

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

Title: BRIEFING ON DEVELOPMENT OF STANDARDS, CERTIFICATION PROCESS,
AND STATUS OF U.S. ENRICHMENT CORPORATION TRANSITION

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NUCLEAR REGULATORY COMMISSION

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BRIEFING ON DEVELOPMENT OF STANDARDS,
CERTIFICATION PROCESS, AND STATUS OF
U.S. ENRICHMENT CORPORATION TRANSITION

- - - -

PUBLIC MEETING

Nuclear Regulatory Commission
One White Flint North
Rockville, Maryland

Tuesday, June 1, 1993

The Commission met in open session,
pursuant to notice, at 10:00 a.m., Ivan Selin,
Chairman, presiding.

COMMISSIONERS PRESENT:

IVAN SELIN, Chairman of the Commission
KENNETH C. ROGERS, Commissioner
JAMES R. CURTISS, Commissioner
FORREST J. REMICK, Commissioner
E. GAIL de PLANQUE, Commissioner

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STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

WILLIAM C. PARLER, General Counsel

JOHN HOYLE, Assistant Secretary

JAMES TAYLOR, Executive Director for Operations

ROBERT BERNERO, Director, NMSS

ROBERT BURNETT, NMSS

JAMES C. HALL, Manager, Uranium Enrichment Transition,
DOE

DALE JACKSON, Uranium Enrichment Transition Team, DOE

WENDELL FIELDS, Vice President, Uranium Enrichment,
Martin Marietta Energy Systems

WILLIAM H. TIMBERS, JR., Transition Manager, U.S.
Enrichment Corporation

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

10:00 a.m.

CHAIRMAN SELIN: Good morning, ladies and gentlemen.

The Commission has looked forward to today's meeting with considerable anticipation. Today we'll be discussing matters concerning the new United States Enrichment Corporation. In fact, it's so new it's an organization without any assets for another month. But under the Energy Policy Act of 1992, the Corporation is to lease the Department of Energy's gaseous diffusion uranium enrichment plants beginning, as I mentioned, on July 1st.

Since there's a great deal of business to completed between now and then, we're particularly grateful to have with us James C. Hall, the Department of Energy's Uranium Enrichment Transition Manager, accompanied by Wendell Fields, Vice President for Uranium Enrichment at Martin Marietta Energy Systems, and William Timbers, Jr., who is the transition manager for the U.S. Enrichment Corporation.

Under the Energy Policy Act, the NRC is required to develop safety and security standards for governing the diffusion plants, establish the certification process whereby the new corporation will

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1 demonstrate compliance with NRC standards, and report
2 to Congress at least annually on the status of health
3 safety and environment conditions of the facility.

4 Since this Act was enacted, the NRC staff
5 has worked with DOE staff to resolve issues and
6 questions concerning implementation of the Act's
7 requirements. These discussions have centered on the
8 transition of regulatory oversight from DOE to NRC.
9 It's our current understanding, based on these
10 discussions, that DOE will retain regulatory oversight
11 for the facilities until NRC has issued standards and
12 an initial certification process based on these
13 standards has been completed. We did receive a letter
14 from DOE's Acting General Counsel this morning which
15 confirms this understanding.

16 I'm sure that there are many other issues
17 which may come up, either today or in the future which
18 will require our continued coordinated effort to
19 resolve these issues in the public's interest. I
20 sincerely hope that in the future we'll be able to
21 look back at this meeting today and at the discussions
22 that have gone on between the two staffs as signal
23 events in a long and successful endeavor to carry out
24 faithfully the will of Congress as reflected in the
25 Energy Policy Act.

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1 Commissioners, do you have any opening
2 comments?

3 Mr. Taylor, would you please begin?

4 MR. TAYLOR: Good morning. With me at the
5 table are Bob Burnett and Bob Bernero from the Office
6 of NMSS.

7 Our briefing this morning will concentrate
8 on the status of the staff work which we initiated
9 shortly after the signing of the Act in October 1992
10 and we'll bring the Commission up to date, and I did
11 provide a paper to the Commission on May 24th of where
12 the staff stands in the various activities associated
13 with the gaseous diffusion plants.

14 Bob Bernero will give the presentation.

15 MR. BERNERO: Thank you, Jim.

16 (Slide) Could I have the first slide,
17 please, the outline?

18 To assist the Commission today, hearing
19 from us and then later you'll be hearing from the
20 Department of Energy and the U.S. Enrichment
21 Corporation, I just wanted to go through some of the
22 background to refresh and give you some of the
23 milestones that have occurred and what stands in the
24 future and a summary of this activity, which I think
25 is making very real progress now.

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1 (Slide) May I have the next slide,
2 please?

3 The Energy Policy Act did provide for this
4 unique regulatory oversight of gaseous diffusion
5 plants by setting up a separate operator, the U.S.
6 Enrichment Corporation, and set tasks for NRC to set
7 standards by October of 1994, two years after the date
8 of enactment. The Congress in that Act also specified
9 a rather unique form of regulatory oversight,
10 certification, and presumably our standards or
11 regulations would spell out just what that is and how
12 we would do it. Since these facilities have long been
13 in regulation by the Environmental Protection Agency.
14 The Act also calls for us to coordinate our review,
15 our certification with EPA.

16 Now, we developed some regulatory options
17 late last year and reviewed them with the Commission.
18 During the winter, there was a transition task force
19 that OMB organized pending the appointment of a
20 transition executive. A great deal of work was done
21 in subcommittee work with that transition task force
22 and then earlier this year, Chairman Selin, you met
23 with Secretary O'Leary to discuss this matter and we,
24 of course, have a continuing dialogue with DOE on this
25 transition, the most recent example of which is the

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1 letter received this morning that you mentioned that
2 affirms the common interpretation of the Act as
3 gearing our regulatory oversight to two years after
4 the Act that we would promulgate standards and then
5 after that take over regulatory oversight.

6 (Slide) May I have the next slide,
7 please?

8 A key to this activity is a rulemaking
9 activity and we have already started that rulemaking
10 activity in the Office of Research with the extensive
11 cooperation of NMSS staff and OGC. Our rulemaking
12 strategy is an important one here. We're dealing with
13 facilities which have operated steadily without
14 shutdown for almost 40 years and so what we took as a
15 premise was that we should take the existing
16 regulatory basis exercised by DOE and review that and
17 supplement or modify it to suit in order to make it
18 our own, rather than go out with a fresh sheet of
19 paper to try to develop wholly new and possibly
20 confusing regulations since they would be drawn up as
21 if a plant were to be built.

22 So, this regulatory basis is the basis of
23 our rulemaking and we are combining the procedural and
24 the technical rule and expect to submit this to the
25 Commission by September of this year. Since the

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1 statutory deadline is October '94, we're confident
2 that we can meet that statutory deadline.

3 COMMISSIONER ROGERS: Bob, the structure
4 of that DOE regulatory documentation, how different is
5 that from what we would have generated or do work with
6 in similar situations?

7 MR. BERNERO: It is quite different. In
8 fact, I was going to treat that on the very next
9 slide.

10 COMMISSIONER ROGERS: All right. Fine.

11 MR. BERNERO: If I may.

12 COMMISSIONER ROGERS: Sure.

13 MR. BERNERO: (Slide) May I have the next
14 slide, please?

15 Basically in the regulatory transition we
16 started out with the transition task force doing a lot
17 of homework to discern just what the existing
18 regulatory situation was. The DOE for years has used
19 DOE orders, not regulations, to regulate many of their
20 activities. They, DOE, are in a state of transition
21 across the board in recent time, the last couple of
22 years, to evolve regulations of their own for most of
23 their facilities. So, what we get when we seek a
24 snapshot of that regulatory basis, we really get DOE
25 orders for the most part. Those are implemented

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1 through contract terms. So, it's rather complicated
2 and it led us to agree with DOE that what we needed is
3 something like a regulatory transition document or set
4 of documents that would basically say, "Here are the
5 orders that the people are supposed to satisfy in
6 order to be properly regulated and here is how we
7 apply them, here is the state of compliance. This is
8 a sort of a status of DOE regulation." That could
9 also pick up wherever there is a transition to newer
10 regulation-based DOE activities.

11 CHAIRMAN SELIN: I'd just like to say my
12 understanding is that these orders are very general
13 and they apply to all DOE facilities. It's not like
14 Part 69 or 71 or something that's specifically
15 oriented towards gaseous diffusion plants. So, if
16 you've limited yourself to the orders, you really
17 wouldn't have large depth of safety regulation.
18 Furthermore, much of what the orders cover is of no
19 interest to us. They're not our responsibility,
20 they're equal employment questions, they're just a
21 whole lot of general principles for operating
22 facilities that fall outside the health and safety
23 area. Is this correct?

24 MR. BERNERO: Yes. Yes. That is largely
25 true because the DOE orders are -- well, for instance,

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1 the radiation protection is a universal order. It's
2 analogous to our Part 20. They are evolving at DOE a
3 regulation much more specific to Part 20. But there
4 are orders that affect business operations. We have
5 no interest in that. Very general orders about
6 administrative or organizational practices, we have no
7 real interest in that. What we do have is an interest
8 in the key orders that contain the fundamental safety
9 or safeguards operational requirements and how they
10 are implemented and that's where this transition
11 document comes in.

12 Safety analysis reports were done for
13 these stations, these plants, back in the mid-80s and
14 they're very important in the translation of a general
15 order system into actual regulation. So, the
16 transition documentation is extremely important to us.
17 We have already received the initial transition
18 document a couple of months ago and more is to come.

19 We are expecting, as the fourth bullet on
20 this slide indicates, DOE to give us a further
21 transition document further describing the regulatory
22 basis. This in large part derives from our questions
23 coming from the first transition document of a couple
24 of months ago.

25 COMMISSIONER ROGERS: Just following up a

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1 little bit, so I can understand this situation a
2 little bit better. At a specific site, has there been
3 a DOE representative that might play a role somewhat
4 analogous, obviously not entirely analogous, to our
5 resident inspector and others? Do they have somebody
6 there that would see that the orders are carried out
7 satisfactorily in some way and be able to report back?
8 In other words, is there yet another collection of
9 interactions that really ought to somehow or other get
10 into this documentation that relates to on-site
11 matters?

12 MR. BERNERO: Yes, there is.

13 COMMISSIONER ROGERS: On-site agreements.

14 MR. BERNERO: At a plant like let's say
15 the Portsmouth plant, there is a field office of the
16 Oak Ridge Operations Office which is actually DOE's
17 oversight system. Now, that group is quite analogous
18 in some respects to our resident inspectors or
19 resident inspector office. However, it goes far
20 beyond that. It has business oversight functions --

21 COMMISSIONER ROGERS: Yes, I understand.

22 MR. BERNERO: -- because the DOE is the
23 operator of the plant. We are working to discern
24 those safety and safeguards operational oversight
25 functions of that because that is quite applicable to

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1 what we would do.

2 CHAIRMAN SELIN: They're really more like
3 a contracting officer's technical representative,
4 aren't they? I mean they are responsible for the
5 plants carrying out all the instructions from the
6 government, whether they're safety instructions --

7 MR. BERNERO: Exactly.

8 CHAIRMAN SELIN: -- or business
9 instructions. I mean the reason I'm interceding at
10 this point is that the impression I have is that we
11 have a set of conditions which are neither necessary
12 nor sufficient to carry out the health and safety
13 situation, both in terms of personnel and in terms of
14 the documentary base. In some case, in some ways they
15 don't go far enough for what they need. In other
16 cases they include a lot of information that we don't
17 need, whether it's the documentary base or the people
18 that are on the site. There's no individual on site
19 you can put a finger on and say this is the safety
20 inspector. They have people who do inspection and
21 follow-up of the instructions, but it's a wide set of
22 things. In other words, you still have a lot of work
23 to get to the point where you can say, "Here's the set
24 of conditions and here's what has to be done to carry
25 them out."

