

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Title: COLLEGIAL DISCUSSION OF ITEMS OF COMMISSIONER INTEREST

Location: ROCKVILLE, MARYLAND

Date: AUGUST 15, 1989

Pages: 47 PAGES

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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COLLEGIAL DISCUSSION OF ITEMS OF
COMMISSIONER INTEREST

- - - -

PUBLIC MEETING

Nuclear Regulatory Commission
One White Flint North
Rockville, Maryland

Tuesday, August 15, 1989

The Commission met in open session, pursuant to notice, at 8:30 a.m., Kenneth M. Carr, Chairman, presiding.

COMMISSIONERS PRESENT:

KENNETH M. CARR, Chairman of the Commission
THOMAS M. ROBERTS, Commissioner
KENNETH C. ROGERS, Commissioner
JAMES R. CURTISS, Commissioner

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STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

SAMUEL J. CHILK, Secretary

WILLIAM C. PARLER, General Counsel

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

8:30 a.m.

CHAIRMAN CARR: I understand the first order of business is to take a vote. Is that correct, Mr. Secretary?

SECRETARY CHILK: Yes, Mr. Chairman. The Sunshine Act requires a vote to hold this meeting on less than one week's notice, collegial discussion of items of Commissioner interest. May I have such a vote?

CHAIRMAN CARR: Aye.

COMMISSIONER ROBERTS: Aye.

COMMISSIONER ROGERS: Aye.

COMMISSIONER CURTISS: Aye.

SECRETARY CHILK: Thank you.

CHAIRMAN CARR: Good morning, ladies and gentlemen. Today's meeting is an attempt to bring collegiality to the Commission. The meeting is unstructured, an opportunity for the Commissioners to bring up whatever is on their mind. Subjects may range from such lofty items as the state of the world to such mundane items as the quality of the coffee.

It's obviously an experiment. If it works out, I would suggest we keep it up. If not, I'll be one of the first to recommend we drop it.

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1 Do any of my fellow Commissioners have
2 opening comments?

3 COMMISSIONER ROGERS: Just don't expect too
4 much to happen at the first meeting.

5 CHAIRMAN CARR: Oh, no, no. In that case,
6 I'll kick off the first meeting. In spite of the
7 Senate recommendations, I suggest we do not put our
8 feet on the table.

9 Also, the Chairman will be responsible from
10 now on for the coffee in the future. I understand
11 Commissioner Roberts' office furnished it today. We
12 appreciate that.

13 I think the first subject we ought to kick
14 off is a structure.

15 Do you want to use my cup because I don't
16 drink coffee.

17 COMMISSIONER ROGERS: No, no.

18 COMMISSIONER ROBERTS: You don't? You're an
19 old Navy man and you don't drink coffee?

20 CHAIRMAN CARR: I drank too much coffee, so
21 they took me off of it.

22 COMMISSIONER ROBERTS: All right.

23 CHAIRMAN CARR: I think the structure of the
24 meetings are unstructured. My suggestion is we make
25 notes during the week of the thoughts or ideas that we

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1 want to talk over and save ourselves trouble from
2 going one on one and talking to each other. Try to
3 get it all done here in one meeting and save some
4 time.

5 As far as the timing, I think obviously on
6 occasion, only when we're all available and we'll see
7 what works out best.

8 As far as agenda, my suggestion is none. I
9 have a few items on my own mind that I thought I'd
10 kick off and then we'll -- or I can go last, whichever
11 way you'd like.

12 COMMISSIONER CURTISS: Kick it off.

13 COMMISSIONER ROBERTS: Go ahead.

14 CHAIRMAN CARR: The first subject is when I
15 went up to visit Region I, I got a query from one of
16 the -- and met with the people in the region, the NMSS
17 people, I got a query from one of them I didn't know
18 the answer to and the subject was pay options. The
19 question was, since the NRC has authority from the
20 Atomic Energy Act to adopt its own pay system, why
21 don't we go ahead and adopt our pay system and take
22 care of what the Congress didn't seem to on pay
23 raises.

24 Needless to say, I didn't know anything
25 about that. So I told him I'd get some answers and

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1 next time they asked me the question, I'd have a
2 better answer for them. So, when I came back, the
3 staff has put a piece of paper together which tells us
4 the background and the limitations and how we're
5 limited by law and I'll route that around to you so
6 you can see that. In case you get the same question,
7 you'll look smarter than I did.

8 But basically the flexibility is limited by
9 law. We can't -- outside of the SES, we can't exceed
10 level executive five, which is \$75,500.00. SES pay is
11 set at six levels, the top of which cannot exceed
12 \$80,700.00, executive level four, and a total SES pay
13 with bonuses in the ranks can't exceed \$99,500.00.
14 Plus there are a few other areas. We do have
15 flexibility in that we're able to hire people at
16 advanced steps based on salary surveys. Our technical
17 capability and experienced applicants, we can pay up
18 to ten percent more. So, it's kind of interesting
19 that we do have the flexibility.

20 COMMISSIONER ROGERS: Yes. Yes.

21 CHAIRMAN CARR: Is that kind of in
22 accordance with your remembrance there, General
23 Counsel?

24 MR. PARLER: That's right, Mr. Chairman. I
25 was not aware that the question had been asked.

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1 Sometimes certain people don't get the word and I
2 guess I'm one of them. But I certainly agree with the
3 general tenor of your remarks.

4 The Department of Energy, as far as I know,
5 operates under the same law and it's well known from
6 the press that the head of that Department appears to
7 need additional authority to take care of some of the
8 perceived problems because of the practical
9 limitations that you have mentioned, sir.

