don't end up having to make paper copies of everything
13 and bring it into the court environment.

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

1 The NRC is also looking at digitally recording the
2 entire proceeding, so the official record would be in
3 digital format. And the entire case file, should the case
4 go forward for any sorts of appeal, for example, the entire
5 case file would be in electronic format, including
6 recordings of the actual courtroom proceedings, embedding
7 into it overheads or simulation models that -- of various
8 computer simulation programs, so that all of that visual,
9 multi-media material can be included into the record.

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

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

1 information.

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

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

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

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

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

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

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

20 MR. GRASER: Okay, certainly.

21 The rule does require that parties make their
22 documents available to the licensing support network, and
23 that is a prerequisite for participation. It may very well
24 be that some parties have very few number of documents, or
25 limited resources with which to make those documents

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

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

21 MR. CAMERON: Thanks, Dan.

22 Amy.

23 MS. SHOLLENBERGER: Apologize. I came in late and
24 missed the very first part of your presentation. But if
25 understand your slide three correctly, it's called licensing

1 information access. It says that the who is the parties and
2 the public. And so I'm assuming that what that means is
3 that the public will have access to all of your documents.
4 Whether they're a party or not, they can still, just like
5 they can now, go in and pull down any document that you all
6 are reviewing or have written.

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

15 MS. SHOLLENBERGER: So my question is right now
16 you have document rooms that the public can go to if they
17 don't have web access and can't get on ADAMS or -- to get
18 the documents. But if I understood what you said correctly,
19 there won't be any paper version of these documents
20 anywhere. And so my question is are you planning to put in
21 -- and this is a bigger question too, because I think it
22 needs to be done for ADAMS as well. Are you planning to
23 put, you know, PC's that are public access PC's into your
24 document rooms so that people who want to retrieve documents
25 and can't afford or don't have access to the Internet, or

1 possibly can't download your documents for one reason or
2 another?

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

10 MR. GRASER: Well, first of all, again, the system
11 is designed as a web environment, as opposed to NRC's ADAMS
12 system, which is making an internal type records management
13 system may -- opening that up to be accessible through an
14 intermediary piece of software. The LSN design is going to
15 be designed so that it is a web application. So first of
16 all, you don't have that kluge type situation that
17 everybody's experiencing right now with that Sitrick
18 (phonetic) software and trying to get through their fire
19 walls. Okay? Which NRC has recognized is a significant
20 problem, and it is being looked at by the chief information
21 officer right now.

22 But to go back to your question. In terms of
23 first of all, you indicated that no paper documentation
24 would be available. And there's a point of clarification on
25 that one. The parties, okay? The parties are making their

1 evidentiary materials available on their own computer
2 resource, on their own computer servers. The parties may in
3 fact still have paper versions of a document that they have
4 retained as part of their normal records keeping
5 environment.

6 And one of the things that the rule requires is
7 that for each document that is placed out in an electronic
8 version the participant has to include an identification of
9 where an imaged version of that document may be acquired.

10 And it doesn't require that it be a digital image. Okay?

11 So the parties may in fact still be maintaining a paper
12 version of that document in their own records repositories.

13 I believe there is a section in the rule that also
14 indicates that the availability of this system doesn't
15 preclude using normal FOIA (phonetic) channels to acquire
16 versions of documents. So you also have that mechanism to
17 get access to paper versions of the document through a
18 normal FOIA request, for example, or for whatever media the
19 participants have stored an image version of that document
20 in.

21 In terms of the public document rooms, there are
22 two initiatives going on there. We have identified already
23 that all across the state of Nevada the public library
24 system all have Internet access available at all of the
25 libraries in the state of Nevada. And we are considering as

1 part of the deployment planning for the system pursuing some
2 sort of cooperative activity with the state librarian and
3 archives association here to provide additional training to
4 the librarians in use of those public library resources to
5 access the document collections.

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

7 MR. GRASER: Okay.

8 MS. SHOLLENBERGER: I travel quite a bit for my
9 job. And one of the things that I'm constantly faced with
10 is how to get access to my e-mail from wherever I am,
11 because I don't have a laptop. So I've been in libraries in
12 a lot of different places. Almost everywhere there's a 15
13 minute limit for Internet access in public libraries. If
14 you're trying to access a searchable database of documents
15 there is no way you can get what you want in 15 minutes.

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

24 I think that the NRC really need to look at that,
25 and to say that either there will be document rooms where

1 people can go and get the printed version of the documents,
2 or there will be dedicated computers that are only for
3 people to get NRC documents from where they can have
4 unlimited access to the computers.

5 MR. CAMERON: Thanks, Amy.

6 MR. GRASER: The third piece of what I was going
7 to respond to the first question with is the fact that the
8 10 CFR 2 does require that DOE and NRC public document rooms
9 provide access to the system. So at both the DOE and the
10 NRC public document room locations, at headquarters in
11 Washington, at the NRC regional offices, at the Department
12 of Energy's various public document room capabilities, there
13 is provision in the rule for access through those public
14 document rooms.

15 MR. CAMERON: Judy.

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

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

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

22 MR. GRASER: That's correct. And the Department
23 of Energy has public document rooms located in the state of
24 Nevada.

25 MS. SHANKLE: Right.

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

3 MS. SHANKLE: Yes. I have a brief comment on
4 public document rooms. I don't disagree with what Amy's
5 saying. I think that for Nevada, the library system, we've
6 made some progress there in talking to them, and access and
7 that kind of thing. But public document rooms are far apart
8 too. And I agree with Amy that a broader big picture look
9 on this whole issue of public access, both in Nevada, in
10 California, and nationally, is important for the NRC to do.