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1 MR. BERNERO: Yes. You can go to the
2 plant and Martin Marietta will have an individual who
3 is the lead safety person, analogous in many respects
4 to what a licensee might have at an NRC license
5 facility and you can go to the oversight group, the
6 Oak Ridge oversight group, and you can identify one
7 side of that organization that is safety and
8 environmental and safeguards, and you can identify the
9 principle for safety. But I think you put it
10 correctly, Mr. Chairman, that it's contract
11 implementation oversight. It's not the same as what
12 we have.

13 As we develop our regulations, our rule
14 doesn't want to bring in all of the extraneous
15 material that you get out of the order system or
16 everything else. We're trying to gather the safety,
17 safeguards, operational requirements and add or
18 subtract or supplement to those as appropriate.

19 COMMISSIONER CURTISS: Bob, could I ask
20 you --

21 MR. BERNERO: Yes.

22 COMMISSIONER CURTISS: I take it the
23 purpose of what you've described here on the overview,
24 the regulatory transition, is two or three things
25 you're trying to accomplish here. One, a general

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1 familiarization with facilities and a framework that
2 we to date have not been involved in for the purpose
3 of carrying out our responsibilities under the
4 statute. Two, to ascertain DOE's position with
5 respect to not only what the relevant orders are but,
6 more importantly, where they believe they are in terms
7 of compliance with those orders. And three, then to
8 be in a position, as you will discuss later in the
9 overviews, for us to carry out the process of
10 certification against our formally promulgated
11 regulations after we entertain an application from the
12 U.S. Enrichment Corporation.

13 At this point in the process, and
14 recognizing that what you're doing now has a bearing
15 on what we might promulgate and the speed with which
16 we might certify, have you identified any major gaps
17 in the process in terms of the -- let's call it the
18 regulatory framework, the DOE framework from a health
19 and safety standpoint with respect to these
20 facilities?

21 MR. BERNERO: We have identified questions
22 but not gaps that I would say, you know, that they
23 don't regulate at all. I'm using the term
24 "regulation" for DOE, including the order system, of
25 course. We have identified a lot of substantive

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1 questions. Just one that I personally have a strong
2 interest in is the safeguards inventory. These plants
3 are very large and they operate continuously. The
4 material control and accounting is done on a snapshot
5 basis periodically. We have many questions about
6 that, the uncertainties built into it, but we haven't
7 encountered anything of a nature that I would say it's
8 a gap, a regulatory gap that they just don't treat a
9 subject. Even the natural phenomena, in fact, we have
10 questions. They have dealt with natural phenomena and
11 we have questions about how, but it's not a gap.

12 COMMISSIONER CURTISS: All right. Would
13 it be fair to say that the questions that you've got
14 in large measure focus on compliance and whether the
15 facilities are in compliance with an existing
16 framework that is largely comprehensive?

17 MR. BERNERO: Yes, and whether that is an
18 acceptable level of operational compliance, just as in
19 the natural phenomena. They have looked at it and
20 they have retrospectively evaluated the resistance of
21 the facilities to various natural phenomena that can
22 cause a large release. That leaves you with the
23 question of, okay, now you understand it. Is that
24 good enough? We can evaluate it that way and deal
25 with that in our regulation.

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1 COMMISSIONER de PLANQUE: Bob, when are
2 you expecting the final transition document?

3 MR. BERNERO: I think it's June, end of
4 June. Yes, yes, it's on slide number 8.

5 (Slide) We expect that. Now, if I could
6 have the next slide.

7 In order to deal with this, and I think
8 we've discussed this a little bit with the Commission
9 before, we had a reorganization of broader scope than
10 simply to deal with enrichment, but in the course of
11 that reorganization earlier this year we took the
12 trouble to establish an Enrichment Branch so that we
13 have a complete focus on this activity in one branch.
14 It's not just gaseous diffusion plant enrichment, it's
15 other forms of enrichment for our regulatory
16 involvement as well.

17 Then we also looked at the two enrichment
18 plants, the fact that they were nominally in two
19 different regions. The Paducah, Kentucky plant is
20 nominally in Region II and the Portsmouth, Ohio plant
21 is nominally in Region III, our regions. We decided
22 that that wouldn't be a very efficient way to handle
23 these two unique plants and since Paducah, Kentucky is
24 so close to Region III and has a Region III fuel
25 facility right across the river, the Allied Signal

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1 Metropolis plant, which feeds that enrichment plant,
2 we decided to consolidate there and we have started a
3 nucleus group at Region III to begin the oversight and
4 staffing of resident inspectors.

5 We have continued to have extensive
6 meetings with EPA, with OSHA because of the regulatory
7 coincidence and visits to the sites, and we had a very
8 good training session for about ten of our staff down
9 at Oak Ridge just recently, and more is to come.

10 (Slide) May I have the next slide,
11 please?

12 This is not a budget meeting, of course,
13 but I just want to assure the Commission that we are
14 presently budgeted in our FY '94 budget for the
15 present plan of approach taking the regulatory
16 oversight after promulgation of rules. But we are not
17 budgeted for some loose ends, some security issues
18 about maintenance of facility security and personnel
19 clearances. That's a matter being reviewed or
20 deliberated in the draft memorandum of agreement
21 between the Secretary and the Chairman.

22 CHAIRMAN SELIN: Our position is that we
23 don't wish to and we don't expect to take on these
24 responsibilities.

25 MR. BERNERO: Yes, it is. That's our

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1 position. That's the way it's expressed in the draft
2 agreement we sent over to DOE and that's still being
3 negotiated right now.

4 CHAIRMAN SELIN: I mean shouldn't that be
5 expressed by the will of the Congress or at least some
6 leadership from OMB rather than a bilateral agreement?
7 The bill is -- the Act is silent.

8 MR. BERNERO: Well, the bill is silent on
9 it. It really doesn't say and I think it can be
10 handled by the Department and the Agency agreeing on
11 it.

12 COMMISSIONER ROGERS: Are we going to have
13 some difficulties here because of the sharing of
14 facilities between civilian and defense activities?

15 MR. BERNERO: This is a potential
16 complication at Portsmouth because Portsmouth for
17 years has made high enriched uranium. However, the
18 present scheme of things is they have not made high
19 enriched uranium for several years now and there is a
20 rather complex lease negotiation because some of the
21 facility that makes the high end, the high end of the
22 plant, is needed to operate the low end of the plant
23 just for material movement and off-gassing and things
24 like that.

25 So, there is a complication about how does

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1 USEC lease half the building or some portion of the
2 building. We don't think there will be a significant
3 difficulty for us in regulatory oversight. The only
4 high-enriched uranium that will be involved is
5 whatever residues are hung up in the building. You
6 know, sort of a decommissioning sort of question. The
7 free volume or free inventory of high-enriched uranium
8 will have been removed to the vault, if not off-site,
9 and that's entirely expected to be DOE jurisdiction.
10 So, I don't think we will have a serious problem
11 there.

12 CHAIRMAN SELIN: Don't feel bad about
13 bringing up the budget. The administrative officers
14 with which I've been associated for about 20 years, we
15 say that the only meetings that don't become personnel
16 and budget meetings are the ones that start out as
17 personnel and budget meetings.

18 MR. BERNERO: Like our authorization
19 hearings.

20 (Slide) May I have slide number 8,
21 please?

22 Just a highlight of the milestones we
23 expect to see here in the near future, the additional
24 regulatory transition submittal later this month.
25 That will carry us along and I think that will be

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1 sufficient to give us high confidence that we can give
2 the Commission a good proposed rule in September so we
3 expect the Commission to be satisfied and be able to
4 promulgate a proposed rule in the fall. We will be
5 getting more information, safety and safeguards
6 information, from them. In a way, the interaction
7 with our fellow regulator, DOE, you might say, is that
8 they will be continuing to feed us detailed
9 information somewhat in the line of comment on our
10 proposed rule, but more important it's comment on what
11 they are doing, why they have been doing it and so
12 forth to make for a clearer transition. Of course,
13 our material becomes public except for whatever
14 restricted data might be involved.

15 CHAIRMAN SELIN: I'd like to come back to
16 a remark that Commissioner Curtiss made. He made it
17 in the form of a question, but I'll make it in the
18 form of a remark. I think it would be extremely
19 helpful, in fact it's almost necessary for the
20 Commission in looking at the proposed rule to have
21 some sense of how far the facilities are from
22 complying with that rule on that day. It's very
23 undesirable, from my point of view, to be making
24 theoretical rules without knowing whether the licensee
25 is in the ballpark or not. So, a rough compliance

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1 evaluation I consider to be personally actually a
2 prerequisite for an intelligent review of the proposed
3 rule. I know that's probably -- I don't know, but I
4 guess that's probably the hardest area in the
5 discussions with DOE today.

6 MR. BERNERO: It has been so far.

7 CHAIRMAN SELIN: But you should feel, at
8 least from my point of view, and perhaps from the
9 Commission's, that to be strongly encouraged to
10 follow-up in that area since I don't see how we could
11 evaluate a proposed rule without knowing how far the
12 facilities stands from complying with that.

13 MR. BERNERO: Understood.

14 There's another point on this slide that
15 I think is worth making. Our present aim, and it's
16 reflected in the draft memorandum of understanding, is
17 that we would reach the promulgation of the rule by
18 October '94 and be in a position to make the rule
19 effective at dates appropriate to the USEC applying
20 for certification within six months and we providing
21 the certification and the report to the Congress that
22 the Act requires within six months of that. So, this
23 six month period would give the USEC an opportunity to
24 do a responsible job of saying, "Here are your final
25 rules and we do satisfy them, or we don't and these

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1 are those regards and we will correct it by date
2 certain." Then it also gives us a chance to do a
3 responsible review with the public process. Remember,
4 our rule is developing both administrative process and
5 the technical content. This will include a public
6 process in their certification.

7 COMMISSIONER CURTISS: Bob, could I
8 follow-up on that point? You obviously assume
9 something here with respect to public participation
10 and the procedures that will be employed with regard
11 to the public. If I could ask you or maybe the
12 General Counsel to expand upon what your current
13 thinking is and what's gone into the assumption that
14 we can certify within six months after. Are there
15 hearing rights that attach here? Is there an informal
16 process that you envision? What are the options and
17 what are our obligations under this statute and the
18 Atomic Energy Act?

19 MR. PARLER: We're contemplating that
20 informal process closely akin to Section 553
21 rulemaking with the opportunity for comments,
22 meetings, but certainly not the adjudicatory
23 procedures that this agency and its predecessor have
24 come to know for the licensing of nuclear facilities.
25 The Act doesn't talk about licensing, it talks about

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1 certification and it will all be done publicly with
2 perhaps the limitations that you mention about
3 restricted data. But the timing that he's talking
4 about is based on the concept that it will be closely
5 akin to an informal rulemaking.

6 COMMISSIONER CURTISS: All right. So,
7 what you really envision here from what you've
8 described are a notice and comment rulemaking to
9 promulgate the standards that will be used as the
10 basis for determining certification and then a notice
11 and comment rulemaking type process where we would
12 publish, I guess, some determination on our part which
13 in turn is based upon what we receive from USEC,
14 notice and comment on that very much akin to
15 rulemaking and then within a six month period going to
16 a final determination?

17 MR. PARLER: That's the way that I
18 understand the approach, yes.

19 MR. BERNERO: Yes. Basically we envision
20 that -- mind you, this whole procedure would have been
21 spelled out in our rulemaking -- that we would in
22 three or four months be in a position to say, "Here is
23 our proposed document to certify." We would be in a
24 position to say, "Here's our safety, safeguards and
25 environmental evaluation."

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1 COMMISSIONER CURTISS: Three or four
2 months from now?

3 MR. BERNERO: No, three or four months
4 after receipt of a good application.

5 COMMISSIONER CURTISS: Okay.

6 MR. BERNERO: And we would be in a
7 position then to say -- and ready to go into a public
8 meeting type environment to solicit comment on it, to
9 explain it and to take final action on it
10 approximately two months later.

11 COMMISSIONER CURTISS: All right. If you
12 take three to four months to do that, that in turn
13 leaves you two to three months for the public to
14 comment and, more importantly, for you then to respond
15 to public comments --

16 MR. BERNERO: Or to deal with them, yes.

17 COMMISSIONER CURTISS: -- in whatever
18 final document you publish. And you can do that in
19 six months?

20 MR. BERNERO: We think, yes. Some of our
21 earlier estimates were more like nine months, but we
22 think we can do it in six months.