10 CHAIRMAN CARR: Okay. As you remember, when
11 I -- oh, you weren't there. So, when I went over to
12 testify for Mr. Synar, one of the questions I got was
13 are you losing people because you can't pay them
14 enough. I told him we were losing some and I
15 remembered some that were obviously hired away because
16 they could make more money on the outside. But I
17 didn't give him any details.

18 The second item I got is foreign travel. I
19 notice that I'm going to be gone from the last week in
20 September to the first week in October and I overlap
21 Commissioner Rogers, who is going to go on foreign
22 travel from the third week in October -- or the
23 second week in October, and Commissioner Curtiss. So,
24 we find that we have Commissioner Roberts as the
25 Acting Chairman, since he's the only one in the

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1 country at the time. But I'll keep you posted on how
2 that looks, but it is kind of hard to keep up with
3 each other.

4 Also, when we plan out our schedules of
5 visits, why the further ahead we can look in that, the
6 more we can all plan to kind of make our travel
7 coincide. It helps a little bit in scheduling for Sam
8 at the Secretary level.

9 The other thing I thought I'd bring up is
10 the lead Commissioner concept. You remember when
11 Chairman Zech was here we came out with a piece of
12 paper that kind of divvied up the lead Commissioner.
13 Since Commissioner Curtiss wasn't here --

14 COMMISSIONER ROGERS: We didn't really quite
15 go so far as -- what we really did there, as you
16 remember, is we expressed particular areas of
17 interest.

18 CHAIRMAN CARR: Right, and that's all the
19 way it's worked. I haven't seen --

20 COMMISSIONER ROGERS: No one has a
21 territorial right to any of those.

22 CHAIRMAN CARR: Even though it says lead
23 Commissioner's responsibility, I haven't seen anybody
24 really shunning any of that responsibility --

25 COMMISSIONER ROGERS: Right.

1 CHAIRMAN CARR: -- who wasn't the lead
2 Commissioner.

3 COMMISSIONER ROGERS: Right, right.

4 CHAIRMAN CARR: So, all I was curious about
5 is since Curtiss is not listed and Zech is gone and
6 we'll have a new Commissioner coming up, do you want
7 to ignore this, update it? As I read it, it was only
8 an expression of areas of interest anyway, that you
9 were more interested in than somebody else.

10 COMMISSIONER ROBERTS: I propose we ignore
11 it.

12 CHAIRMAN CARR: Sounds all right to me,
13 since we've ignored it so far.

14 COMMISSIONER ROGERS: Well, I think that the
15 basic idea that somebody is going to -- is expressing
16 a particular interest to stay informed in some area
17 and make it his business to be particularly well
18 informed, that isn't to say everybody can't be
19 particularly well informed, but that somebody has
20 really said that they want to do that, I think makes
21 some sense. I don't think we should stake out
22 territories and have exclusive domains, but I do
23 think --

24 CHAIRMAN CARR: That would be pretty hard to
25 do.

1 COMMISSIONER ROGERS: Yes. Well, it would
2 be hard to do, but I --

3 COMMISSIONER ROBERTS: I would, for myself,
4 be unwilling to surrender anything to anybody else,
5 but you seem to be interested in the NARUC thing. I
6 think that's wonderful. I have no interest in NARUC
7 at all and I don't want to be bothered with that. But
8 if you're interested in that and want to do that, and
9 I think the NRC should be represented in some way, I
10 think that's terrific.

11 COMMISSIONER ROGERS: Well, let me just say
12 on that, it isn't so much that I have that burning an
13 interest, but I've had some experience with the
14 utility end of things. So I know a little bit about
15 that and I do think somebody ought to do it. And I
16 think all of us --

17 CHAIRMAN CARR: It's a job that needs to be
18 done.

19 COMMISSIONER ROGERS: So I took it on really
20 more on the basis that maybe I'm the most appropriate
21 one to do it. I don't find it a thrilling assignment.

22 CHAIRMAN CARR: Well, and I think it could
23 be a good forum when you come back from those meetings
24 to cut the rest of us in.

25 COMMISSIONER ROGERS: Yes. Well, I have

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1 tried to send each of you my reports.

2 CHAIRMAN CARR: Yes.

3 COMMISSIONER ROGERS: But I think maybe this
4 kind of thing would be a good opportunity sometimes to
5 just --

6 CHAIRMAN CARR: Yes, save you from writing
7 all those reports.

8 COMMISSIONER ROGERS: Well, I think it
9 doesn't hurt to have someone write it down anyhow.

10 CHAIRMAN CARR: Make it for the record,
11 okay.

12 COMMISSIONER ROGERS: Well, I think that the
13 notion of areas of real interest is not a bad one.
14 It's not exclusive territory. I wouldn't do anything
15 with it right now, other than wait to see what happens
16 when the new Commissioner comes aboard.

17 CHAIRMAN CARR: I think it's a good idea to
18 know what each of your area of primary interest is,
19 if you will.

20 COMMISSIONER ROGERS: Yes, that's really all
21 it is, I think.

22 CHAIRMAN CARR: So that if you're going to
23 concentrate on some particular area, why then the rest
24 of us might not have to concentrate that hard on it.
25 But some areas obviously interest me more than others.

1 COMMISSIONER ROGERS: Sure.

2 CHAIRMAN CARR: I'm sure we've all got that.
3 So we'll try to update it as far as the areas of
4 interest, rather than saying lead Commissioner. We'll
5 just redraft and refocus that a little bit.

6 The next item is a senior management survey.
7 I guess you all saw the memo from our Acting EDO on a
8 senior management survey, The Impact of NRC Activities
9 on the Safe Operation of Nuclear Power Plants.