11 MR. CAMERON: Okay. Thanks, Abby. Let's go to
12 Judy.

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

22 MR. CAMERON: I don't hear Dan making any
23 response.

24 MR. GRASER: Well, I -- the reason I give pause to
25 that is because I have heard some discussions in terms of

1 where the siting for the actual hearing would be located.
2 And there have been some discussions about well, exactly
3 where should that be, should it be in Las Vegas or somewhere
4 else in the state of Nevada. So I don't want to necessarily
5 rule out or lead you to believe automatically that it will
6 definitely be in Las Vegas, and I don't want to rule out
7 that it might be somewhere else.

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

10 MR. REMUS: Andrew Remus, Enyo County.

11 Is it safe to say that all of the documents that
12 were cited in the draft EIS and then in the final, or
13 submitted in response to the EIS and the background data,
14 will be automatically included on the site, or will the
15 participants have to resubmit the documents and commentary?

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

1 So NRC may make a document available; DOE may make
2 a document available, but the way the rule is structured,
3 it's the party who is originating that document is required
4 to identify and make that document and put it available on
5 their external server. It doesn't prevent it from showing
6 up in everybody else's collection as well, but the authoring
7 organization is responsible for placing it on their site.

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

22 MR. CAMERON: Okay. Thank you.

23 Let's go to Bob Halstead.

24 MR. HALSTEAD: Yeah, I have two questions, the
25 first one somewhat confused by your answer to the last

1 question.

2 I understand the requirement for electronic
3 filing. Is there any requirement for a hard copy filing,
4 and any intention to maintain, either in the public document
5 room in Washington at your site, at least one central
6 collection where there is a hard copy of every document that
7 is in the docket?

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

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

15 MR. GRASER: Right.

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

1 think you're going to have to consider that.

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

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

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

25 And they're not currently within my wherewithal to

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

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

18 On the other hand, you ^{cannot} blow it off that easy
19 because there is potentially a substantial amount of older
20 materials where in the DOE records management environment,
21 for example, the paper, after having been microfilmed, the
22 paper's now gone, and the electronic files back from those
23 old days of WordStar or software packages, those electronic
24 files are gone as well. So in some cases, you are correct,
25 we are going to continue to have to deal with the issue of

1 partially legible documents.

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

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

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

21 MR. HALSTEAD: Yeah. I'm sorry to belabor this
22 point, but I think there are other topics besides
23 transportation where this comment is germane. Because we're
24 talking about an operational system that will not only
25 involve a repository, but the use of a lot of hardware

1 systems that have previously been licensed by the NRC, I
2 think in my area of transportation, I certainly envision all
3 or most of all the transportation records in the PDR being
4 part of this docket. Now do I, or do I through my boss
5 through the Nevada Agency for Nuclear Projects, do I have to
6 submit my prints of fiches from the PDR into the system, or
7 can I say by reference all of those transportation materials
8 in the PDR, that it's the NRC's responsibility to put those
9 into the licensing docket?

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

21 As a matter of course, I -- the -- I do not -- I
22 cannot speak to the content of the collection that the folks
23 from NMSS have currently flagged for inclusion, although I
24 know it's a substantial number. I cannot say whether or not
25 that includes any substantial portion of the transportation

1 materials. I -- so I really couldn't answer that. But if
2 you would like us to follow-up on that, I can certainly let
3 you know.

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

12 MR. GRASER: Well --

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

14 MR. GRASER: I hear you, yeah.

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

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

20 MR. GRASER: Thank you everyone.

21 MR. CAMERON: And this is Blair Spitzberg, chief
22 of the inspection program down at Region IV, at least one
23 aspect of the inspection program.

24 Blair. And it's in Arlington, Texas. I think we
25 established that.

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

5 As Chip mentioned, my name is Blair Spitzberg.
6 And I serve as the chief of the Nuclear Fuel Cycle and
7 Decommissioning branch in the NRC Region IV office in
8 Arlington, Texas. And my branch has responsibilities for
9 inspecting activities currently that are related to the
10 activities that would occur at Yucca Mountain if and when a
11 license is issued. And because of that, I was asked to come
12 out and provide an overview of the NRC's inspection program
13 in general, and to try and forecast as best I could and
14 describe what an inspection program for Yucca Mountain would
15 look like.

16 Just to let you know where I come from, the Region
17 IV office is located in Arlington, Texas, which is midway
18 between Dallas and Fort Worth. It's very close to the DFW
19 Airport. And the Region IV office is the largest of the
20 four regional offices with respect to the geographical area
21 that we regulate. We basically have, as you can see, the
22 entire western half of the United States. And our region
23 also extends up into Alaska, Hawaii, Guam, and the Johnson
24 Islands out in the Pacific.

25 Our office consists of about 160 employees divided

1 into four divisions, three of which are technical divisions.
2 My division is the division of Nuclear Material Safety. And
3 the other two technical divisions deal with the operating
4 power reactors.

5 And I want to say something about the role of the
6 regional offices, which are very simple. There's basically
7 just two responsibilities of the regional offices. The
8 first is the implementation of the NRC's inspection program.
9 And this is what -- this is why we're in the regions. This
10 is why we have regional offices, is this is our day-to-day
11 activity, is the conduct of the NRC's inspection program.
12 We serve as the eyes and the ears of the agency with respect
13 to how licensees are complying with the regulations and the
14 safety commitments that they've made.

15 And we believe that we are very effective in this
16 role in part because of our physical separation and
17 independence from our headquarters office, which allows the
18 regional inspection staff to focus on safety inspections
19 without being drawn into other activities performed in our
20 headquarters office, such as licensing, rule making, project
21 management, and other activities. So our focus and
22 attention is strictly on safety inspections.

23 Our second major responsibility is that of
24 emergency response. And that is we maintain an incident
25 response center in our regional office with a 24 hour

1 response capability. And the regional office would be the
2 first to respond to any events or accidents within the
3 region. And while this response mode has seldom been used
4 for actual events, we do train very hard for this
5 responsibility in the event that an event or accident does
6 call for it.