23 COMMISSIONER CURTISS: It goes back to the
24 point, I guess, the Chairman emphasized, which is to
25 say that because of the schedule that you have in mind

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1 here, the preliminary work that leads up to that
2 process, and it's, in my view, a very short process,
3 six months from the time you get the application until
4 the final determination with essentially a notice and
5 comment rulemaking in that period of time, that
6 preliminary work that you will undertake will be
7 essential to laying the groundwork for that speedy
8 determination and in that regard I associate myself
9 with the comments that the Chairman made earlier.

10 MR. BERNERO: Yes. It is especially going
11 to be difficult the first time out. Remember, the Act
12 is such that we would be doing this every year.
13 Annual procedure, almost like an annual action. The
14 first time though is going to be a difficulty. We're
15 working on the issues right now in the proposed and
16 final rulemaking stages and we hope to have enough
17 momentum and clarity out of that that we should be
18 able to have a doable job. But that's something --
19 it's a point well taken.

20 CHAIRMAN SELIN: Would the Department of
21 Energy continue their regulatory oversight until the
22 first certification was issued? In other words, from
23 October '94 until October '95?

24 MR. BERNERO: Yes, we expect that. We
25 would obviously have resident inspectors on-site.

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1 We're already talking to them about the beginnings of
2 that. But there would be some transition there. But
3 nominally I would think that the day of certification
4 is the day of transition.

5 MR. PARLER: I would assume so. If you
6 would have resident inspectors on site prior to the
7 time that the certification is issued, I would assume
8 that they would be on-site for observing information
9 gathering or what have you to assist us and not for
10 any regulatory capacity. I think it is fundamental
11 that it always be clear who is responsible, at least
12 in a regulatory sense, for the operation.

13 MR. BERNERO: (Slide) May I have the last
14 slide, please?

15 Just to summarize, we are very active with
16 DOE on this interagency coordination and technical
17 preparation and I hope we have the memorandum of
18 agreement finalized and signed very shortly. We have
19 started the rulemaking activity. We've made excellent
20 progress on that. We expect to give you the rule in
21 September and we are dependent on other information,
22 further information. We have emphasized that to DOE
23 and we will continue to do so. I think they do
24 understand that. And last, we are prepared to do this
25 on the schedule indicated and have the staff in place

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1 for it.

2 That completes what I have to say and then
3 I would be happy to answer any questions here.

4 COMMISSIONER ROGERS: What's the role of
5 EPA, Bob, in this process?

6 MR. BERNERO: Well, EPA has a very
7 extensive amount of regulation, up to and including
8 tripartite agreements with the EPA, the Department of
9 Energy and the state regarding the operation of these
10 plants, the various environmental impacts, the waste
11 disposal issues and many, many things. They also have
12 many permits and EPA has regulated, up until now,
13 through their regions. They tend to do it and they
14 are just like us. They have two different regional
15 offices and they intend to stay that way for
16 continuity.

17 So, the EPA, with respect to what we do in
18 certification, they have some regulatory interest.
19 The Clean Air Act, for instance, is kind of -- it's
20 not clear whether this will be subject as DOE. It's
21 a lack of clarity. I suspect there won't be any
22 problem with it anyway, but it's a matter that we have
23 to consult with EPA on.

24 The principal area of consultation, I
25 think, is going to be on waste management because

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1 there are mixed wastes that come out of these
2 facilities and there are rather extensive inventories
3 of waste in place at these facilities from 40 or so
4 years of operation. So, that will be their principal
5 interest and the purpose of our liaison with them.

6 COMMISSIONER ROGERS: Thank you.

7 CHAIRMAN SELIN: Why don't we move on to
8 our next set of guests. You'll still be here --

9 MR. BERNERO: Yes.

10 CHAIRMAN SELIN: So there will be wrap-up
11 questions.

12 Oh, I'm sorry.

13 COMMISSIONER REMICK: I'm sorry. I
14 thought you were going around the table. I have a
15 question for the staff.

16 Going back to saying that you're not staff
17 restricted data program, it's obvious to me personnel
18 clearances. But what do you mean by facility
19 security?

20 MR. BERNERO: The facility itself, the
21 enrichment machine, the data management, design
22 drawings and all of that stuff, that's confidential
23 restricted data and it's basically the maintenance of
24 security of that which DOE has done for years. We
25 have that responsibility for a new facility which is

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1 totally licensed by us.

2 COMMISSIONER REMICK: Right.

3 MR. BERNERO: But this is a DOE facility.

4 COMMISSIONER REMICK: I see. It's because
5 of that.

6 MR. BERNERO: Yes. The machine itself is
7 classified.

8 COMMISSIONER REMICK: I see. Okay.

9 One other question or comment. Sometime,
10 either now or any time between now and including the
11 time of the draft rule, I'd appreciate knowing what
12 options might be available other than the notice and
13 comment as a form of certification process. Are there
14 other options? And I'm not thinking of adjudication,
15 but are there other options other than the notice and
16 comment procedure of rulemaking?

17 MR. PARLER: We could have public
18 meetings, have informal hearings. Yes, there are
19 other options.

20 COMMISSIONER REMICK: Is there any
21 particular reason why we're heading in the direction
22 of notice and comment for certification?

23 MR. PARLER: The paper is still being
24 developed that we'll send to the Commission. It just
25 seemed to some that that would be the most

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1 straightforward way to go with this certification
2 process. But certainly as a result of questions that
3 are being raised such as your question, we will take
4 a very close look at the options that we present to
5 the Commission. In the paper, perhaps I was being too
6 positive when I answered the question and suggested
7 that that was the only option or the only way to go.
8 That is not the case. That is where our thinking at
9 the present time suggests that the Commission might
10 wish to go. It's not the only way though.

11 COMMISSIONER REMICK: Well, thank you. I
12 would like to see those various options when the paper
13 comes up.

14 MR. PARLER: No, we'll give them to you.

15 CHAIRMAN SELIN: Gail?

16 COMMISSIONER de PLANQUE: I just want to
17 expand a little bit on the EPA coordination. Are you
18 expending any real problems in that coordination?

19 MR. BERNERO: No, I'm not because I
20 expected to focus on waste, waste identification or
21 waste management, and these are areas where we already
22 have extensive coordination with EPA.

23 COMMISSIONER de PLANQUE: Okay.

24 CHAIRMAN SELIN: Why don't we go on to --
25 Commissioner Curtiss?

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1 COMMISSIONER CURTISS: I don't have any
2 questions.

3 CHAIRMAN SELIN: Go on to our visitors and
4 then we'll have a wrap-up with everybody at the end.

5 Mr. Hall? We welcome you. It's very nice
6 to see you. This is the kickoff of the formal
7 communications between the Commission and the group
8 that's managing the transition. We're very interested
9 in hearing what you have to say. Should you choose to
10 answer some of the questions that were put to the
11 staff, either to affirm or to question some of the
12 understandings, it would be illuminating. In
13 particular, it would be most undesirable if you went
14 home and leave us thinking that there's agreement
15 where there isn't --

16 MR. HALL: Right. I understand.

17 CHAIRMAN SELIN: -- but where there's
18 still open questions. The floor is yours, sir.

19 MR. HALL: Okay. Thank you. We'll be
20 glad to answer questions after the statement and maybe
21 get into some of the areas that you were asking
22 earlier.

23 Good morning, Chairman Selin and members
24 of the Commission. I'm Jim Hall, the Uranium
25 Enrichment Transition Manager for the Department of

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1 Energy. I appreciate this opportunity to meet with
2 you and to describe the status of the DOE portion of
3 the transition effort and DOE's plan for continuing
4 nuclear safety and safeguards and security oversight
5 of the gaseous diffusion plants.

6 On my far left is Wendy Fields of Martin
7 Marietta Energy Systems. He's the Vice President for
8 Enrichment and he's the operating contractor manager
9 responsible for the gaseous diffusion plants.

10 On my immediate left is Nick Timbers, the
11 Corporation transition manager, who will be speaking
12 to you later.

13 On my right is Dale Jackson and Dale has
14 been leading the DOE transition activities related to
15 nuclear safety and safeguards and security.

16 For the past eight years I've been the
17 assistant manager for enrichment operations of the Oak
18 Ridge Operations Office. In that role I've been the
19 senior DOE uranium enrichment manager at the Oak Ridge
20 Office which manages all DOE enrichment operations.
21 My responsibilities include management of all aspects
22 of the gaseous diffusion enrichment plants at
23 Portsmouth and Paducah, including operations,
24 production, environmental protection, safety and
25 health protection.

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1 Recently I was asked by the Secretary of
2 Energy to be the DOE transition manager for uranium
3 enrichment. In this role I'm responsible for the day
4 to day management of the implementation of those
5 portions of the Energy Policy Act of 1992 pertaining
6 to the transition of the gaseous diffusion plants from
7 DOE management to the Corporation management and
8 develop it in negotiation of a lease arrangement under
9 which the Corporation will operate those plants.

10 Let me now state that we fully anticipate
11 that the lease will be fully negotiated and executed
12 and the Corporation will assume responsibility for the
13 operation of the plants on July 1, 1993.

14 (Slide) If I could have the second slide,
15 please.

16 Today I will talk briefly about the
17 salient requirements of the Energy Policy Act, the DOE
18 transition strategy for implementing these
19 requirements, the relevant provisions of the lease
20 agreement that we are currently negotiating with the
21 Corporation, and the approach that we plan to use for
22 nuclear safety and safeguards and security oversight,
23 and the contents of a document entitled, "Safety Basis
24 and Framework for DOE Oversight of the Gaseous
25 Diffusion Plants," which is the regulatory transition

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1 document Mr. Bernero referred to in his presentation.

2 (Slide) Slide 3, please.

3 The Energy Policy Act of 1992 establishes
4 the United States Enrichment Corporation as a
5 government corporation and transfers responsibility
6 for the commercial uranium enrichment program,
7 including the operation of two gaseous diffusion
8 plants, from the Department of Energy to the
9 Corporation. Under the Act, DOE retains ownership of
10 the plants and leases the plant facilities and
11 equipment necessary for enrichment operations to the
12 Corporation. The date established by the Act for the
13 transition is July 1st, 1993. The Act also requires
14 the corporation to develop within two years a
15 strategic plan for privatization which could lead the
16 Corporation to becoming a commercial corporation over
17 a period of years.

18 As Mr. Bernero indicated, the Act requires
19 that the Nuclear Regulatory Commission establish by
20 October 1994 such standards as are necessary to govern
21 the uranium enrichment plants in order to protect the
22 public health and safety from radiological hazard and
23 to provide for the common defense and security. The
24 Act also requires the NRC to establish a certification
25 process to ensure the corporation complies with the

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1 standards.

2 (Slide) Slide 4, please.

3 The Department is committed to the
4 successful implementation of the provisions of the
5 Energy Policy Act. The Secretary of Energy considers
6 the successful transfer of the Uranium Enrichment
7 Program to the Corporation to be among the highest
8 priorities of the Department. I provide frequent
9 status reports on transition activities to the Office
10 of the Secretary. We have established a dedicated
11 Uranium Enrichment Task Force to address the many
12 complex issues associated with the transition,
13 including financial, liability, legal and regulatory
14 issues. This has involved extensive effort by DOE
15 Headquarters and field elements and the operating
16 contractor, Martin Marietta Energy Systems.

17 Coordination with the NRC has been high on
18 our priority list. One of our objectives has been to
19 make this transition as smooth and efficient as
20 possible. As Mr. Bernero indicated, we have supplied
21 the NRC with copies of relevant DOE orders, a
22 preliminary regulatory transition document, and other
23 technical documents. We have been working with the
24 NRC to identify and resolve issues associated with the
25 transition and to provide technical information about

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1 the operations and safety programs of the gaseous
2 diffusion plants.

3 In addition, we have conducted training
4 for the NRC Headquarters and Region III staff on
5 gaseous diffusion enrichment technology, process
6 equipment and safety to assist in the better
7 understanding of the plants, their operations, the
8 process hazards and associated safety issues.