10 COMMISSIONER ROGERS: Yes.

11 CHAIRMAN CARR: I must admit when I read it
12 I got a little bit -- the perception could have
13 existed that we were going out and ask the regulated
14 how good we were as regulators, and I didn't want
15 public perception to go that way. But when he said
16 that he's going to start, I believe, in September, we
17 may want to kind of refocus a little bit of the
18 background.

19 Before Vic Stello left, he discussed it with
20 me and said that they ran this kind of a survey before
21 and I think it's affectionately called the O'Reilly
22 Study.

23 Is that right, Mr. Counselor?

24 MR. PARLER: That's what it's affectionately
25 called. The official title of it is "A Report on a

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1 Survey by Senior NRC Management to Obtain Viewpoints
2 on the Safety Impact of Regulatory Activities from
3 Representative Utilities Operating and Constructing
4 Nuclear Power Plants." It's dated July the 1st, 1981.

5 CHAIRMAN CARR: It's no surprise they
6 abbreviated it to the O'Reilly Report.

7 And he said the outcome of that, as I
8 understand it, was the Backfit Rule, among other
9 things. And so obviously, there can be good things
10 coming out of a survey like this. The intent of this
11 one was somewhat generated, I think, by the NUMARC
12 comment that you guys are putting backfits in by
13 generic letter and the comments that we were -- you
14 remember the last NUMARC briefing. So, the idea was
15 to go out and get some data on what's the perception
16 out there and what do they see that we're doing that's
17 not within our regulations.

18 So, it was discussed the increased
19 requirements, the increased team inspection and the
20 impact on the plant staffs, perception that NRC and
21 INPO are in competition to be tough, inconsistency
22 between headquarters and regions on definition of
23 requirements, inspectors increasing standards, total
24 regulatory oversight impact, conflicting requirements
25 between oversight and regulatory organizations.

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1 Obviously there's some good subjects in there.

2 COMMISSIONER ROBERTS: Yes, those are valid
3 questions.

4 CHAIRMAN CARR: Darn right. Some of those
5 we can get in-house, I would think. Like we should
6 know what requirements we've put on them so we can get
7 that data and certainly the numbers of inspections and
8 I think we've done a recent look at how many
9 inspections we've got on and how much overlap there
10 is. I think there's an inspection planning system now
11 on our computers that is supposed to take care of some
12 of those problems. But those are good questions.

13 My concern, I guess, was that the perception
14 of what we were doing might be mistaken because if
15 you're going to go out and ask the regulated how good
16 a job you're doing, it seems we ought to also go out
17 and ask the rest of the world how they perceive our
18 regulation.

19 COMMISSIONER ROBERTS: You wouldn't like the
20 answer.

21 CHAIRMAN CARR: It depends on who it came in
22 from. I'd like all the positive answers.

23 COMMISSIONER ROGERS: I think that that's a
24 very broad list of topics. I think that my view from
25 the plant visits is that there really is a building

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1 problem out there of the number of inspections for
2 various purposes the licensees are subject to. That
3 isn't just NRC by any means.

4 CHAIRMAN CARR: No, no.

5 COMMISSIONER ROGERS: In fact, we may even
6 be -- well, we're certainly probably the smallest
7 fraction of the total or a fraction of the total.

8 CHAIRMAN CARR: Yes, I would say we're
9 probably the largest fraction of the total.

10 COMMISSIONER ROGERS: Well, yes, we're
11 probably the largest fraction. But we still -- we're
12 a fraction. We're not the majority of it.

13 CHAIRMAN CARR: Yes.

14 COMMISSIONER ROGERS: There's a number of
15 contributing factors. It seems to me that there is a
16 legitimate question as to whether -- so much time is
17 being devoted to various kinds of inspections, our
18 inspection, INPO's inspections, insurers inspections,
19 state environmental agency inspections and then
20 inspections by the off-site teams of the corporation
21 itself, which sometimes sends in a couple of different
22 teams.

23 CHAIRMAN CARR: Well, the insurers and the
24 boiler inspectors get there.

25 COMMISSIONER ROGERS: Yes, and the plant

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1 manager, you know, everyday has got a new inspector
2 coming on to his doorstep.

3 CHAIRMAN CARR: And yet every time we go
4 they tell us how happy they are to see us
5 Commissioners, right?

6 COMMISSIONER ROGERS: Well, because maybe
7 they can tell us about some of their problems. But at
8 any rate, I think that there is legitimate question as
9 to whether it isn't becoming excessive from the
10 standpoint of good, safe operations, attention being
11 diverted to satisfying the requirements of an
12 inspection, getting ready for it, participating in it,
13 winding it up, that it's not seriously cutting into
14 their effective working time in running those plants.

15 CHAIRMAN CARR: Yes. Well, I guess my
16 instinct is we ought to separate out from this those
17 things we can find in-house --

18 COMMISSIONER ROGERS: Yes, yes.

19 CHAIRMAN CARR: -- and only go bother the
20 plants for those things we need to get their input on
21 and then we ought to --

22 COMMISSIONER ROGERS: Well, it does seem to
23 me that it's too broad a list though. I would prefer
24 to see it taken in bite sized chunks. It's a little
25 bit to much like, what are your general comments on

1 regulation, and I --

2 CHAIRMAN CARR: Well, I guess you've seen--
3 a part of the input to this was going to be the result
4 of Ed Jordan's backfit survey, which I guess you've
5 seen now or at least it's in-house. That was going to
6 be an input to the overall findings that Bert Davis
7 was going to get.