7 Next slide. I want to say what I can about the
8 development of the inspection program for Yucca Mountain.
9 Obviously there is no geologic repository that has been
10 licensed by the NRC, and so we don't have an inspection
11 program for one. However, we do have inspection manual
12 chapters and inspection procedures which would directly
13 relate to our inspection activities at a high level waste
14 repository when and if one is licensed. And I want to
15 discuss this just a little bit with you to give you the
16 flavor of our inspection program and how it would relate to
17 such a license.

18 We would expect that about the time that we
19 receive a license application that there would be an effort
20 made to start developing a specific inspection program
21 tailored to the Yucca Mountain site. This would probably be
22 done in conjunction between NRC headquarters, the program
23 office, and the regional office, although the details of
24 this have yet to be worked out. We have started thinking
25 along those lines, and I know that there has been some

1 effort to define, for example, the training and
2 qualification requirements for inspection staff that would
3 be expected to inspect the facility.

4 As I mentioned, the NRC already has inspection
5 programs and specific inspection procedures which will be
6 used likely as a starting point for development of a
7 geologic repository inspection program. And this slide
8 shows a few of these inspection programs that would have
9 elements common with a high level waste program. For
10 example, we have detailed inspection procedures for
11 construction activities, dry fuel storage operations, hot
12 cell facility operations, transportation activities,
13 security program inspection, emergency preparedness, and the
14 inspection of the quality assurance programs. And many of
15 these procedures are currently being implemented by members
16 of my staff at other like facilities.

17 These programs would be modified as needed to
18 develop the high level waste inspection program. It's also
19 likely that new inspection procedures will need to be
20 developed for the design, construction, or operational
21 features of Yucca Mountain that are unique or different from
22 other licensed facilities. And as with our current
23 inspection programs, the inspection program for Yucca
24 Mountain would be comprehensive, risk-based, and focused on
25 safety.

1 I want to speak just a couple of minutes on
2 getting back to basic principles on how the NRC insures
3 safety. You've all heard of the term defense in-depth. And
4 that means essentially that for processes and equipment that
5 are important to insuring safety, that at least two
6 independent controls be in place to prevent unsafe
7 conditions from occurring. And I like to think of the NRC's
8 regulatory programs also in terms of defense in-depth.

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

18 And that brings me to the third layer of NRC
19 regulatory oversight, and that's the inspection and
20 enforcement of the licensee's activities. And I like to use
21 an analogy at this point in describing the inspection
22 program. If you recall back in the, I guess it was in the
23 80's when the U.S. was negotiating a strategic arms
24 limitation treaty with the Soviet Union at that time. There
25 were members of the media that asked President Reagan, you

1 know, how can we trust the Soviets to comply with this
2 agreement? And his response was "Trust, but verify."

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

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

25 I want to say a few things about the training and

1 qualification of the inspection staff. This is, I think,
2 one of our greatest strengths. And we're very proud of the
3 high level of technical expertise and objectivity and
4 professionalism of the NRC inspection staff. They're very
5 highly trained and dedicated, hard working individuals.
6 Most of them come to us and are recruited with quite a bit
7 of experience and high level technical training. Almost all
8 of them have technical degrees, with many of them having
9 advanced degrees.

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

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

25 Next slide. I mentioned earlier that the

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

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

20 Next slide. I do want to say a few words now
21 about another important area of the NRC's inspection program
22 which is conducted by the regional offices, and that's the
23 review and investigation of allegations. We do receive
24 numerous allegations from various sources, both members of
25 the public, anonymous sources, workers, ex-workers, that

1 come from everywhere and every segment of our society. Some
2 of them have individuals names associated with them and
3 others don't.

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

15 I'll also mention that we, in our office in the
16 region and in headquarters, there's an Office of
17 Investigations, which is a separate independent staff of
18 investigators that -- whose purpose is to specifically
19 investigate wrongdoing at licensees. And some of their
20 investigations are self-initiated and others are initiated
21 at the recommendations of the regional administrator or the
22 program offices. But in cases where there's wrongdoing
23 either by a licensee's employees or managers at licensee's
24 facilities, we'll investigate those. And quite often my
25 inspectors accompany the investigators from the Office of

1 Investigations to investigate those allegations.

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

17 Once the inspectors are back in the regional
18 office then they have a formal debriefing with senior
19 management in the office. And it's usually during this
20 meeting that determination is made as to whether or not any
21 of the findings are significant enough to require any kind
22 of formal enforcement to be taken with a licensee. We make
23 an enforcement decision during that meeting for lower level
24 violations.

25 If we have more significant violations we have a

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

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

12 Yes, ma'am.

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

14 MS. TREICHEL: I'm sure that you noticed some
15 grins and snickers while you were doing this, because all of
16 us who have been following this for so many years and
17 looking at -- it's not just a first of a kind or a different
18 from other kinds of facilities. This thing is pretty
19 incredible. And to even consider that somebody would be
20 sent in there to inspect it is more, I think, than you can
21 train for.

22 But one of the things that Bill Reamer mentioned
23 in his presentation when he was talking about licensing was
24 once construction is substantially complete DOE would come
25 back for a license to operate. That's not true at all. The

1 construction will only be very minimally complete, probably
2 10 to 20 percent of the repository, and then you've got
3 building going on on one end and loading up going on on the
4 other end as they plan to do that.

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

14 MR. SPITZBERG: We would be inspecting initial
15 construction activities of, for example, the waste handling
16 building and other system structures and components that are
17 important to safety. Now there are probably things that DOE
18 will be doing out at the site that are not directly
19 considered to be important for safety, and those would be
20 outside the sphere of the license that we would not inspect.
21 And I don't know whether tunneling would be something that
22 -- that doesn't sound like anything that I have expertise
23 in, or my inspectors.