9 We've also been working closely with the
10 Environmental Protection Agency and the environmental
11 regulatory agencies in Kentucky and Ohio to resolve
12 environmental issues, including those related to
13 permitting. The Occupational Safety and Health
14 Administration will be responsible for regulatory
15 oversight of the Corporation in the area of worker
16 health and safety. We are finalizing our arrangements
17 with OSHA regarding their assumption of oversight
18 responsibilities. We're also providing technical
19 training to OSHA inspectors about the gaseous
20 diffusion plants.

21 CHAIRMAN SELIN: Will OSHA deal with these
22 plants any differently from the way they'll deal with
23 all the DOE facilities, according to the Secretary's
24 latest decision?

25 MR. HALL: I think the Secretary's intent

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1 is to have, as you pointed out, OSHA come in and
2 assume regulatory oversight of all DOE activities.

3 CHAIRMAN SELIN: Right.

4 MR. HALL: And I would assume these plants
5 then would be treated just like all other DOE
6 facilities.

7 Obviously the success of the enterprise
8 requires close coordination between DOE and the
9 Corporation. We've been working closely with the
10 Corporation for several months and we are nearing
11 completion of the lease and related agreements. Mr.
12 Timbers of the Corporation will speak after my
13 presentation and he will tell you more about our
14 coordination and the Corporation transition
15 activities.

16 The DOE and Corporation activities over
17 the past several months have been focused on the
18 development and negotiation of a lease arrangement.
19 The agreement is the key document for implementing a
20 transfer of the Commercial Enrichment Program from DOE
21 to the Corporation.

22 (Slide) Slide 5, please.

23 The lease agreement establishes the terms
24 and conditions of the Corporation operation of the
25 gaseous diffusion plants. It is composed of a base

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1 agreement and several supplementary documents. The
2 supplementary agreements include a definition of
3 facilities and equipment to be leased to the
4 Corporation, including in some cases identification of
5 specific parts of buildings to be leased and memoranda
6 of understanding, including those covering
7 environmental and waste management responsibilities,
8 mutual site services and recovery of cost for such
9 services and the administration of DOE power purchase
10 contracts.

11 The supplemental agreements also include
12 a regulatory oversight agreement that provides a
13 framework for DOE to continue to exercise nuclear
14 safety and safeguard and security oversight of the
15 gaseous diffusion plants until NRC rulemaking and
16 certification required by the Act have been completed.

17 (Slide) Slide 6, please.

18 COMMISSIONER CURTISS: Could I ask you,
19 before you go on --

20 MR. HALL: Sure.

21 COMMISSIONER CURTISS: -- is it -- well,
22 actually two questions with respect to liability. Am
23 I correct that these facilities are currently
24 indemnified by DOE under Price Anderson?

25 MR. HALL: That's correct. We have an

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1 indemnity agreement with Martin Marietta.

2 COMMISSIONER CURTISS: Okay. And would it
3 be your expectation that an indemnification
4 arrangement would continue and, if so, be addressed in
5 the lease arrangement?

6 MR. HALL: Yes. The lease as we currently
7 have it negotiated includes a nuclear hazard indemnity
8 article and it will apply to the Corporation and their
9 arrangements for incorporating the Price Anderson and
10 DOE rulemaking under Price Anderson --

11 COMMISSIONER CURTISS: Well, the current
12 liability framework that you have will continue
13 essentially unaffected, albeit expressed in a
14 different legal context from what it is today?

15 MR. HALL: That's correct.

16 COMMISSIONER CURTISS: Okay. Thank you.

17 MR. HALL: The regulatory oversight
18 agreement is patterned after the NRC regulatory
19 process and provides the requirements base, the
20 Corporation commitment to comply with the
21 requirements, a changed control process for adding new
22 requirements or modifying existing requirements and an
23 enforcement mechanism. We recognize that although the
24 lease and the Corporation activities begin on July 1,
25 1993, that's not the entire transition. We want to

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1 make the transition between DOE and NRC oversight of
2 the gaseous diffusion plants as smooth as possible.

3 The regulatory oversight agreement change
4 control mechanism will make it possible for DOE to
5 modify its nuclear safety and safeguards requirements
6 governing the gaseous diffusion plants as necessary to
7 facilitate future transition to the developing NRC
8 standards.

9 The enforcement mechanism is patterned
10 after the NRC Enforcement Program and includes the
11 authority for DOE to issue notices of violation, to
12 impose civil penalties and to order operation
13 shutdown. During the period that DOE exercises
14 nuclear safety and safeguards oversight, we believe it
15 would be beneficial to work with the NRC inspectors so
16 that we can tailor our appraisals to look more like
17 the inspections that you will be conducting. During
18 this period we would like to invite some NRC
19 inspectors to accompany us on oversight appraisals to
20 help them become more familiar with the gaseous
21 diffusion plants and their health and safety programs
22 and personnel.

23 (Slide) Slide 7, please.

24 COMMISSIONER CURTISS: Before you go on,
25 just to make sure I understand what you've got here,

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1 your change control process, I take it, is a mechanism
2 that you will employ so as to keep track of changes
3 that might be made by DOE in the regulatory framework
4 that you all have so that when we get to the point of
5 certification we'll know exactly what the situation is
6 rather than establishing some sort of legal mechanism
7 prior to our certification where we have a role in the
8 change control process. You don't envision the
9 latter, do you?

10 MR. HALL: Well, it's primarily the
11 former, but it would provide a mechanism if we desired
12 to incorporate proposed NRC standards into our process
13 if we so desired.

14 COMMISSIONER CURTISS: Okay.

15 MR. HALL: It would have the flexibility
16 to do that if we went felt that was a desirable thing
17 to do at the time.

18 COMMISSIONER CURTISS: I didn't phrase my
19 question as sharply as I probably should have. You
20 don't envision once you submit the ROA having a change
21 control process that would necessitate our being
22 involved in changes that are made except for the
23 purpose of informing us as to what the situation is as
24 you make changes?

25 MR. HALL: No, that's correct. It will be

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1 a DOE regulatory process until NRC takes over.

2 COMMISSIONER CURTISS: Okay.

3 MR. HALL: But it doesn't keep us from
4 consulting and finding out what your standards are --

5 COMMISSIONER CURTISS: I understand.

6 MR. HALL: -- and we can incorporate some
7 to make it easier.

8 COMMISSIONER CURTISS: Okay.

9 MR. HALL: But it is a DOE process.

10 The regulatory oversight agreement has a
11 cornerstone document entitled, "The Safety Basis and
12 Framework for DOE Oversight of the Gaseous Diffusion
13 Plants." This document is the regulatory transition
14 document referred to by Mr. Bernero. It is currently
15 undergoing review by senior DOE management and will be
16 provided to you in the next few days. This document
17 contains those nuclear safety and safeguards and
18 security requirements judged essential for safe
19 operation of the facilities, for the protection of
20 public health and safety and to provide for the common
21 defense and security. They were developed based on
22 DOE orders but eliminating two types of requirements.
23 First are those administrative requirements relating
24 to the manner in which DOE operated GDPs that do not
25 affect nuclear safety or safeguards and security, such

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1 as those relating to protection of the assets.

2 The second type of requirements eliminated
3 are those prospective requirements that are
4 appropriate when DOE operated the gaseous diffusion
5 plants, but are not appropriate in a purely oversight
6 role where performance standards are more appropriate
7 than prescriptive measures.

8 This document also describes the measures
9 the Corporation is committed to take to maintain
10 compliance with the requirements. These commitments
11 are enforceable under the regulatory oversight
12 agreement. The document also defines the DOE program
13 to assess and inspect the Corporation operations.

14 (Slide) Slide 8, please.

15 CHAIRMAN SELIN: Before you get off this,
16 Mr. Hall, is there a companion document that does the
17 evaluation of the current status in the two plants
18 compared to the requirements document? In other
19 words, a compliance analysis?

20 MR. HALL: Yes. This document contains
21 not only the orders, how we apply those orders, but it
22 also contains a current state of compliance with those
23 orders. It may not be the full extent that NRC may
24 require at this point, but it does attempt to describe
25 the current compliance of the facilities with those

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1 requirements.

2 CHAIRMAN SELIN: So, is it fair to say --
3 whenever I say that you've got to be aware, but is it
4 fair to say that this will be your attempt at the most
5 frank evaluation of where the plants are and perhaps
6 are not in compliance with what we would call the
7 current licensing basis?

8 MR. HALL: Yes. I think it's a general
9 statement of where we are against that licensing
10 basis. There's a lot of documentation, reviews and
11 appraisals that go behind that which are certainly
12 available to look at. But it's certainly a general
13 statement of our conclusion of where the plants are in
14 compliance with those standards.

15 CHAIRMAN SELIN: What I'm pressing at is
16 it's very important for us to have what I would call
17 a DOE evaluation. Not just the inspectors' reports or
18 the contract reports, but an overall evaluation that
19 says, in our opinion, as of whatever dates you do, we
20 are in compliance with these, we are in compliance
21 with these except for, and we are not in compliance
22 with these pieces, because our whole approach is, as
23 Mr. Bernero said, not to do a de novo evaluation, but
24 start in say based on DOE's inspection, DOE's not only
25 licensing basis, not only the safety basis but also

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1 all the information that you've gained from being on
2 the site over these many years, the facts effective
3 October 1st, 1994 are as follows, and then where we
4 can concentrate on the change from these facts. We're
5 not planning to go in and do a zero-based evaluation
6 of what the facts are, but to update the information,
7 including the analysis of compliance that we will
8 eventually take over.

9 MR. HALL: Yes. No, certainly
10 conceptually we have no problem with that. We know
11 that the plants are not currently in compliance with
12 the standards that we are going to insist on and that
13 we'll be working with the corporation to get the
14 plants in compliance with that and in compliance with
15 the initial NRC standards.

16 CHAIRMAN SELIN: Which starts with a frank
17 analysis of where they're not --

18 MR. HALL: Correct. We do a lot of self-
19 evaluations and self-assessments and we've done -- in
20 the safety analysis reports we've done justification
21 for continued operations, looking at the facilities,
22 including whether they're safe or not and where we
23 stand in compliance with the DOE orders.

24 CHAIRMAN SELIN: Okay. Thank you.

25 MR. HALL: In summary, I'm pleased to

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1 report that the transition activities are on schedule.
2 The lease agreement and supporting documents have been
3 prepared and are undergoing internal departmental
4 review and we intend that the lease will take effect
5 on July 1st, 1993 as required by the Act. DOE will
6 continue to provide nuclear safety and safeguards and
7 security oversight for the gaseous diffusion plants
8 until the NRC regulatory base is established and the
9 initial certification process is completed.

10 The basis and processes for this
11 continuing DOE oversight have been established and
12 documented in a regulatory oversight agreement. As I
13 mentioned previously, we've been working closely with
14 the NRC staff to facilitate a smooth transition
15 between DOE and NRC oversight. We appreciate their
16 assistance and look forward to continuing coordination
17 and cooperation with them.

18 Thank you very much. I'd be glad to
19 answer --

20 CHAIRMAN SELIN: Well, before we go on to
21 Mr. Timbers, let me ask the Commissioners if they care
22 to ask questions of Mr. Hall.

23 COMMISSIONER ROGERS: Well, just are there
24 any matters of disagreement with NRC that could
25 interfere with your being able to carry out this

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1 schedule that you see?

2 MR. HALL: At this point, I have not run
3 across any. We have not fully coordinated all of the
4 points in the proposed joint statement within DOE, but
5 certainly conceptually we have. I certainly have no
6 problem with the expectations you have of DOE and we'd
7 have to work with the staff to fully understand the
8 extent of all of those and work it out. But I don't
9 anticipate that we are going to have any problems.

10 COMMISSIONER CURTISS: I just have one
11 question. Your transition document that's going to
12 come in the next few days, how extensively do you
13 envision relying on JCOS, justifications for continued
14 operation, as a basis for your concluding that the
15 regulatory framework that you have in place is
16 satisfied?