8 I guess my real question for us today is
9 give this some thought and let us figure out how we
10 want to reply that this was kind of an information
11 note from Jim Taylor to say what they were planning to
12 do. If we want to put a little steer on that, why we
13 ought to --

14 COMMISSIONER ROGERS: Yes, I'd like to try
15 and encourage --

16 CHAIRMAN CARR: Send us a calm whoever it is
17 and we can take some action on that.

18 COMMISSIONER CURTISS: Is it your
19 understanding this would be separate from the
20 backfitting study?

21 CHAIRMAN CARR: No, I think the backfit
22 study was supposed to be an input into the findings
23 from this.

24 COMMISSIONER CURTISS: All right.

25 CHAIRMAN CARR: That was my understanding

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1 from what I --

2 COMMISSIONER CURTISS: I guess my only
3 thought on this, and we might want to give it some
4 thought over the next week or two, we may not get the
5 kind of answer that we want to get from the utilities
6 if we go out and ask them, particularly the people
7 responsible for the day to day regulation, the
8 regions, go out and ask them, "What are your thoughts
9 on backfitting or inspections or generic letters?"
10 And we've seen some of that in other contexts where
11 utilities have been reluctant to pursue backfit
12 appeals or reluctant to be more than forthcoming.
13 That might be a thought we consider in the
14 constitution of who goes out and talks to the
15 individual utilities.

16 CHAIRMAN CARR: Well, you know, there has
17 been a reluctance that I kind of gathered from the
18 utilities. They are reluctant to complain about
19 anything we're doing because they feel like the
20 retribution comes.

21 COMMISSIONER CURTISS: Yes. I'm not sure
22 how you solve that.

23 CHAIRMAN CARR: I have a hard time getting
24 them to tell me what that -- cases of that, because I
25 do say we can't fix it if you don't point it out.

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1 COMMISSIONER CURTISS: Right.

2 CHAIRMAN CARR: And they're reluctant to
3 point it out. So, I don't know. I can't separate
4 whether they've got facts or whether they've just got
5 opinions.

6 MR. PARLER: In the 1981 study, Mr.
7 Chairman, the study members certainly got information
8 and identified a whole host of problems. The
9 introduction of that study says that each group of the
10 industry people, the utility people that were talked
11 to, were informed by an NRC participant that the
12 problems or issues that they identified would not be
13 directly associated with the individuals personally
14 but with their company.

15 CHAIRMAN CARR: Yes, and that's the same
16 thing in this survey too. So, I think that you could
17 probably get the right data, but we'll give that some
18 thought, unless you wanted to discuss this some more.

19 COMMISSIONER ROGERS: No, except that you
20 did raise a question and Commissioner Roberts
21 commented on it about how are we perceived as
22 regulators. We were recently informed that we don't
23 look at the big picture and that the American public
24 is not satisfied with its regulation and the results
25 of this Agency's activities.

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1 CHAIRMAN CARR: You're referring to our
2 hearing?

3 COMMISSIONER ROGERS: Yes.

4 CHAIRMAN CARR: Okay. I just wanted to make
5 sure who it was that informed us.

6 COMMISSIONER ROGERS: And so, I think it's
7 something that we ought to think about. I'm not quite
8 sure how's the best way to inform the public better
9 about what we're doing. I think there is not a very
10 conscious receipt of information about we do from the
11 American public. The American public is a great big
12 body of people out there. There is no such thing
13 really in the number of individuals and groups of all
14 kinds and what have you. But I think that most people
15 who are worried about nuclear power and how well it's
16 being regulated don't know anything about what we're
17 doing.

18 CHAIRMAN CARR: Well, along that line, let
19 me encourage you when you go out to make your public
20 speeches maybe that we quit talking to the choir, the
21 ANS and the whole --

22 COMMISSIONER ROGERS: Well, this is one of
23 the problems --

24 COMMISSIONER ROBERTS: That we quit what?

25 CHAIRMAN CARR: Talking to the choir. We

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1 get invited from the utilities and the ANS and all
2 those types of people to make a speech. We ought to
3 start looking for other fora to get out and advertise
4 what we do in because it's interesting, as you say,
5 how uneducated the public is to exactly what we do.
6 As Senator Simpson says, "The public thinks you guys
7 get around and put your feet on the table and have a
8 cup of coffee and kick around these ideas." I said,
9 "Well, I didn't think that before I got there, but
10 maybe the general public does." The general public is
11 what we need to educate.

12 But as I say, I would encourage you not only
13 to look for areas to make talks to that are not
14 generally power oriented, shall we say, and --

15 COMMISSIONER ROGERS: Well, I don't know. I
16 think that you've always got to worry about a
17 multiplication effect. It's important to try to talk
18 to groups that have some leverage. You can't talk to
19 every man on the street. And so it's important to try
20 to talk to groups that have some leverage and
21 therefore can convey a message to a broader audience.

22 Of course the first thought that comes in
23 mind is why not talk to the dentists. They have
24 captive audiences who can't talk back, but they're a
25 professional group and they're technically educated

1 and generally interested in matters relating to health
2 and safety. I am presently searching out a way to try
3 to get to professional leagues of that type of
4 individual.

5 COMMISSIONER ROBERTS: May I tell a quick
6 story?

7 CHAIRMAN CARR: Certainly. It's a public
8 meeting.

9 COMMISSIONER ROBERTS: Yes, and free forum
10 and all that and no agenda.

11 I have gum and teeth problems and when I
12 moved up here I got my periodontist in Memphis to get
13 me a fellow. He's over in Falls Church, Virginia and
14 he's about my age and similar backgrounds in many
15 respects. We've gotten to be friends. So, I was in
16 there. I'd been going to him for several years and I
17 was in there one day and I got in the chair and he
18 said, "Tom, you're a fraud."