24 But we do have expertise on construction of
25 systems and structures that are important to safety. We

1 have expertise on quality assurance; we have expertise on
2 security, emergency preparedness, health physics,
3 radiological protection, environmental protection. If
4 there's activities that are undertaken by DOE that are
5 considered to be important to safety where we don't have the
6 expertise to inspect, then we would bring in experts either
7 from headquarters or perhaps even from other regional
8 offices to do that.

9 MS. TREICHEL: Well, I guess what I was saying is
10 that there's a lot of this that just plain is not
11 inspectable. And people here would worry that as we see
12 right now all the time, things being decided that aren't --
13 that don't matter, or aren't necessarily important to
14 safety, just because they're real tough to do. And we don't
15 want that to happen.

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

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

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

24 Blair, do you have anything to offer on this, how
25 inspection -- not on how do you turn it off, but on the

1 relationship between an inspection program and a performance
2 -- I don't know if I'm using the right phrase, performance
3 monitoring?

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

9 But my understanding is that the way things
10 normally work is that when a licensee is required by their
11 license to monitor something, whether it's an environmental
12 parameter or some parameter associated with the in place
13 waste, then they have criteria that are established for that
14 monitoring. And if they reach an action level which is some
15 fraction of the criteria, then their license would specify
16 what actions they are to take once they meet that action
17 level. And that is an inspectable aspect of their license,
18 and we would be able to inspect that.

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

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

1 The -- both the existing regulation and the
2 proposed regulation of Part 63 would put in place a
3 performance confirmation program. There's going to be
4 monitoring throughout, monitoring before, monitoring during,
5 monitoring after waste is in place. And that's not just
6 monitoring for a leak. It's long before that. It is are
7 the models that were the technical basis for making the
8 judgments that allowed construction to begin, have we gotten
9 new information that would suggest that those models were
10 incorrect.

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

25 MR. CAMERON: Great. Thank you.

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

4 MS. KOTAR: We do too.

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

6 Amy.

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

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

21 MS. KOTAR: First of all, let me just break the
22 link between any leakage and people being poisoned. There
23 is a lot between what we can monitor initially and see
24 evidence that things aren't performing as were expected and
25 someone actually receiving an exposure. And our monitoring

1 would be very vigilant to see to it, or we would insist that
2 monitoring be very vigilant to see to it that any indication
3 that performance is not consistent with the licensing basis
4 would initiate action promptly.

5 That being -- well,

6 MS. SHOLLENBERGER: But you can't put it back in
7 the container.

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

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

22 MS. SHOLLENBERGER: But taking it out of the
23 mountain is different --

24 MR. CAMERON: Okay.

25 MS. SHOLLENBERGER: -- from taking it out of the

1 groundwater.

2 MR. CAMERON: Amy, we're going to come back over.
3 I think that, yeah, I think that point is obvious. We're
4 going to come back over to that, to you for that.

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

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

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

17 Bob.

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

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

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

21 This is one of the problems with the lack of
22 explicit detail, and why I think that this license -- I
23 think that this EIS that DOE has prepared is certainly an
24 inadequate basis for a license application, because the most
25 basic nuclear fuel handling operations are not detailed in

1 any specificity. So you're going to have to have
2 enforcement over a whole range of things, probably including
3 operation of a large wet pool where truck casts are
4 unloaded.

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

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

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

17 MR. HALSTEAD: Yeah.

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

22 I will say that we do inspect now, under the
23 inspection programs that I've outlined, the placement of
24 spent nuclear fuel in cast from spent fuel pools at about a
25 half a dozen locations in our region now. So the loading of

1 the cast from the spent fuel pool, the fuel handling
2 operations, the quality assurance that goes along with that,
3 the pre-operational tests, the heavy loads verification, the
4 cast operations, we do inspect that. And that's essentially
5 the front end.

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

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

11 MR. SPITZBERG: In what way --

12 MR. HALSTEAD: And there ought not to be any doubt
13 in your mind that you wouldn't have at least one resident
14 inspector just paying attention. You're talking about daily
15 deliveries of fuel, daily activities back and forth between
16 hot cells, wet pools. I mean, you know, we could go through
17 a list of about 500 operational checkoffs that are going to
18 be required. So I'm just saying it does not build
19 confidence in the State of Nevada in the NRC's ability to
20 carry out its responsibility to inspect this facility when
21 you come in and give us a very abstract approach to dry
22 storage inspection. And those of us who work on this know
23 it's a lot more complicated and we expect to hear a little
24 more. And we certainly want you to go home knowing that if
25 there's any doubt in your mind about having a resident

1 inspector responsible for this, that ought to be eliminated.

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

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

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

18 MR. SPITZBERG: Sure. You know, in fact I'm
19 interested in your comments on the level of sophistication,
20 the difference in level of sophistication between that and
21 what we inspect now at the loading end of a cast. But
22 that's something we would work with headquarters on, and
23 those inspection procedures are subject to comment and
24 revision. We revise inspection procedures quite often.

25 All I'm trying to convey is that I did not come

1 here with the expectation that you would be able to walk out
2 of here and have a detailed understanding of what the
3 inspection program will consist of at Yucca Mountain,
4 because I don't think we know that yet. Or at least I don't
5 know that.

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

16 I wanted you to understand that we have a formal
17 enforcement program for bringing licensees into compliance
18 if they are determined or found to be out of compliance with
19 our safety requirements. That's what I hoped to convey. I
20 didn't hope to convey the detailed specifics of what the
21 inspection program will look like, because it is not
22 defined.

23 MR. CAMERON: Okay. Thanks, Blair. Let's take
24 one more question on inspection, and then let's go back and
25 revisit some issues from this morning, because I know you're

1 probably all getting a little tired.