17 MR. HALL: Well, I don't think the
18 justifications for continued operations is heavily
19 relied on as a basis for that. Our SARs that we have
20 in place now and the operational safety requirements
21 that are under those are relied on and we have an
22 extensive new SAR program to upgrade our SARs to a
23 standard that's more acceptable by NRC and currently
24 used in the nuclear industry. I think that evaluation
25 is what we're relying on heavily.

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1 COMMISSIONER CURTISS: Okay. Will this
2 document also speak to what you believe needs to be
3 done to come into compliance where you currently
4 assess the facilities as out of compliance?

5 MR. HALL: It won't address our
6 implementation plan as such. I don't think it has
7 that in it, but we will have such a plan. We have
8 such a plan and when we turn the operations over to
9 the Corporation they will, in fact, have to develop a
10 plan or concur in a plan that we'd previously put in
11 place to bring the facilities up to compliance.

12 COMMISSIONER CURTISS: So, come July 1st
13 when the transition takes place between you and the
14 corporation, you would expect to have a legally
15 binding framework in place that would commit the
16 Corporation to coming into compliance in a particular
17 way, that is to say to specify how compliance is to be
18 achieved prior to that transition taking place?

19 MR. HALL: Yes. We will have an agreement
20 with the corporation on compliance and coming into
21 standards with those -- or come into compliance with
22 these DOE standards.

23 COMMISSIONER CURTISS: Okay. Thank you.

24 CHAIRMAN SELIN: Commissioner Remick?

25 COMMISSIONER REMICK: Where in the DOE

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1 organization does the safety oversight fall? Is it
2 with ES&H or do you have a separate safety oversight
3 organization?

4 MR. HALL: Well, traditionally the
5 oversight of the plants has been a line function with
6 the nuclear energy organization, the program office in
7 Washington and the office in Oak Ridge to implement
8 those requirements. As was mentioned earlier, Oak
9 Ridge has site offices at each of the plants where we
10 have staff located to oversee the safety, the health,
11 as well as the operations of the plants. What we're
12 proposing in this document is to have a more dedicated
13 nuclear safety team for executing the DOE
14 responsibilities under this nuclear safety oversight
15 requirement. We'd have a regulatory oversight manager
16 and then staff at the sites that were dedicated to the
17 nuclear safety oversight functions.

18 COMMISSIONER REMICK: But this is
19 independent of ES&H?

20 MR. HALL: No, the ES&H organization
21 certainly will be called upon to assist as long as the
22 nuclear safety -- all the matrix organizations will
23 provide assistance. We also have funds for -- and
24 have traditionally used independent technical support
25 from other companies or consultants to come in and

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1 give independent reviews. So, we use the line
2 organization as responsible and accountable for the
3 safety and then the matrix organizations like the
4 health and safety, the self-assessment organization in
5 Washington, and independent consultants in companies
6 to help.

7 COMMISSIONER REMICK: Okay. K-25, I
8 assume that remains with DOE and what's the status and
9 plans of the K-25 plan?

10 MR. HALL: Yes, K-25 facility, the Oak
11 Ridge gaseous diffusion plant that was shut down
12 several years ago will remain the responsibility of
13 the Department of Energy. Ultimately that plant will
14 be decontaminated and decommissioned. It's currently
15 being managed by the Environmental Restoration and
16 Waste Management Organization within the Department of
17 Energy. It's been turned over for clean-up
18 essentially. But the site is being used as a
19 technology center for the clean-up efforts, but it
20 will remain a DOE responsibility and will be cleaned
21 up by DOE.

22 COMMISSIONER REMICK: Okay. Going to
23 Portsmouth and Paducah, the depleted uranium, does
24 what happens to that in this transfer? Does it go to
25 USEC? Is it DOE?

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1 MR. HALL: No, the current tails or
2 depleted uranium in the tail storage yards remain with
3 DOE. Any tails generated after July 1 will be the
4 responsibility of the Corporation. They will have to
5 store those tails and dispose of them at Corporation
6 expense.

7 COMMISSIONER REMICK: But the existing
8 tails will remain on-site?

9 MR. HALL: Yes, they'll remain with
10 Department of Energy. They'll remain on-site and
11 they'll be either utilized or disposed of in
12 accordance with the ultimate disposition plan that's
13 approved by DOE.

14 COMMISSIONER REMICK: Okay. Are the two
15 facilities' training programs covered under the DOE
16 training accreditation effort and, if so, what's the
17 status of that?

18 MR. HALL: Certainly the two facilities
19 are covered under the current training accreditation
20 orders of DOE. But whether those will apply to the
21 Corporation --

22 COMMISSIONER REMICK: That was my next
23 question.

24 MR. HALL: I don't think specifically
25 those orders will apply, will they, Dale?

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1 MR. JACKSON: Training and accreditation--

2 MR. HALL: Those orders will apply? Okay.

3

4 COMMISSIONER REMICK: Is in the program,
5 you say?

6 MR. JACKSON: Yes.

7 COMMISSIONER REMICK: I see. Okay. Thank
8 you very much.

9 CHAIRMAN SELIN: Commissioner de Planque?

10 COMMISSIONER de PLANQUE: I believe at one
11 point DOE announced the possible closure of one of the
12 two sites. Where does that decision stand?

13 MR. HALL: Yes, I think there was some
14 discussion in the budget of savings associated with
15 shutting one of the plants down. I guess ultimately
16 that decision will have to be made by the Corporation
17 based on its business decisions what the market
18 develops and hopefully they'll be able to recapture a
19 lot of the market that's been lost and have use for
20 all that capacity. But I think that will have to be
21 a Corporation decision ultimately, with the
22 administration obviously.

23 COMMISSIONER de PLANQUE: I have a very
24 practical bookkeeping question. On the regulatory
25 transition document, will that capture verbatim the

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1 appropriate parts of the DOE orders or are you doing
2 it mostly by reference or some combination?

3 MR. HALL: It's --

4 COMMISSIONER de PLANQUE: Is this a little
5 thing or a huge thing?

6 MR. JACKSON: It is in a summary fashion.
7 Our evaluations are what we call tiger team
8 assessments and audits.

9 COMMISSIONER de PLANQUE: Yes.

10 MR. JACKSON: It's a summary of those, of
11 how we are in compliance as opposed to a delineated
12 line by line.

13 COMMISSIONER de PLANQUE: Okay.

14 MR. JACKSON: So, as you say it's a
15 smaller document. As a matter of fact, it's contained
16 in this.

17 COMMISSIONER de PLANQUE: Ah. Okay. Now
18 I have an idea. Thank you.

19 MR. HALL: The full text of all of the
20 orders have been supplied though to NRC in the past.

21 MR. JACKSON: Yes.

22 CHAIRMAN SELIN: Now, we appreciate the
23 cooperation. I hope you realize how cooperative we've
24 been. For instance, we didn't require you to move the
25 Paducah plant to Ohio to be in our Region III.

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1 Mr. Timbers, we welcome you here. It's a
2 pleasure to have you and --

3 MR. TIMBERS: Thank you.

4 CHAIRMAN SELIN: -- I'll save my questions
5 for after the presentation.

6 MR. TIMBERS: Good morning, Mr. Chairman
7 and Commissioners. I might give you an off-the-record
8 remark right now. I've come down with a cold. I've
9 been attacked by pollen and I've lost my voice. So,
10 I extend my apologies up front if I sniffle and
11 sneeze.

12 COMMISSIONER de PLANQUE: Want some of
13 these?

14 COMMISSIONER CURTISS: Nothing is off the
15 record around here. You're just on the record now.

16 MR. TIMBERS: I appreciate that.

17 My name is Nick Timbers and I'm the
18 Transition Manager for the United States Enrichment
19 Corporation. It is a pleasure to meet with you to
20 discuss the Enrichment Corporation's plans for
21 transition from the Department of Energy's management
22 of the Paducah and Portsmouth gaseous diffusion plants
23 and, in particular, our plans for assuring that the
24 plants continue their long history of safe operation.

25 It's a pleasure to be here today with Jim

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1 Hall, who we've worked very closely with over the past
2 couple of months, and with Wendy Fields from Martin
3 Marietta likewise.

4 Under the Energy Policy Act of 1992, I'm
5 responsible for implementing the transfer of the
6 uranium enrichment enterprise from DOE to the
7 Corporation. Before becoming transition manager on
8 March 9th, 1993, I served as the President of the
9 Timbers Corporation, an investment banking firm
10 specializing in the fields of energy and natural
11 resources. Prior to that time, I served as a managing
12 director at Smith Barney, Harris Upham & Company in
13 New York.

14 I'm sure that you're aware, under Title IX
15 of the Energy Policy Act, the Corporation will lease
16 the gaseous diffusion plants from DOE for a period of
17 six years, beginning July 1, 1993. The Corporation
18 must also prepare a strategic plan for ultimately
19 transferring ownership of the plants to private
20 control.

21 This morning I'd like to brief the
22 Commission on the status of the lease negotiations and
23 on our efforts to establish the Corporation. The
24 focus of my presentation, however, will be on the
25 Corporation's commitment to work with NRC and DOE to

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1 assure that the gaseous diffusion plants continue to
2 operate safely.

3 In the Energy Policy Act, Congress
4 established the Corporation for several purposes.
5 Among those are to operate the uranium enrichment
6 enterprise on a profitable basis, to maximize the
7 long-term value of the corporation to the U.S.
8 Treasury, and to maintain a reliable and economic
9 domestic source of uranium enrichment services.
10 Congress also specified that the Corporation would
11 comply with applicable laws established to assure that
12 the public health and safety are protected. We
13 believe that our business objectives and our
14 responsibility to safely operate the Paducah and
15 Portsmouth plants are fully consistent and that the
16 ultimate success of the Corporation is dependent upon
17 our ability to effectuate all of those objectives.

18 In the short time since the Corporation
19 was formed by Congress, we have made substantial
20 progress towards a smooth and timely transfer of
21 responsibility from DOE to the Corporation. A
22 transition organization is in place and has been
23 functioning well. Discussions with the White House
24 are underway regarding the appointment of a Board of
25 Directors. We are working to develop an appropriate

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1 management and organizational structure and to retain
2 key personnel. Lease negotiations are well underway
3 between the Corporation and DOE and we expect to sign
4 all necessary documents before the July 1, 1993
5 deadline.

6 While we have accomplished a great deal in
7 a relatively short period of time, the uranium
8 enrichment provisions of the Energy Policy Act present
9 the Corporation, DOE and the NRC as sister agencies of
10 the federal government with a unique regulatory
11 challenge. An appropriate NRC regulatory scheme must
12 be established that assures continued safe and
13 efficient operation of the gaseous diffusion plants,
14 while assuring that the statutory objectives of
15 establishing and maintaining a competitive source of
16 enrichment services are fulfilled. We must also
17 provide for the orderly transition from DOE regulatory
18 oversight to NRC regulatory oversight.

19 The challenge is unique because Paducah
20 and Portsmouth plants have safely operated for some 40
21 years under DOE oversight, and yet a new regulatory
22 framework must be applied to these facilities.
23 Congress apparently understood the uniqueness of this
24 endeavor. In lieu of formal NRC licensing, it opted
25 for a process in which NRC would establish regulatory

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1 standards by rule and would then certify compliance to
2 those standards. In adopting this process, Congress
3 also recognized NRC's view that the development of the
4 final regulatory standards and the certification
5 process could take several years. We believe that
6 this provides an orderly and manageable process for
7 transitioning from DOE to NRC regulation.

8 Under the system established by Congress,
9 the Corporation will begin leasing the Paducah and
10 Portsmouth facilities on July 1, 1993. Those
11 facilities will continue to provide enrichment
12 services pursuant to existing contractual commitments
13 subject to continuing DOE nuclear safety, safeguards,
14 security oversight until NRC issues final regulatory
15 standards and certifies that the plants are in
16 compliance with those standards. The terms of DOE
17 oversight and the Corporation's obligation to comply
18 with the applicable DOE controls are being explicitly
19 incorporated into the lease documents between DOE and
20 the Corporation. DOE plans to maintain the basic
21 nuclear safety, safeguards and security controls that
22 are presently in place. These requirements will be
23 summarized in a document, to be appended to the lease,
24 which we will make available to the NRC for
25 information and possible use in connection with its

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1 standard-setting activities. The Corporation also
2 will assure, through its contract with Martin
3 Marietta, that the management and operating contractor
4 adheres to those controls as well.