19 I said, "What the hell you talking about?"

20 He said, "Well, my last patient works at the
21 Nuclear Regulatory Commission."

22 I said, "Yes, we've got about 2500 employees
23 in the Washington area."

24 He said, "He never heard of you."

25 CHAIRMAN CARR: So, we've got some in-house

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1 problems.

2 COMMISSIONER ROBERTS: When I was in the
3 Navy, you had to know -- at least when I was a
4 midshipman, you had to know who the Secretary of the
5 Navy was. That doesn't apply in the NRC, believe me.

6 CHAIRMAN CARR: Okay.

7 COMMISSIONER ROGERS: Well, I think that --

8 CHAIRMAN CARR: So, dentists do have an
9 input.

10 COMMISSIONER ROGERS: Oh, I think so,
11 absolutely. I think that --

12 COMMISSIONER ROBERTS: It depends on your
13 definition.

14 COMMISSIONER ROGERS: I think our
15 responsibility is to tell people what we're doing. We
16 don't have to intrude on the sensitive area whether
17 we're promoting or not promoting nuclear power. We
18 can tell the American public how we're working for
19 their safety. I think this Agency has done a very
20 excellent job and is working very hard and
21 conscientiously to do precisely that. I think it's
22 been pretty effective and we have a lot of respect
23 around the world, much more than we do sometimes in
24 our own backyard

25 I think we have something of an obligation,

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1 in a sense, to tell the people who are supporting us
2 and paying our salaries what they're getting for their
3 money.

4 CHAIRMAN CARR: Well, I guess my point is
5 there are a lot of civic organizations like Rotaries
6 and Lions that sometimes get 2 or 300 members at a
7 time for lunch and they're always looking for somebody
8 who will give them 20 minutes worth of talk, whether
9 they agree with it or not.

10 COMMISSIONER ROGERS: Yes.

11 CHAIRMAN CARR: So, we ought to take
12 advantage, I think, of those opportunities when they
13 come by.

14 Anybody want to kick that around anymore?

15 The next item is certification of reactor
16 designs. As you may know, I got in a discussion with
17 one of our people the other day which got reported in
18 the press on how do you get in line to get your
19 certification. This is from *The Federal Register* and
20 certainly it's along the line that I was trying to put
21 out. So I'll let you know it and see if you agree
22 that's the way we ought to go.

23 "The Commission continues to believe that
24 certification by rule is preferable to certification
25 by license. As DOE says, the design certification

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1 will, like a rule, have generic application.
2 Moreover, certification by rulemaking leaves the
3 Commission free to adapt hearing procedures to the
4 requirements of the subject matter rather than rely
5 exclusively on formal adjudicatory devices even when
6 they are not useful. Hearing procedures are more
7 fully discussed below."

8 This is the pertinent part. "Finally,
9 certification by rulemaking permits the Commission to
10 consider reactor designs submitted by foreign
11 corporations. However, the Commission will give
12 priority to designs for which there is a demonstrated
13 interest in the United States. The Commission will
14 review other designs as resources permit."

15 I guess it boils down to what is a
16 demonstrated interest in the United States? But that
17 was the point I was trying to make, is that -- what we
18 have said in the preface to the rule.

19 COMMISSIONER ROGERS: I don't know. It
20 seems to me we really ought to give a lot of thought
21 to that whole thing because this business of coming in
22 with new possible designs for certification seems to
23 be starting to build up and the interest seems to be
24 growing. Certainly I keep hearing more and more from
25 people who have an interest and want to alert us to

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1 their interest and intend to submit something and so
2 on and so forth. And of course, we already have the
3 ones that are in the works.

4 I think we ought to give some real thought
5 as to how's the best way to proceed here. I think if
6 we simply interpret that to mean --

7 CHAIRMAN CARR: This is what we've already
8 said, what the priority to design --

9 COMMISSIONER ROGERS: -- a U.S. utility --

10 CHAIRMAN CARR: Well, it doesn't say that.

11 COMMISSIONER ROGERS: I know.

12 CHAIRMAN CARR: It says priority designs for
13 which there's a demonstrated interest in the United
14 States.

15 COMMISSIONER CURTISS: Be it the vendor or
16 the utility.

17 COMMISSIONER ROGERS: Yes. It's a question
18 of how we interpret that. You can interpret that in a
19 number of different ways and I think we ought to give
20 a little thought to it to see just what the
21 ramifications of various ways of interpreting that.

22 CHAIRMAN CARR: That's the only reason I
23 brought it up. I think it's a good idea.

24 COMMISSIONER ROGERS: Yes, I think -- I
25 don't think we ought to just hop at an interpretation.

1 We ought to give it a little more thought and talk
2 about it some more because --

3 COMMISSIONER CURTISS: It seems to me it
4 wasn't quite as clear at the time that that was put
5 out as well, what the plans of CANDU and PIUS and the
6 others that we've seen in the past four or five, six
7 months come on the table. Maybe it's an opportunity
8 to go back and take a look at where we want to apply
9 the priority in terms of resources.

10 CHAIRMAN CARR: Well, we've obviously only
11 got enough money and I guess the General Counsel can
12 advise us on whether if the foreign plant comes in
13 with his money in hand and says, "I want to pay you to
14 certify my design," how can we handle that? Can we
15 hire people? Can we take his money or does it go to
16 the Treasury or --

17 MR. PARLER: It depends upon whether a
18 foreign government comes in. We could enter into an
19 arrangement with the foreign government. It is my
20 present understanding that if you have a foreign
21 government and such an arrangement, that the money can
22 be retained and it does not have to go into
23 miscellaneous receipts in the Treasury. I would not
24 think that you could hire people with that money
25 because it is no certain thing over a period of time

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1 and you would be subject to the constraints for FTEs,
2 et cetera.