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

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

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

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

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

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

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

4 MALE VOICE: The implication in earlier discussion
5 was that safety inspection is going to include the NRC's
6 oversight of performance conformation? It just doesn't
7 sound right to me. How are -- how is the Commission going
8 to keep up with DOE's long performance conformation activity
9 that really is part of licensing?

10 MR. CAMERON: Yeah, and I don't -- I didn't mean
11 to inextricably tie inspection with performance
12 confirmation, so I'm sorry if I gave that impression, but I
13 think there's legitimate performance conformation issues
14 that are being raised.

15 MS. KOTAR: Well, it was in response to the
16 question that talked about performance that was, in a sense,
17 new information that can -- contradicted the licensing
18 basis, and that's the purpose of the --

19 MR. FRISHMAN: Who's going to keep track of
20 performance conformation was the question that's on the
21 floor. Now Janet?

22 MS. KOTAR: Our inspectors through their inspector
23 program, and then of course DOE is obligated under our
24 regulations to report any new information, and update their
25 safety analysis report, per the regulations.

1 MR. FRISHMAN: Okay. Okay.

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

4 MR. BECHTEL: Dennis Bechtel.

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

9 Is there any way we could get some information on
10 how you do that, or -- I mean, my specific concern is things
11 like safe transportation routes, you know, how that's -- how
12 the NRC does that.

13 MR. SPITZBERG: Well, for that a specific example.
14 We do have inspectors that go out and travel these, the
15 proposed routes, to ensure that they meet the specifications
16 and criteria for a safe transportation route, as defined by
17 the DOT regs. That's something that my group does not do,
18 but others in our office have done that, and any new
19 proposed transportation routes would be similarly reviewed
20 and surveyed.

21 The other inspection areas that I've listed here,
22 there's a variety of different techniques that we use. A
23 lot of our inspections are performance based, an actual
24 observation of activities, eyes on the activity. A lot of
25 our -- some of our inspection is done by independent review

1 and independent measurements, interviews with individuals,
2 and then finally, you know, the documentation of the work
3 that's done is part of our inspection process.

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

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

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

11 MR. BECHTEL: How, say, an individual would
12 translate Department of Transportation regulations into,
13 say, you know, I mean, I mean, in his mind -- or how that's
14 documented, and you know, the decisions made.

15 MR. SPITZBERG: The guidance is usually pretty
16 clear on what the specific criteria that we inspect against
17 is. It's the regulations. It's the license. And to that
18 extent, if the regulation needs further definition, they --
19 we usually have guidance in the form of regulatory guides,
20 or new reg documents that further clarify the expectations
21 for compliance, and that's what we inspect against. If
22 they're committed to that.

23 MR. BECHTEL: I guess the one I'm primarily
24 concerned about is, you know, how you could translate
25 another federal agency's requirements into something that

1 would mean safe in your mind, but may not mean safe in --

2 MALE VOICE: Such as like EPA's, or DOT's?

3 MR. BECHTEL: Well, I mean -- or local
4 governments. Or the state. I mean, the public, you know?

5 MR. CAMERON: Let me see if Rob has something to
6 offer on this.

7 MR. LEWIS: I think our office at headquarters
8 works with Blair's (phonetic) group, too, on developing
9 inspection procedures for transportation, and in terms of
10 how we look at what DOT's requirements are, we work very
11 closely with DOT and actually would share what we're
12 developing with DOT. And DOT has its own inspection program
13 also, and DOT's inspector would be involved in that process
14 to make sure that what -- and in an agreement we have with
15 DOT, we inspect DOT regulations, and they would participate
16 in how we're going to do that, during the inspection
17 procedure development.

18 MR. BECHTEL: Say outside parties have concerns
19 about their local governments, and if those parties are part
20 of the communication link, I think that's an important --

21 MR. CAMERON: Okay. Thank you.

22 There were a couple of things remaining from this
23 morning, and one is just these steps. And I don't want to
24 belabor this, but I think that maybe we should at least have
25 someone run through these quickly for you.

1 The other thing was just making sure that some of
2 the comments, the concerns about the transportation activity
3 get on the record, and I also want Rob Lewis to tell us
4 about an upcoming transportation meeting here in Las Vegas.

5 MS. WASTLER: I believe it was Amy that was asking
6 about the different steps, and she was having trouble trying
7 to fit all the pieces together, so what I've tried to lay
8 out here is kind of how this flows from kind of this point
9 on.

10 As I'd said, site recommendation is the next
11 mandated document, or step in the process. Site
12 recommendation is basically a DOE process. They're in the
13 process now of developing all the documentation on the sites
14 to support the site recommendation.

15 There will be hearings that DOE will hold. My
16 understanding is that this will take place in January of
17 this year -- of '01, I guess -- on the consideration of the
18 recommendation.

19 The site recommendation itself, the document, will
20 be made up of the FEIS, including the Department of
21 Interior, CEQ, EPA, and NRC comments. NRC comments on a
22 preliminary, or a separate document that DOE is producing
23 called the site recommendation consideration report. It will
24 include the view of governments and the states, and this is
25 not just Nevada, many different states, an impact report

1 that's produced by the State of Nevada, and all of these
2 make up the site recommendation.

3 When I was talking earlier I talked about, we will
4 get the site recommendation consideration report. It's
5 actually November. I flipped the dates around. We will get
6 it in November of this year, and our comments are due back
7 to DOE under the current schedule in May, and I had said we
8 were getting it in May and got to comment in November.

9 But all of these pieces -- and in fact I think
10 there's the Secretary of the Department of Energy also has
11 the ability to add other pertinent pieces of information in
12 this package. When it's completed, DOE's secretary makes
13 the recommendation to the President.

14 At this point they're, you know, DOE decides
15 they're going to recommend the site. It goes to the
16 President. This is where there can be litigation. Now this
17 is outside NRC framework. This is -- can you kind of
18 consider it the national program. This is where a little
19 bit of litigation can take place.