5 In addition to formalizing and clarifying
6 DOE's continued oversight responsibility, we are
7 preparing for ultimate NRC assumption of regulatory
8 jurisdiction. During the period of transition from
9 DOE to NRC oversight, we look forward to working
10 closely with NRC as it prepares its proposed
11 regulatory standards and to commenting upon those
12 standards when they are issued. We also intend to
13 work with NRC as it prepares a certification process
14 and with DOE on a plan for achieving compliance should
15 that be necessary.

16 I would like to reiterate that the
17 Corporation is committed to continued safe operation
18 of the gaseous diffusion plants. We are firmly
19 committed to maintaining effective health and safety
20 programs and we understand the importance of such
21 programs to the ultimate success of the enterprise.

22 To achieve our safety objectives, senior
23 management of the Corporation will be intimately
24 involved in the oversight of the gaseous diffusion
25 plants. Since I first became transition manager, I've

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1 taken a directed and active interest in our plans for
2 assuring the continued safe operation of the plants.
3 I have visited both production plants and I have
4 involved the management and staffs of both plants in
5 key transition activities.

6 Furthermore, in the future, I and other
7 senior managers will visit the facilities on a regular
8 basis to monitor our efforts to assure the safety of
9 our work force and the public. Once a permanent Board
10 of Directors is established, I will impress upon the
11 Board the importance of close oversight by senior
12 corporate management to the maintenance of effective
13 nuclear safety controls. In addition, we'll pay close
14 attention to assuring that the Corporation is staffed
15 with highly qualified personnel that have substantial
16 nuclear experience.

17 At the present time we have retained
18 expert consultants to assist us. We have also the
19 benefit of DOE personnel detailed to the Corporation
20 to assist in the transition effort. The retention of
21 the existing cadre of key experienced personnel in the
22 corporate headquarters and at the plants, as well as
23 the retention of the management and operating
24 contractor will provide management continuity that
25 will help assure continued safe operations. In

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1 addition, an important part of our efforts under DOE
2 oversight will be the development of a self-assessment
3 program. These measures should assure a smooth
4 transition to the new management and operating regime.

5 The Enrichment Corporation is committed to
6 working together with NRC and DOE to achieve our
7 mutual goals, a smooth transition to NRC oversight, an
8 effective set of final NRC regulatory standards,
9 prompt and consistent Corporation compliance with
10 those standards, and a safe and efficient and
11 competitive uranium enrichment enterprise.

12 Mr. Chairman, this concludes my remarks
13 and I would be pleased to answer any questions that
14 you or the Commission would have.

15 CHAIRMAN SELIN: I basically would like to
16 ask the panel questions that effectively were asked
17 before either of you folks or of our staff, three
18 questions, none of them is new.

19 The first is you heard Mr. Bernero's
20 understanding that DOE will continue regulatory
21 oversight until we finish the first certification. Is
22 that also the Department's understanding, Mr. Hall?

23 MR. HALL: Yes, that's correct.

24 CHAIRMAN SELIN: Okay. The second is the
25 follow-up on Commissioner Remick's question. The

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1 Energy Policy Act calls for a uranium inventory study,
2 which I assume would go into some depth on the plans
3 for the tails. I'm a little uncomfortable that
4 somebody is going to have to go around and mark DOE
5 tails in red and USEC tails in blue. There should be
6 single plan for how you're going to deal with this.
7 Do you yet know how you're going to deal with the
8 tails, when you're going to move towards
9 decontamination? If you don't know that yet, when you
10 would know that and that it will be clear whose
11 responsibility it is because decontamination is
12 normally a responsibility we have for our licensees
13 and I'm sure we're going to have some responsibility
14 for this, even in a certification process.

15 MR. HALL: I think it's clear as far as
16 DOE being responsible for the tails generated prior to
17 July 1 and the Corporation responsible for tails
18 generated thereafter. As far as the ultimate
19 disposition of those tails, DOE currently has a
20 disposition plan which calls for converting the tails
21 to a more stable form, oxide and disposing of them
22 sometime in the future, after it's been determined
23 that tails no longer have any use in any of the DOE
24 programs or defense programs.

25 The Act does require a uranium inventory

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1 study which is currently going on. That study
2 includes tails. At this point I'm not sure what DOE
3 will conclude and whether the disposition strategy
4 will be altered at that point or a different
5 recommendation made.

6 CHAIRMAN SELIN: Might I just suggest
7 that -- I personally would feel comfortable if there
8 were a single plan for what's going to be done with
9 the tails at Portsmouth and Paducah and that the split
10 responsibility were more financial than operational.
11 It's just very hard to imagine how --

12 MR. HALL: Yes.

13 CHAIRMAN SELIN: -- USEC might be trying
14 to sell their tails and DOE trying to dispose of
15 theirs or vice versa.

16 MR. HALL: I understand what you're
17 saying. I'm not sure what NRC might require of the
18 Corporation. I think we certainly are willing to work
19 with the Corporation when the disposition takes place,
20 that they would all be included in the same plan.

21 CHAIRMAN SELIN: Well, this is all terra
22 nova, new land for all of us, and how deep we're going
23 to get into the decontamination, the staff may know.
24 I don't know yet, but we will have to be satisfied
25 that there are proper plans for decommissioning and

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1 disposing of the tails and it would be an awful lot
2 easier operationally if there were a single plan where
3 the responsibilities were split financially but not
4 operationally.

5 MR. HALL: I understand.

6 CHAIRMAN SELIN: We obviously wouldn't
7 require that. We'd feel uncomfortable otherwise, at
8 least I would.

9 Related to that, there have been a lot of
10 questions about the EPA role. One of the things that
11 I would think DOE and EPA would be working on today,
12 and if so I'd like to ask you the status, is an actual
13 site characterization of the plant as of today from an
14 environmental point of view, from the point of view of
15 not just the uranium tails but any toxic materials,
16 hazardous material, mixed waste. If you are, in fact,
17 doing such a characterization plan, I'd like to know
18 the status and if you're not, I'd like to know your
19 plans for doing said characterization.

20 MR. HALL: Yes. Such a baseline is being
21 done with EPA under the Act. It's required by the
22 Act. That is scheduled to be completed by July 1st.
23 I think June 15th is the date for trying to get that
24 completed. But it will characterize the condition of
25 the plant, the environmental condition of the plant as

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1 of July 1 and that's important from the standpoint of
2 the lease arrangement we have with the corporation.

3 CHAIRMAN SELIN: So they'll know their
4 status quo ante, what's being handed over to them?

5 MR. HALL: As you know, the bill requires
6 DOE to be responsible for preexisting conditions and
7 liabilities from past operations. So, that
8 environmental baseline is critical from that
9 standpoint. So, that will be done and will be
10 available.

11 CHAIRMAN SELIN: Well, once again, might
12 I suggest that when you get passed the
13 characterization and into the remediation plan, to the
14 degree that there can be a single operation with
15 financial but not separate operational
16 responsibilities, it would just be a lot cleaner for
17 everybody concerned.

18 MR. HALL: DOE retains responsibility for
19 the existing environmental restoration program and
20 compliance with our existing agreements with the
21 federal EPA and Ohio and Kentucky environmental
22 regulatory agencies.

23 CHAIRMAN SELIN: Mr. Timbers, did you want
24 to --

25 MR. TIMBERS: Since the very issue of

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1 defining past and future liabilities is critical to
2 the economic viability of the Corporation and success
3 in the future, we've taken an active role in
4 participating in this baseline environmental audit.
5 It's something that we feel is important from many
6 different perspectives. That is, there's a full and
7 clear agreement between the Department of Energy, EPA
8 and the Corporation as to where those liabilities may
9 rest.

10 CHAIRMAN SELIN: My final question, we
11 enjoy contact and controversy much more than such a
12 cooperative presentation. So, let me ask you if
13 either of you takes exception to anything that Mr.
14 Bernero said and the questions that were put to him.

15 MR. HALL: No, I think I agreed with
16 everything he said.

17 CHAIRMAN SELIN: Mr. Timbers?

18 MR. TIMBERS: No, I don't. But you're
19 directing your question strictly to what Mr. Bernero
20 said?

21 CHAIRMAN SELIN: Or anybody else.

22 MR. TIMBERS: I would recharacterize, Mr.
23 Chairman, how you -- actually, you asked a question
24 about OSHA and how the Corporation is going to be
25 required the comply with regular Department of Energy

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1 standards under OSHA. Actually, our perspective in
2 discussions I've had with OSHA is we will comply as a
3 private facility, not a government facility. Once an
4 abatement plan is put into place and corrections are
5 put into motion, we intend to be held to the standards
6 of a private facility rather than a government
7 facility.

8 CHAIRMAN SELIN: Fine. Thank you for that
9 correction.

10 Commissioner Rogers?

11 COMMISSIONER ROGERS: What kind of a
12 presence does the Corporation intend to have on site?
13 What level of corporate representation will there be
14 actually on the site or sites?

15 MR. TIMBERS: Well, it's actually this
16 week that we're hoping to complete our organizational
17 plan for the Corporation. We've had a lot to do in a
18 very short period of time and the specific response in
19 terms of numbers, we're not prepared to answer at this
20 time, simply because we have some further discussions
21 to go back and forth. But we do anticipate to have
22 on-site presence both at Paducah and Portsmouth and
23 leadership of that at the headquarters site. Specific
24 allocation, I would be pleased to let you know when
25 our organization plan is put into place.

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1 COMMISSIONER ROGERS: I'm concerned to
2 what extent there is responsibility. I mean you've
3 stressed the commitment of the Corporation to
4 continued safety and just exactly how that is to be
5 carried out with the operation being run by a manager,
6 another organization as manager. I'd like to
7 understand that a little bit better and just what your
8 views on it are, how you're going to do that.

9 MR. TIMBERS: Well, let me say very
10 clearly in terms of all operations of this business,
11 that the Corporation will maintain control and
12 oversight in all aspects of the business, not just the
13 safety security oversight, but in terms of all of our
14 operations. We intend to work extremely closely with
15 our contractor, Martin Marietta. That relationship in
16 terms of the oversight and involvement of that
17 contract is going through an evolutionary change right
18 now and will continue to go through a change after
19 July 1.

20 I can't be any firmer in my belief and
21 commitment that this Corporation will have complete
22 control of its operations, complete oversight of its
23 safety requirements, not just from the NRC standpoint,
24 but from OSHA and EPA and other environmental arenas.

25 COMMISSIONER ROGERS: What is the period

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1 of the contract with Martin Marietta now?

2 MR. TIMBERS: Right now the --

3 COMMISSIONER ROGERS: What's the expected
4 continuity of --

5 MR. TIMBERS: Right now the existing
6 contract expires on March 31, 1996 and if we're to
7 make a change, we need to give them notice one year
8 prior to that.

9 COMMISSIONER ROGERS: Okay.

10 CHAIRMAN SELIN: But you have a novation--

11 MR. TIMBERS: Yes. And we're discussing
12 with Martin Marietta that it's a different environment
13 today. It's a different business corporation,
14 different objectives, so that the novation will occur
15 and this is the gentleman I've spent most of the time
16 talking to, Mr. Fields here, that there will be
17 changes to reflect the current operations of the
18 business and the current perspectives as to how we
19 intend to have a high-level degree of control and
20 operation of our facilities.

21 COMMISSIONER ROGERS: Well, now, what has
22 Martin Marietta's role been in assisting the
23 facilitation of the development of the documentation
24 and so on and so forth that's necessary now to be
25 supplied to NRC? In other words, how are you directly

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1 involved in that?

2 MR. FIELDS: Well, we've been involved
3 from the very beginning. We were involved back in the
4 fall when they were working on the Act itself, when
5 Congress was working on the Act. Since then we've
6 assisted both DOE and USEC in their documentation.
7 We've tried to keep those viewpoints separate
8 obviously, but we are the ones that have the basic
9 knowledge, the working knowledge if you will, and
10 we've worked with them in generating all of these
11 documents that we're speaking of.