3 CHAIRMAN CARR: But you might be able to
4 contract it out.

5 MR. PARLER: However, I would think that you
6 could use the money to contract for the review work.
7 That is my present understanding. But for any
8 question like that, of course you would have to look
9 at the particulars and see all the facts.

10 CHAIRMAN CARR: Oh, sure. Well, I'm
11 comforted to know that it says in our rules here that
12 anything we say at a meeting like this we can't be
13 held for anyway, right?

14 COMMISSIONER ROBERTS: We can't be what?

15 CHAIRMAN CARR: We can't be held to
16 something you say in one of these meetings.

17 MR. PARLER: That's true, but if all of it
18 proves to be a wasteland, you might want to reconsider
19 having the meeting.

20 CHAIRMAN CARR: Oh, okay, I agree with that.

21 MR. PARLER: I think what that really means
22 is you can't cite the transcript and --

23 CHAIRMAN CARR: Well, if I made a mistake, I
24 get a chance to correct it.

25 MR. PARLER: We're all human beings, yes.

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1 CHAIRMAN CARR: Okay.

2 MR. PARLER: It means that.

3 COMMISSIONER ROBERTS: My experience has
4 been to the contrary.

5 CHAIRMAN CARR: Once you're on record,
6 you're on record.

7 COMMISSIONER ROBERTS: You bet.

8 CHAIRMAN CARR: All right.

9 Do you want to give that some thought then
10 and we'll --

11 COMMISSIONER CURTISS: Yes.

12 COMMISSIONER ROGERS: Yes.

13 COMMISSIONER CURTISS: I do think it bears
14 some looking at.

15 MR. PARLER: Mr. Chairman, I think that if
16 those words are given additional meaning, I'm saying
17 something that's obvious, that the Commission should
18 put out a policy statement.

19 COMMISSIONER CURTISS: Yes, but you've got
20 to carry that to its logical extreme and say that a
21 demonstrated interest has to be an application by
22 utility. It seems to me we've undermined the purpose
23 of Part 52, which is to have a preapproved design the
24 utilities can look at before they "demonstrate their
25 interest." So, it does seem to me there's a line that

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1 needs to be drawn not only in how much we want to see
2 in terms of a demonstrated interest, but by whom, a
3 utility or a vendor or whatever.

4 COMMISSIONER ROGERS: Well, also if a
5 foreign design sets up a U.S. corporate entity,
6 incorporates in the U.S. and then presents a design to
7 us through that mechanism, are they any different from
8 anybody else who comes to us with a design in the
9 U.S.?

10 MR. PARLER: Well, they obviously are
11 different. They're a foreign vendor that sets up a
12 United States company. If indeed the purpose is
13 simply to get this agency's stamp of approval for
14 other reasons not having too much to do with the
15 generation of energy in this country, I would think
16 that would be a difference that could be pursued and
17 probably would be if you're faced with priorities and
18 competing resources to get a particular regulatory
19 review job done.

20 CHAIRMAN CARR: Well said.

21 COMMISSIONER CURTISS: Yes. It might be
22 that -- I have two questions. One, Bill, are you
23 saying that in order for us to take the money it has
24 to be a foreign government as opposed to a
25 corporation?

1 MR. PARLER: That is my present
2 understanding.

3 COMMISSIONER CURTISS: Okay. So, if AECL
4 came in, for instance, with the CANDU application,
5 we'd have to have some sort of governmental
6 relationship with them in order to get --

7 MR. PARLER: That is my present
8 understanding. The understanding is based on oral
9 discussions in the office. I haven't seen any
10 definitive legal analysis yet, but I have a high
11 confidence that the understanding is probably correct.

12 CHAIRMAN CARR: I wonder if it's wise to go
13 ahead and get the legal answer while we're thinking
14 about this problem. It might be a good place to
15 start.

16 COMMISSIONER CURTISS: Yes. One other
17 thought. If we're looking at trying to gauge the
18 extent of U.S. interest and stopping short of having
19 actual application in from the utility, perhaps you
20 can have that kind of firm demonstration of interest.
21 It might be that a good benchmark of that would be the
22 EPRI process which purports to be a collection of the
23 utilities and vendors.

24 CHAIRMAN CARR: Well, that's -- yes. The
25 really -- the thing that we want to remember when EPRI

1 and NUMARC comes in is to get a feeling from NUMARC,
2 if they'll give us one, on what the feeling of the
3 U.S. utilities are about buying a design that does not
4 meet the NUMARC -- I mean the EPRI guidelines. If the
5 general feeling is that they are not interested in
6 designs that don't meet the EPRI guidelines, then we
7 probably ought to put more priority on looking at the
8 EPRI guidelines and making sure we get them finished.

9 COMMISSIONER CURTISS: And in turn the
10 designs that are subject to EPRI guidelines, if EPRI
11 decides, for instance, not to review or establish a
12 requirements document that includes the PIUS reactor,
13 for instance, and in fact if that nexus exists, the
14 utilities are looking for a design that meets the
15 requirements document of EPRI. Maybe that tells us
16 what the extent of U.S. interest is in the --

17 CHAIRMAN CARR: Some demonstration anyway.

18 COMMISSIONER CURTISS: Right.

19 CHAIRMAN CARR: But we need -- well, maybe
20 it would be a good idea then, if you've got the time
21 there, General Counsel, we could get a more definitive
22 answer on whether or not -- on how and who from we can
23 take the money and where it goes.