20 The President, once this is completed,
21 presidential recommendation -- recommends to Congress that
22 the site go forward.

23 At this point the Nevada has this notice of
24 disapproval. It will take a Congressional override for it
25 to go forward at this stage.

1 When all of this is completed, should it be
2 approved at -- down to this level, then and only then can
3 DOE go forward with a license application. At which time,
4 that's when our licensing proceedings take effect, and we -
5 - they submit an LA to us. We do the acceptance review, the
6 safety review, and proceed into the hearing process, so
7 that's kind of a step-by-step approach.

8 And this is all outlined in the Nuclear Waste
9 Policy Act.

10 MR. CAMERON: Okay.

11 Let's get a couple of quick questions here on
12 this. Judy?

13 MS. TREICHEL: It seems to me real evident that
14 DOE cares absolutely nothing about -- certainly not about
15 the public comments, but probably not about yours either.
16 If you say that you get this SRCR in November, and your
17 comments are due in May of '01, and DOE has already
18 announced that it's coming with its site recommendation June
19 of '01, so they assume that you're going to say, "Looks
20 good. It's great, sufficient," because if you don't,
21 they've got this absolutely tight schedule that they will
22 not deviate from, and it just isn't going to matter.

23 That's one of the things we've fought about
24 forever, is this schedule, and its absolute supremacy over
25 everything.

1 MR. CAMERON: All right. Thanks, Judy.

2 There were been -- thank you, Sandy, and this is -
3 - these hearings are '01, and this report, SRCR, is -- comes
4 from when? When does --

5 MS. WASTLER: November '00, 11/00.

6 MR. CAMERON: So that's November '00, okay. And
7 then our comments are --

8 MS. TREICHEL: Due back --

9 MS. WASTLER: 5/01.

10 MR. CAMERON: All right.

11 MS. TREICHEL: That's the first step.

12 MS. WASTLER: Well, but of course only can comment
13 during the holiday season.

14 MR. CAMERON: But I guess I would point out is
15 that when DOE has the hearings on the recommendation, they
16 will not have the benefit of the NRC comments at that time.

17 MS. WASTLER: My understanding is that's done
18 before we even see the site recommendation and consideration
19 report.

20 MR. CAMERON: All right. A final comment on this
21 by Amy, and then let's make sure that we get the
22 transportation concerns on the record.

23 Amy?

24 MS. SHOLLENBARGER: I'm just curious if you all
25 are happy with this schedule? I mean, it seems like if I

1 worked for the NRC, I'd be awfully upset that, you know,
2 you're a slave to the schedule as much as we are and, you
3 know, I've been being told by all of you guys that you're
4 mandated by Congress to do this or that, and you're just
5 doing your job, seems like it's also your job to say when
6 it's not right.

7 MR. CAMERON: Any comment specifically or
8 generally from the NRC on how we try to deal with these
9 schedule issues, or there -- schedule issues that we've had
10 before we've just told DOE, "You got to slow down."

11 MR. RIZAMER: We're prepared to work within the
12 schedule, but safety trumps schedule anytime, so what
13 ultimately is going to matter is the quality of the
14 technical reports that we get, that we review, and the
15 questions that remain open at that time.

16 MR. CAMERON: Okay. Thanks, Bill.

17 John, I don't want to pick on you, but pick on Bob
18 Halstead. Now he just wants to be -- okay. Well, let me go
19 to John first because I wasn't limiting what we were hearing
20 in terms of doing a better job of explaining the
21 transportation process, and you wanted to, your or others
22 wanted to say, make sure that we had something on the
23 transcript in relationship to concerns over transportation.

24 So let me just turn it over to you for a minute.

25 MR. HADDLER: Well all -- I guess -- and the

1 question we asked, I asked, earlier, and all I would really
2 say at this point is just that don't -- we don't, or Citizen
3 Alert doesn't understand, and a lot of other Nevadans don't,
4 and most of the rest of us don't understand why the
5 transportation can't be explicitly part of the license
6 application. And I think that's, in my mind, an important
7 piece of the -- what needs to be on the record.

8 Yeah. It's, as Amy says, "Not just Nevadans."
9 It's across the country.

10 Another kind of a comment also that you could have
11 with that, too, is, you know, in terms of the licensing
12 part, well now if transportation should be part of the
13 licensing package, then what about, you know, inspections
14 related to transportation? Emergency responders, equipment
15 that they have in various communities, so on and so forth,
16 so that they're prepared for a radiological incident.

17 That, to me, should go along with the package,
18 nationwide.

19 MR. CAMERON: Anybody else back there want to --
20 Amy?

21 MS. SHOLLENBARGER: I also think that just in
22 addition to that, there should be people like -- is it Bob
23 Latta? Is that your name? I think you should have one of
24 him in every transportation hub, in all of the 100-plus
25 cities where there are 100,000 or more people, where this

1 stuff is going to be going through. You should have
2 somebody that the people can come and talk to when they have
3 questions.

4 MR. CAMERON: Okay. Let me ask -- I'm going to go
5 over to Bob for perhaps a final on this, but let me ask Rob
6 Lewis, how does Amy's last point, I'm short-handing it, on-
7 site reps in transportation hubs, how does this -- what does
8 the DOE -- DOT program like in that regard? Can you tell us
9 a little bit about that?

10 MR. LEWIS: Sure.

11 DOT does not have a resident inspector program in
12 the fashion that NRC does, so they won't have any on-site
13 reps in towns through which hazardous material concentrate
14 are transported.

15 As far as NRC providing people at those
16 facilities, or at those cities, I think I would question
17 whether that would be our role under the law, because the
18 law very clearly says that material in transportation is
19 subject to the Department of Transportation. The NRC
20 regulates the facilities at which the material arrives, and
21 from which it originates, and we have resident inspectors at
22 those facilities, and we do, in cooperation with DOT,
23 inspect the preparation of shipments as they leave, and
24 inspect the programs that our licensees use to ship in
25 accordance with DOT regulations.