12 COMMISSIONER ROGERS: What's the mechanism
13 for doing that? Do you have a dedicated group of
14 people to do that or is it on a kind of ad hoc basis?

15 MR. FIELDS: We've had a small group of
16 people dedicated to USEC and they draw upon both of
17 the sites and some of the people that I have in Oak
18 Ridge when required to supplement whatever the
19 particular discipline might be.

20 COMMISSIONER ROGERS: What is small?

21 MR. FIELDS: Small is five or six.

22 COMMISSIONER ROGERS: Small could be one
23 or two. I was just trying to get a feel of how small
24 is small.

25 MR. FIELDS: Right, I understand.

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1 COMMISSIONER ROGERS: Yes.

2 MR. TIMBERS: I'd just make an observation
3 about that, that it's not just Martin Marietta Energy
4 Systems based in Oak Ridge, but there's a very strong
5 commitment by the corporate management of Martin
6 Marietta here in Bethesda, Maryland about supporting
7 this transition, supporting in a cooperative manner,
8 switching the operations from the Department of Energy
9 to the Corporation. This comes directly from Norm
10 Augustine down. I think that's very important in the
11 sense that you understand how we're working together
12 in affecting this change.

13 MR. HALL: I may want to clarify a little
14 bit also that although a lot of the expertise in the
15 operations resides in Mr. Fields' organization and his
16 people, we've tried to separate the actual DOE
17 responsibility for putting this together from the
18 enrichment organization, although we have to rely to
19 a certain extent on that expertise. But we have used
20 other resources and under a working group chaired by
21 Dale Jackson, he's been actually tasked with putting
22 together this plan that we're going to provide you in
23 the next few days. He's used a lot of resources and
24 a lot of people who have NRC experience to try to help
25 us do that.

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1 MR. JACKSON: A lot of DOE people and
2 Energy Systems people.

3 CHAIRMAN SELIN: Did you want to add
4 anything to that, Mr. Jackson?

5 MR. JACKSON: No, sir. I do just want to
6 state that there was a lot of Department of Energy
7 people also, in addition to the Martin Marietta folks.
8 Thank you.

9 CHAIRMAN SELIN: Commissioner Curtiss?

10 COMMISSIONER CURTISS: I don't have any
11 further questions for Mr. Hall. Just an observation,
12 I guess, and a couple of questions for Mr. Timbers.

13 Much of what you've laid out today sounds
14 quite reasonable and I'm pleased to see that you're as
15 far along in the process as you are. This is a very
16 short period of time in which to do an immense amount
17 of work, not just for us, but for you as well and you
18 in turn have much more work to do than we probably do
19 at this stage. So, I'm impressed with the
20 thoroughness of the presentation and the obvious
21 significant amount of work that has gone on already
22 and that you contemplate over the next several months.

23 Having said that, of course, the Board of
24 Directors, when nominated and confirmed, has to ratify
25 your actions under the statute. If there is any

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1 change in the USEC's intentions or actions at that
2 point, it would be useful to keep us apprised of
3 anything that departs from what I consider to be a
4 very reasonable approach here.

5 I just have two specific questions. You
6 heard the staff describe the six month period for a
7 notice and comment process. Once our standards are
8 promulgated and for the certification to take place,
9 is that in your judgment a reasonable period of time
10 in which to accomplish what we have laid out?

11 MR. TIMBERS: Actually, I think it is,
12 simply because you're not going to simply pop this on
13 us and we're going to read it for the first time on
14 day one of the six month period. But I would
15 anticipate that the Corporation would be involved in
16 the development of this certification process, so that
17 by the time the clock starts ticking for that six
18 month period, is that we'll pretty much know our
19 ability to achieve those goals within that six month
20 period and pretty much know that the proposal for
21 certification is an achievable and workable
22 arrangement. So, what we do now before that six month
23 period begins is as important as what occurs during
24 that six month period.

25 COMMISSIONER CURTISS: Okay. My final

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1 question, with respect to the HEU provisions of the
2 Act, have you reached the point where you as a
3 Corporation have been able to determine whether you
4 will be entering into an agreement to provide for the
5 blending and conversion of any HEU and, if so, whether
6 any of that would be done at either of these two
7 sites?

8 MR. TIMBERS: Gee, there's a real long
9 answer to that question. Basically there is an
10 agreement that is currently being negotiated with the
11 Russian Federation to purchase highly-enriched
12 uranium. That agreement has not been finalized. So
13 the terms and conditions are tentative as it stands
14 now. But our understanding is that the material that
15 we will receive will be, in fact, blended down to a
16 commercial grade level below five percent. To the
17 extent that there is any modification for specific
18 customer specifications, it will be done at these
19 facilities but within the normal commercial grade
20 range. Any change from the military level down to the
21 commercial level will be done before we receive it.

22 COMMISSIONER CURTISS: Okay. And both of
23 your facilities now are authorized to enrich at a five
24 percent level?

25 MR. FIELDS: The Portsmouth facility is,

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1 obviously. They've been making highly-enriched
2 uranium for years. But Paducah is in the process of
3 gaining that capability. They're not there yet.

4 COMMISSIONER CURTISS: Okay. And once
5 that happens then, from the standpoint of this
6 particular issue, there will essentially be a seamless
7 framework in place where the current standards will
8 apply without regard to the source of the material.
9 Is that correct?

10 MR. TIMBERS: I would believe so, yes.

11 COMMISSIONER CURTISS: Okay. I don't have
12 any other questions.

13 CHAIRMAN SELIN: Commissioner Remick?

14 COMMISSIONER REMICK: Just one question to
15 Mr. Fields.

16 How much progress has Martin Marietta made
17 in getting the training programs at Paducah and
18 Portsmouth ready for DOE accreditation?

19 MR. FIELDS: I'm not totally familiar with
20 exactly what the accreditation that you speak of
21 means. We've been on that track for some period of
22 time, but I can't give you a specific status. I'm
23 sorry.

24 COMMISSIONER REMICK: Okay. I'd
25 appreciate if you get that --

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1 MR. FIELDS: I will do that.

2 COMMISSIONER REMICK: -- you'd get back to
3 me.

4 MR. FIELDS: I will do that.

5 COMMISSIONER REMICK: That's all.

6 CHAIRMAN SELIN: Commissioner de Planque?

7 COMMISSIONER de PLANQUE: Nothing further.

8 CHAIRMAN SELIN: Okay. I have a couple of
9 just wrap-up comments. First of all, it's very clear
10 that in general the three organizations, or four if we
11 include Martin, although as it's been explained to
12 some length, Martin's work is transparent to us. We
13 deal as a matter of record with DOE and with USEC.
14 It's clear there's been a lot of progress both at the
15 conceptual level and at the practical level in the
16 last several months and we're pleased to recognize
17 this.

18 Second, my own visit to the plants and the
19 discussions have given me the impression that a lot of
20 the complexity comes because of the time schedule and
21 the bureaucratic and legal transitions, not because of
22 any enormous complexity in the operations. So, we're
23 all feeling our way around in a new area where we're
24 talking about certification and for the NRC new areas.
25 So, the cooperation is important. But at the same

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1 time, I must stress that cooperation is fine, but
2 everything has to be arrived at in an open and
3 transparent fashion, that it's not a set of bilateral
4 negotiations which will then be sprung on the general
5 public. We are clearly going to be USEC's regulators
6 and so whatever understandings are arrived at, for
7 instance in the process you discussed, Mr. Timbers,
8 before, have to be considered just sort of
9 provisional, technical understandings until the
10 process that our General Counsel and Commissioner
11 Remick discussed has gone through, so that all the
12 material -- I mean nothing is final until everything
13 is final and nothing is final until there's been a
14 full chance for all public groups to comment.

15 So, I'd just like to call your attention
16 in advance before anything untoward happens about the
17 intrinsic conflict in working together to work out a
18 process which doesn't have any precise precedent and
19 at the same time keeping a rather formal arm's length
20 distance between the whatever -- I guess we're not
21 regulators in this case, we're certifiers and
22 certifees. But everything has got to be discussed so
23 that there's no lack of communication and we're very
24 pleased to see so much progress in that direction, and
25 yet a full and open record so that all parties have an

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1 equal chance to comment on things before any final
2 understandings are met. So, it's going to be an
3 interesting process from a technical point of view,
4 from a bureaucratic point of view and from a public
5 access point of view all at the same time.

6 We're very pleased to have you here.
7 We're very pleased to hear the progress. We thank you
8 for your cooperation and for the continued
9 communications.

10 Thank you.

11 MR. HALL: Thank you.

12 (Whereupon, at 11:38 a.m., the above-
13 entitled matter was concluded.)
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TITLE OF MEETING: BRIEFING ON DEVELOPMENT OF STANDARDS, CERTIFICATION PROCESS,
AND STATUS OF U.S. ENRICHMENT CORPORATION TRANSITION
PLACE OF MEETING: ROCKVILLE, MARYLAND

DATE OF MEETING: JUNE 1, 1993

were transcribed by me. I further certify that said transcription
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SCHEDULING NOTES

Title: Briefing on Development of Standards, Certification Process, and Status of U.S. Enrichment Corporation Transition

Scheduled: 10:00 a.m., Tuesday, June 1, 1993 (PUBLIC)

Duration: Approx 1-1/2 hrs

Participants: NRC

- J. Taylor
- R. Bernero

DOE

- James C. Hall, Manager (Speaker)
Uranium Enrichment Transition

Other DOE Attendees

- Wendell Fields, Vice President
Uranium Enrichment
Martin Marietta Energy Systems
- Dale Jackson
DOE Uranium Enrichment Transition Team

U.S. Enrichment Corporation

- William H. Timbers, Jr.
Transition Manager

Documents:

- DOE viewgraphs issued 5/27
- Staff viewgraphs issued 5/25

REGULATION OF GASEOUS DIFFUSION ENRICHMENT PLANTS



PRESENTATION BY NRC STAFF

JUNE 1, 1993

REGULATION OF GASEOUS DIFFUSION ENRICHMENT PLANTS

- **BACKGROUND**
- **RULEMAKING**
- **REGULATORY TRANSITION**
- **TRANSITION STAFFING**
- **TENTATIVE MILESTONES**
- **SUMMARY**

BACKGROUND

- **ENERGY POLICY ACT OF 1992 PROVIDES FOR NRC TO ASSUME REGULATORY OVERSIGHT OF GASEOUS DIFFUSION ENRICHMENT PLANTS (GDPS)**
 - **NRC MUST ISSUE STANDARDS BY OCTOBER 1994**
 - **NRC MUST CERTIFY USEC OPERATION OF GDPS**
 - **NRC WILL COORDINATE WITH EPA**
- **DEVELOPMENT OF REGULATORY OVERSIGHT POSITION**
 - **REGULATORY OPTIONS CONSIDERED - LATE 1992**
 - **OMB TRANSITION TASK FORCE - LATE 1992 - EARLY 1993**
 - **MEETING BETWEEN CHAIRMAN AND SECRETARY O'LEARY**
 - **CONTINUING DIALOGUE BETWEEN NRC/DOE**

RULEMAKING

- **RULEMAKING INITIATED BY RES**
- **RULEMAKING STRATEGY**
 - **COMBINE PROCEDURAL AND TECHNICAL RULE**
 - **TAILOR TO OPERATING PLANTS**
 - **USE EXISTING DOE REGULATORY BASIS AS STARTING POINT**
 - **ASSURE OPERATIONAL SAFETY AND SAFEGUARDS**
- **PROPOSED RULE DUE TO COMMISSION BY SEPTEMBER 1993**
- **STATUTORY DEADLINE OCTOBER 1994**

REGULATORY TRANSITION

- **OMB/INTERAGENCY TRANSITION TASK FORCE - COMPLETE**
- **FREQUENT MEETINGS W/DOE AND ITS CONTRACTORS - CONTINUING**
- **NRC RECEIPT OF COPIES OF DOE ORDERS, PRELIMINARY REGULATORY TRANSITION DOCUMENT, AND OTHER TECHNICAL DOCUMENTS - COMPLETE**
- **FINAL DOE REGULATORY TRANSITION DOCUMENT - EXPECTED**
 - **DESCRIBE EXISTING REGULATORY FRAMEWORK**
 - **IDENTIFY GDP OPERATING BASIS AND CRITERIA**
- **DOE SUBMITTAL OF ADDITIONAL DOCUMENTATION FOR CONSIDERATION IN DEVELOPING RULE - EXPECTED**