24 MR. PARLER: All right.

25 CHAIRMAN CARR: Next item, unless you want

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1 to kick that one around. My term as Chairman is two
2 years and I'd like to get something done before I'm
3 through. So, I'm trying to focus on a few things that
4 I can get done before I leave. Of course, you know
5 plant life extension is one of them and maintenance is
6 another one, below regulatory concern, those hot
7 particles. You're familiar with those interests of
8 mine.

9 I've asked the other Commissioners to give
10 me their areas of interest so we can focus on a few
11 things rather than a lot. So, I would remind -- I've
12 got a few pieces of paper now we'll look over and see
13 if we can kind of hone in on setting up which way we
14 want the staff to go in the near term. So, I'd
15 appreciate it if you'd give that some thought.

16 And speaking of maintenance, in our policy
17 statement or our SRM, I guess it was, on maintenance,
18 on the maintenance -- no, this was SECY-189. This is
19 the amendment to 89-43 with COMLZ 89-21 on the
20 amendment to 10 CFR 50 related to maintenance in
21 nuclear power plants. The staff came in with their
22 schedules for the maintenance policy statement and the
23 maintenance reg. guide schedule and my biggest
24 interest in that, of course, is making sure both of
25 them were done before my watch so I could get the rule

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1 out.

2 So, it looks like there were two items. One
3 is we agreed to all the final draft rule on
4 maintenance and abeyance for an 18 month period from
5 the effective date of the revised policy statement.
6 The policy statement schedule looks like it's set for
7 about the 11th of October. So that would run, the way
8 I figured it --

9 COMMISSIONER CURTISS: Is that for
10 publication?

11 CHAIRMAN CARR: That was to the Commission.

12 COMMISSIONER CURTISS: To the Commission.

13 CHAIRMAN CARR: So, then, depending on how
14 fast we did our work, why sometime around April '91,
15 the 18 month time out. What I'm trying to do is to
16 make sure that we have time to get the rule out as
17 well as do the policy statement. So, my suggestion is
18 that we take a look at that. I would like, if it's
19 all right with everybody, to give NUMARC a little
20 phone call and tell them that their 18 month period is
21 timing them because we agreed to let them state -- we
22 said the policy statement should state, "The
23 Commission's intent to grant the industry a set period
24 of time (18 months), during which the Commission would
25 monitor the industry's initiatives in the area of

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1 maintenance and announce the Commission's intention to
2 hold the draft final rule in abeyance during this
3 period of time."

4 I wanted to start their clock so I could
5 stop it before I left and see how they're doing. I
6 want to also encourage them to help us get the reg.
7 guide finished because the reg. guide is going to be
8 the key to what they have to do. So, and the reg.
9 guide schedule came in with a proposal for getting the
10 final notice on the reg. guide availability out this
11 quarter -- I guess it looks like the third quarter of
12 '89, get a comment period on that, do some revision to
13 it, put out the revised reg. guide and hold a workshop
14 on it. Then there was a proposal that they have a
15 voluntary pilot program and the voluntary pilot
16 program runs beyond the time I want it to because I--

17 COMMISSIONER CURTISS: Looks like you have
18 to re-up.

19 CHAIRMAN CARR: Re-enlisting is not the
20 problem we're discussing here.

21 COMMISSIONER ROBERTS: Don't.

22 CHAIRMAN CARR: What we're trying to do is
23 to make sure we can get the maintenance rule out if we
24 don't see the required changes in the industry
25 maintenance program. So, I don't want to leave it

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1 undone.

2 COMMISSIONER ROGERS: Where is that schedule
3 right now? I haven't seen that yet.

4 CHAIRMAN CARR: I haven't given it to you.

5 COMMISSIONER ROGERS: Oh, okay.

6 CHAIRMAN CARR: That's why I'm discussing
7 it. I'll just send it along because the Acting EDO
8 and I just discussed it the other day.

9 COMMISSIONER ROGERS: Well, I've been
10 hearing some things about it I'm not too pleased with.
11 So, I'd like to --

12 CHAIRMAN CARR: I'll be happy to send it
13 along to you.

14 COMMISSIONER ROGERS: Particularly that
15 pilot program which sounds to me like it's being
16 tacked on the end. I thought that that was something
17 we were going to try to encourage very early on to get
18 a feeling about adequate performance indicators and
19 how they might work. If that comes very -- if it
20 comes at the end of the whole thing, then I'm not sure
21 how much effect it has on what might or might not be a
22 rule.

23 CHAIRMAN CARR: Well, maybe we better
24 schedule an early meeting on this and we'll get the
25 staff to come up and lay it all out and show us how

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1 they're going to get where we want to go by then.

2 COMMISSIONER ROGERS: Yes.

3 CHAIRMAN CARR: Does that sound all right?

4 COMMISSIONER ROGERS: Well, I think we ought
5 to hear more about this. Just on this general
6 subject --

7 CHAIRMAN CARR: Since it's an area of
8 specific interest to me, I won't let it drop.

9 COMMISSIONER ROGERS: Yes. Well, I think
10 it's been an area of interest to us all. We've all
11 had a little different views on it. But I found
12 reading the transcript of the Senate Committee meeting
13 at which Joe Farley made a presentation on behalf of
14 several of the industry groups extremely interesting,
15 a little perplexing in some ways because the
16 approach --

17 CHAIRMAN CARR: Singularly uncooperative.

18 COMMISSIONER ROGERS: Well, that's what
19 we've seen, but that wasn't the face presented to the
20 Senate Committee. In fact, Mr. Farley, on behalf of
21 the industry group, seemed to offer to work with the
22 Senate Committee in discussing the elements of what a
23 legislative maintenance program might be. I'm not
24 sure that's what he intended to say, but that's what
25 it sounded like to me in reading the transcript.