1 But while the material is out in the public
2 domain, the Department of Energy, as the shipper of the
3 material, and possibly as the owner of the material, if it's
4 going to Yucca Mountain, will be bound by the Department of
5 Transportation regulations, and the NRC role is not clearly
6 defined.

7 The packages -- yeah, the question was, while
8 material is being shipped, who would inspect the packages
9 along the transport routes.

10 That function is normally performed by states.
11 For example, everybody's traveled on the interstate and has
12 passed a weigh station where the trucks have to go. At
13 those weigh stations are state inspectors, and if spent
14 nuclear fuel happens to be the shipment, there would more
15 than likely be a state inspector involved in a radiation
16 safety inspection.

17 And that is not a function performed by the
18 federal Department of Transportation. Often that's
19 performed by the state Department of Transportations (sic).
20 Some states do it differently. Other state agencies perform
21 that function. They have motor vehicle authorities that
22 might do that.

23 I think that's --

24 MR. CAMERON: Thanks. And would -- could you just
25 mention what the meeting that we're going to have out here

1 perhaps in August where we may address some of these things?

2 MR. LEWIS: Sure.

3 Many of you that have heard me talk before know
4 that NRC has two research projects going on at this time.
5 Actually one just wrapped up. Let me talk about that one
6 first.

7 We did a re-examination of our spent fuel shipment
8 risk estimates, and just in the last months have published
9 this new reg. It's new reg/CR6672 from Sandia National
10 Labs. I haven't been involved in that project very much,
11 but I probably know a little, enough to get me in trouble
12 here.

13 But we have another project that I'm in charge of
14 which is called the package performance study, and we were
15 here in Nevada for four meetings, two in -- I'm sorry, for
16 three meetings. Two in Henderson, a day and an evening
17 meeting, and then the next day over in Pahrump. Last
18 December we were here. And this project is called the
19 package performance study.

20 It's to look at the performance of spent fuel
21 casks in severe transportation accidents, and we're using a
22 public participation process to define the project itself,
23 in addition to using public participation throughout the
24 projects, as we obtain results. We're using public
25 participation to define the project itself.

1 In that respect we have just received our first
2 deliverable at NRC from our contractor, Sandia Labs. We
3 haven't issued it yet. I actually just got it Tuesday, and
4 it needs some work. I mean, they may be good scientists but
5 they're not necessarily good communicators, so we need to
6 look at it for about a month or so.

7 We plan on issuing that for public comment in
8 June. And that will be called the "issues and issue
9 resolution options report for the packaged performance
10 study," so that will be issued in June for public comment.

11 Also in June we'll be issuing a plain language
12 version of this report which is quite complicated, so we're
13 trying to work on a plain language version and get that out
14 in June, which would be about a 30-page brochure-type
15 document, even plainer language than the blue "transporting
16 spent fuel" that we always hand out that's out on the table.
17 We're trying to be even more understandable than that
18 document, so with all those documents that we're about to
19 issue in June, we will come back in August, and we're
20 looking at August 15th to have the second in this series of
21 meetings on the package performance study. There should be
22 one in D.C. also, and we're looking at September for that
23 one right now.

24 We have to do them about a month apart just for
25 our own logistical reasons, and it's --

1 MR. CAMERON: Rob, can I ask you just one question
2 that maybe will be helpful for people. Either this meeting
3 in August or the one in September will focus on the package
4 performance study, is it possible to try to lay out some of
5 the answers to some of the transportation questions that
6 we've heard today as part of that, just as a context?

7 MR. LEWIS: You're reading my mind, Doug.

8 Actually, the meeting in August is not only about
9 the package performance study. I misspoke in that respect.
10 Half of the meeting in August, as we currently have planned,
11 is about this re-examination study, and the second half is
12 about the package performance study and where we go from
13 here.

14 In addition, one of my objectives today is to
15 collect any concerns that you would like -- and let us know
16 today, or call me or write me, or something, what you want
17 to know in August, because the agenda is very flexible at
18 this point, and if there's something you want to know with
19 respect to transportation roles, if you would like DOT to
20 come -- they came last time. If you'd like them to come and
21 maybe have a speaking role on what their role is, and what
22 their inspection program is, anything like that, we can try
23 to work that in. It's very flexible at this point, and
24 we're amenable to anything.

25 MR. CAMERON: And Rob, can you put your phone

1 number and address and email up there so that people can get
2 in touch with you on that? And thanks for offering that.

3 MR. LEWIS: The first thing I'm going to put is
4 our website for the packaged performance study.

5 MR. CAMERON: First thing up there is going to be
6 the website for the package performance study.

7 MS. SHOLLENBARGER: Is that back up? Because it
8 was down for the past week.

9 MR. LEWIS: Oh, I wasn't aware of that. I should
10 be back up.

11 MR. CAMERON: Okay. And that is --

12 And let's go to Bob Halstead for a final comment
13 here, and then go to Bill Rizamer to close the meeting for
14 us. Bob?

15 MR. HALSTEAD: Thank you, Chip.

16 I want to make some general comments on the State
17 of Nevada's feelings about the proper attention that must be
18 paid to transportation as part of the licensing process.

19 For several reasons we believe transportation is
20 an integral part of the licensing process. First of all,
21 when you consider the nature of the facility, there's
22 nothing at Yucca Mountain to be disposed of, folks. It all
23 has to be transported there, so transportation is a
24 necessary prerequisite before anything can be disposed of in
25 a repository.