REGULATORY TRANSITION (CONT'D)

- **NMSS REORGANIZATION AND CREATION OF ENRICHMENT BRANCH - COMPLETE**
- **FORM REGION III ENRICHMENT GROUP - COMPLETE**
- **CONSOLIDATE RESPONSIBILITY FOR BOTH GDPS IN REGION III - COMPLETE**
- **STAFF MEETINGS W/EPA/OSHA - CONTINUING**
- **STAFF VISITS TO BOTH GDP SITES - CONTINUING**
- **STAFF TRAINING AT DOE K-33 GDP - CONTINUING**

TRANSITION STAFFING

- **NRC BUDGETED (FY 94) FOR OVERSIGHT TO BEGIN AFTER REGULATION PROMULGATED**
- **NRC NOT STAFFED FOR RESTRICTED DATA PROGRAM**
 - **FACILITY SECURITY**
 - **PERSONNEL CLEARANCES**
- **NRC RESTRICTED DATA RESPONSIBILITY WOULD REQUIRE ADDITIONAL 6 FTE/YR**

TENTATIVE MILESTONES

- **DOE INFORMATIONAL REGULATORY TRANSITION SUBMITTAL, JUNE 1993**
- **PUBLISH PROPOSED NRC STANDARDS RULE - FALL 1993**
- **ADDITIONAL DOE SAFETY/SAFEGUARDS INFORMATION SUBMITTAL, LATE 1993 (FOLLOWING NRC PROPOSED RULE)**
- **INTERACTIVE STAFF REVIEW OF GDP TECHNICAL ISSUES, JUNE 1993 - DECEMBER 1994**
- **STATUTORY DEADLINE FOR FINAL STANDARDS RULE - OCTOBER 1994**
- **RECEIPT OF USEC CERTIFICATION APPLICATION - 6 MONTHS AFTER RULE**
- **NRC CERTIFIES USEC 6 MONTHS AFTER RECEIPT OF APPLICATION**

SUMMARY

- **STAFF IS IMPLEMENTING INTERAGENCY COORDINATION AND TECHNICAL PREPARATION**
- **RULEMAKING HAS BEEN INITIATED**
- **TRANSITION DEPENDENT UPON NRC RECEIPT OF ADDITIONAL INFORMATION FROM DOE/USEC**
- **STAFF BUDGETED TO TAKE REGULATORY OVERSIGHT AFTER ISSUANCE OF STANDARDS**

URANIUM ENRICHMENT TRANSITION STATUS

June 1, 1993

**James Hall
U. S. Department of Energy**

URANIUM ENRICHMENT TRANSITION STATUS

- **Energy Policy Act Requirements**
- **DOE Transition Strategy**
- **Lease Agreement**
- **Nuclear Safety & Safeguards & Security Oversight Approach**
- **Safety Basis & Framework For DOE Oversight of The Gaseous Diffusion Plants**
- **Summary**

ENERGY POLICY ACT REQUIREMENTS

- **Creates United States Enrichment Corporation (USEC)**
- **Transfers Commercial Enrichment From DOE To USEC**
- **DOE Leases Gaseous Diffusion Plants (GDPs) To USEC**
- **Establishes July 1, 1993 Transition Date**
- **NRC To Develop Standards By October 1994**

DOE TRANSITION STRATEGY

- **Assure Successful Implementation Of The Act**
- **Dedicated Uranium Enrichment Transition Task Force**
- **DOE/NRC Coordination**
- **DOE/EPA/State Environmental Regulator Coordination**
- **DOE/OSHA Coordination**
- **DOE/USEC Coordination**
- **Lease Implements Transition To USEC Operation**

LEASE AGREEMENT

- **Establishes Terms & Conditions For USEC Operation of Gaseous Diffusion Plants**
- **Base Lease Supplemented By:**
 - **Delineation Of Leased Facilities & Equipment**
 - **Environmental Memorandum Of Understanding**
 - **Services Memorandum of Understanding**
 - **Power Purchase Memorandum of Understanding**
 - **Regulatory Oversight Agreement (ROA)**

NUCLEAR SAFETY & SAFEGUARDS OVERSIGHT APPROACH

- **ROA Is Basis For DOE Oversight Until NRC Assumes Oversight Responsibility**
- **ROA Provides**
 - **Requirements Base**
 - **USEC Commitments**
 - **Change Controls**
 - **Enforcement Mechanism**

SAFETY BASIS & FRAMEWORK FOR DOE OVERSIGHT OF THE GASEOUS DIFFUSION PLANTS

- **Regulatory Transition Document**
- **Contains Nuclear Safety & Safeguards & Security Requirements**
- **Founded In DOE Order Requirements**
- **Documents USEC Compliance Commitments**
- **Defines DOE Oversight Program**

SUMMARY

- **Transition Activities Are On Schedule**
- **Lease Agreement Expected To Take Effect On July 1, 1993**
- **Bases & Process For Continuing DOE Oversight Established**
- **Continuing Cooperation Between DOE & NRC**

PRESENTATION OF

**WILLIAM H. TIMBERS, JR.
TRANSITION MANAGER**

UNITED STATES ENRICHMENT CORPORATION

BEFORE

THE U. S. NUCLEAR REGULATORY COMMISSION

JUNE 1, 1993

PRESENTATION OF
WILLIAM H. TIMBERS, JR.
TRANSITION MANAGER
UNITED STATES ENRICHMENT CORPORATION
BEFORE
THE U. S. NUCLEAR REGULATORY COMMISSION
June 1, 1993

Good morning Chairman Selin and members of the Commission. My name is William H. "Nick" Timbers, Jr., and I am the Transition Manager for the United States Enrichment. It is a pleasure to meet with you to discuss the Enrichment Corporation's plans for transition from Department of Energy (DOE) management of the Paducah and Portsmouth Gaseous Diffusion Plants, and in particular, our plans for assuring that the plants continue their long history of safe operation. It is also a pleasure to be here with Jim Hall of DOE and Wendell Fields of Martin Marietta.

Under the Energy Policy Act of 1992, I am responsible for implementing the transfer of the uranium enrichment enterprise from DOE to the Corporation. Before becoming Transition Manager on March 9, 1993, I

served as President of The Timbers Corporation, an investment banking firm specializing in the fields of energy and natural resources. Prior to that time, I served as a Managing Director at Smith Barney, Harris Upham & Company.

As I'm sure you are aware, under Title IX of the Energy Policy Act, the Corporation will lease the gaseous diffusion plants from DOE for a period of 6 years beginning July 1, 1993. The Corporation must also prepare a strategic plan for ultimately transferring ownership of the plants to private control.

This morning, I would like to brief the Commission on the status of the lease negotiations, and on our efforts to establish the Corporation. The focus of my presentation, however, will be on the Corporation's commitment to work with the NRC and DOE to assure that the gaseous diffusion plants continue to operate safely.

In the Energy Policy Act, Congress established the Corporation for several purposes. Among those are to operate the uranium enrichment enterprise on a profitable basis, to maximize the long-term value of the Corporation to the U. S. Treasury, and to maintain a reliable and economical

domestic source of uranium enrichment services. Congress also specified that the Corporation would comply with applicable laws established to assure that public health and safety are protected. We believe that our business objectives and our responsibility to safely operate the Paducah and Portsmouth plants are fully consistent, and that the ultimate success of the Corporation is dependent upon our ability to effectuate all of those objectives.

In the short time since the Corporation was formed by Congress, we have made substantial progress toward a smooth and timely transfer of responsibility from DOE to the Corporation. A transition organization is in place and has been functioning well. Discussions with the White House are underway regarding the appointment of a Board of Directors. We are working to develop an appropriate management and organizational structure and to retain key personnel. Lease negotiations are well underway between the Corporation and DOE, and we expect to sign all necessary documents before the July 1, 1993, deadline.

While we have accomplished a great deal in a relatively short period of time, the uranium enrichment provisions of the Energy Policy Act present the

Corporation, DOE, and the NRC (as sister agencies of the Federal Government) with a unique regulatory challenge. An appropriate NRC regulatory scheme must be established that assures the continued safe and efficient operation of the gaseous diffusion plants, while assuring that the statutory objectives of establishing and maintaining a competitive source of enrichment services are fulfilled. We must also provide for the orderly transition from DOE regulatory oversight to NRC regulatory oversight.

The challenge is unique because the Paducah and Portsmouth plants have safely operated for some 40 years under DOE oversight, and yet a new regulatory framework must be applied to these facilities. Congress apparently understood the uniqueness of this endeavor. In lieu of formal NRC licensing, it opted for a process in which NRC would establish regulatory standards, by rule, and would then certify compliance to those standards. In adopting this process, Congress also recognized NRC's view (as provided in NRC's June 26, 1992, comments to Senator Bennett Johnston) that the development of final regulatory standards and the certification process could take several years. We believe that this provides an orderly and manageable process for transitioning from DOE to NRC regulation.

Under the system established by Congress, the Corporation will begin leasing the Paducah and Portsmouth facilities on July 1, 1993. Those facilities will continue to provide enrichment services, pursuant to existing contractual commitments, subject to continuing DOE nuclear safety, safeguards, and security oversight until the NRC issues final regulatory standards and certifies that the plants are in compliance with those standards. The terms of DOE oversight and the Corporation's obligation to comply with the applicable DOE controls are being explicitly incorporated into the lease documents between DOE and the Corporation. DOE plans to maintain the basic nuclear safety, safeguards, and security controls that are presently in place. These requirements will be summarized in a document, to be appended to the lease, which we will make available to the NRC for information and possible use in connection with its standard-setting activities. The Corporation also will assure, through its contract with Martin Marietta, that the management and operating contractor adheres to those controls as well.

In addition to formalizing and clarifying DOE's continued oversight responsibility, we are preparing for ultimate NRC assumption of regulatory jurisdiction. During the period of transition from DOE to NRC oversight, we

look forward to working closely with the NRC as it prepares its proposed regulatory standards, and to commenting on those standards when they are issued. We also intend to work with NRC, as it prepares a certification process, and with DOE on a plan for achieving compliance, should that be necessary.

I would like to reiterate that the Corporation is committed to the continued safe operation of the gaseous diffusion plants. We are firmly committed to maintaining effective health and safety programs, and we understand the importance of such programs to the ultimate success of the enterprise.

To achieve our safety objectives, senior management of the Corporation will be intimately involved in the oversight of the gaseous diffusion plants. Since I first became Transition Manager, I have taken a directed and active interest in our plans for assuring the continued safe operation of the plants. I have visited both production plants and have involved the management and staff of both plants in key transition activities. Furthermore, In the future, I and other senior managers will visit the facilities on a regular basis to monitor

our efforts to assure the safety of our work force and the public. Once a permanent Board of Directors is established, I will impress upon the Board the importance of close oversight by senior Corporate management to the maintenance of effective nuclear safety controls. In addition, we will pay close attention to assuring that the Corporation is staffed with highly qualified personnel that have substantial nuclear experience. At the present time, we have retained expert consultants to assist us. We also have the benefit of DOE personnel detailed to the Corporation to assist in the transition effort. The retention of the existing cadre of key experienced personnel, in Corporate Headquarters and at the plants, as well as the retention of the management and operating contractor, will provide management continuity that will help assure continued safe operations. In addition, an important part of our efforts under DOE oversight will be development of a self-assessment program. These measures should assure a smooth transition to the new management and operating regime.

The Enrichment Corporation is committed to working together with the NRC and DOE to achieve our mutual goals -- a smooth transition to NRC oversight, an effective set of final NRC regulatory standards, prompt and

consistent Corporation compliance with those standards, and a safe, efficient, and competitive uranium enrichment enterprise.

This concludes my remarks. At this time, I would be happy to answer any questions.