1 Secondly, the location of the site and its
2 transportation access -- or we should say it's lack thereof,
3 largely dictate the transportation mode and route choices
4 for the entire national waste system. A good example is the
5 question about whether rail access can be built, and in turn
6 how that will affect mode of choice and routing.

7 And finally, the transportation itself, both as a
8 physical process and as a day-to-day operational
9 consideration, has a big impact on the way that fuel is
10 actually received. You have to pay attention to the way the
11 fuel is loaded at the reactors, transported across country,
12 and that's going to be an issue in terms of waste
13 acceptance, and it certainly will dictate the way that
14 operations at the repository occur. And in particular, even
15 DOE, who believes they can move most of this waste by rail,
16 acknowledge that there are nine reactors that are going to
17 have to ship by truck. And truck shipment means an entirely
18 different set of pre-closure surface facility operations at
19 the repository.

20 Finally, in terms of the way that these issues
21 have to be dealt with in the licensing document, they should
22 be brought forward through a legally sufficient
23 environmental impact statement. So far what the Department
24 of Energy is proposing in the draft environmental impact
25 statement is not sufficient, partly because of a general

1 lack of specificity, and specifically because the
2 transportation analysis is neither mode- nor route-specific
3 for the 77 origins from which the Department proposes to
4 ship waste to Yucca Mountain.

5 Now how does this relate to other activities of
6 the NRC? And we believe that several, three specific areas
7 of NRC activity further dictate a full addressing of
8 transportation issues in the EIS.

9 First, last year, in August of 1999, the
10 Department issued new reg 1437, volume 1, addendum 1, which
11 was the transportation analysis in support of the 10 CFR 51
12 license extension decision.

13 Those of us who reviewed that transportation
14 analysis came to the conclusion that it was defective, and
15 we strongly felt that we should litigate the sufficiency of
16 that EA. Our lawyers told us, however, that because the
17 comment response document was liberally sprinkled with
18 references to how deficiencies in that NRC EA would be
19 addressed in the Yucca Mountain EIS, led us on our counsel's
20 advice to decide to wait how we would pursue those issues
21 until we see how the NRC decides to rule on the way
22 transportation issues have to be addressed in the full EIS.

23 Secondly, transportation risk issues in the
24 department's draft EIS largely revolve around assumptions
25 about the NRC's modal study, and Rob's described some of the

1 re-examination process that's going on.

2 Now some of us who are participating in that
3 process are hoping that it will be open-minded, and that for
4 the first time, because there certainly was not stakeholder
5 input of any value to the original modal study, and
6 unfortunately the risk reassessment that Rob spoke about
7 that's just been published, New Reg 6672, is conspicuous for
8 the lack of stakeholder involvement, and you'll remember,
9 Rob, that we discussed this at your meeting in Bethesda in
10 November, and I hope this is the old way of NRC doing
11 business and not the new way. You have a major risk re-
12 examination that has not been discussed with stakeholders in
13 draft form before it's finalized.

14 But the point I want to make here is it will be
15 two to three years before a proper modal study re-
16 examination can be completed, and if there are significant
17 new findings, we expect the NRC to require DOE to revise the
18 transportation portions of its environmental impact
19 statement. And that's certainly part of the licensing
20 process.

21 And finally, the commission accepted and published
22 a petition for rule making from the State of Nevada, PRM 73-
23 10 is the docket number. This raises, we believe,
24 substantial questions about the adequacy of the NRC's
25 safeguard regulations. It's possible that the NRC will

1 expedite the handling of this docket. It's also possible,
2 as rule-making dockets go, it may take several years to
3 resolve these issues.

4 And again we would remind the commission that if
5 there are significant changes in 10 CFR 73, which affects
6 not only the operational safeguards, but deals with issues
7 such as the definition of radiological sabotage, and is a
8 very important determinant of the type of consequence
9 assessment that comes out of a specific risk assessment,
10 particularly involving the possibility of a terrorist attack
11 on a shipping cask using a high energy explosive device, so
12 this is yet another area where the NRC is going to have to
13 be sensitive to the fact that the licensing docket for Yucca
14 Mountain is going to be affected by other ongoing activities
15 of the commission, just in the transportation area.

16 That is not to mention the other range of NRC and
17 EPA activities.

18 Thank you for the opportunity to make that
19 statement.

20 MR. CAMERON: Okay. Thanks a lot, Bob, for that
21 overview of various activities and needs in transportation.

22 And I'm going to let Bill Remir close this out. I
23 would just thank all of you for your patience and your
24 insights. I think there has been a lot of information from
25 both the NRC and from all of you that came out today, and

1 also we heard a lot of concerns that we need to consider.

2 But Bill, why don't you close us out?

3 MR. REAMER: Okay, Chip.

4 Well, I'd like to thank everyone as well, for
5 spending virtually the entire day here with us. This is the
6 informal dialogue as it unfolds. I know it is time-
7 consuming. I know it is resource-intensive from your
8 standpoint. However, I think it's very healthy for us to do
9 this, to hear what you have to say, and as I've said many
10 times before, we owe you responses, and we will give you
11 responses. You may not agree with our responses, but at
12 least we will give you responses. The process of
13 communication is really the only way that we understand what
14 is a concern, and you understand what our position is with
15 respect to your concerns. And I really want that to
16 continue.

17 In any event, I believe we'll be back here,
18 hopefully this summer, with some additional topics, and Rob
19 has mentioned transportation plans, so again, thank you very
20 much, and I hope to see everyone again at our next meeting.

21 MR. CAMERON: Thanks a lot.

22 [Whereupon, the workshop was concluded.]

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REPORTER'S CERTIFICATE

This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission in
the matter of:

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

CASE NO:

PLACE OF PROCEEDING: Las Vegas, NV

were held as herein appears, and that this is the original
transcript thereof for the file of the United States Nuclear
Regulatory Commission taken by me and thereafter reduced to
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Elaine Gideon

Official Reporter

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