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1 The point that I want to make, however, is
2 that we never had any cooperation from an industry
3 group to sit down and work with us on what a
4 maintenance rule might be. We really received just a
5 more or less uniform response that a maintenance rule
6 is a bad idea, whereas in fact the testimony in that
7 hearing seemed to say to me that they weren't opposed
8 to a maintenance rule provided it didn't disrupt the
9 programs that are already in place and that it wasn't
10 overly prescriptive but allowed for individual
11 differences among plants.

12 The point was made that we have over 100
13 different designs and that no one maintenance program
14 is entirely appropriate for every one of them. As I
15 recall, the Senator's dialogue on that with Mr. Farley
16 was, "Well, that isn't what we're looking for. We're
17 looking for an assurance of a maintenance program of
18 some sort that could be different at every plant."

19 CHAIRMAN CARR: Yes. Well, yes, they got
20 into a 115 different maintenance rules.

21 COMMISSIONER CURTISS: Right.

22 COMMISSIONER ROGERS: Now, that's precisely
23 the approach I've been trying to get us interested in
24 and get the industry interested in. I must say I
25 haven't had much success any way around. And here the

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1 industry seemed to be saying, "Well, that isn't so
2 bad. Why don't we sit down and talk to you about it."
3 I'd like to see why they can't sit down and talk to us
4 about it. So, I think we ought to pick up on what was
5 offered in that hearing and offer our open ears as
6 well as those -- as well as the --

7 CHAIRMAN CARR: Okay. Well, why don't we
8 plan and schedule an early-on meeting with the staff
9 and then maybe with NUMARC too.

10 COMMISSIONER ROGERS: Yes.

11 CHAIRMAN CARR: And see if we can put a
12 different focus on it.

13 COMMISSIONER ROGERS: I'd like to revisit--
14 to me, if the industry comes up with a really good
15 program of some sort, we might be willing to
16 reconsider whether we really do need a rule. But
17 there's got to be something there beyond, "It isn't
18 necessary."

19 COMMISSIONER CURTISS: Yes. The concept, as
20 I understand it, is similar to what we did in
21 training, where the --

22 CHAIRMAN CARR: Yes.

23 COMMISSIONER CURTISS: -- the posture was
24 very much the same as where I think we find ourselves
25 in on maintenance. At some point the interest in--

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1 that may have been expressed in the hearing in having
2 some sort of rule that is general enough to allow
3 plant-specific variances may become so general that as
4 a practical matter it is a policy statement or it's
5 112, 113 different regulations.

6 I guess I'm prepared to give the industry
7 the benefit of the doubt during this 18 month period,
8 take a hard look at the pilot program that
9 Commissioner Rogers has scheduled. I do think it
10 ought to be done before the end of the 18 month period
11 so we can take into account the results of that
12 program. But if they're performing on a curve that
13 the staff is comfortable with, and I take it they are,
14 and they continue that progress in a manner similar to
15 what they did in the training area, in my judgment we
16 could probably claim victory at the end of the 18
17 month period if we see the kind of maintenance we'd
18 like to see and still allow the time necessary, Mr.
19 Chairman, for us to visit the issue and consider
20 regulation before the end of your term if we don't see
21 that progress.

22 CHAIRMAN CARR: All right.

23 COMMISSIONER CURTISS: It does sound to me
24 like we could use a meeting to discuss things.

25 CHAIRMAN CARR: Any other comments on that

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1 one? I've run out of items.

2 COMMISSIONER ROBERTS: And I've run out of
3 coffee.

4 CHAIRMAN CARR: We'll fix that next time.
5 The Chairman is responsible for the coffee.

6 COMMISSIONER ROGERS: I come from that world
7 that likes to talk forever, you know, the academic
8 world.

9 CHAIRMAN CARR: Well, we've got another
10 meeting at 10:00 o'clock.

11 COMMISSIONER ROGERS: I hesitate to quit,
12 but I do think that there are a number of issues that
13 we ought to be thinking about and one of them I think
14 I'll throw out now, not to get into a discussion of
15 it, but I think that we ought to be taking our own
16 medicine. We prescribe a number of things to our
17 licensees because we think that's really the right way
18 to do things and then we don't do them ourselves, at
19 least not to the same degree that we expect them to
20 do.

21 I'm talking about quality control and
22 quality assurance of everything that we do. It seems
23 to me that we really need to take a look at a more
24 formalized approach to quality assurance of the
25 activities of the Commission itself.

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1 Now, please don't interpret that to mean
2 that I feel deeply concerned about that we don't have
3 quality here. I think we have a quality operation and
4 an excellent one. But every organization needs to be
5 assured of that and from time to time needs mechanisms
6 to turn up indications of difficulties before they
7 multiply up. We've seen some situations in which our
8 own record keeping and our own follow through in
9 recent years has really not been what we would have
10 liked it to be and certainly would not have been
11 satisfactory to us had it been a licensee.

12 And so, I think we ought to give some real
13 thought to this whole question of how do we assure
14 quality -- how do we get assurance of quality and what
15 are the controls that we have internally on quality?
16 It's got to be some kind of a feedback process that
17 doesn't exist currently.

18 This is not offered as a criticism, but only
19 a constructive one to the staff because I think that
20 we have fine people doing an excellent job, but I
21 don't see that we have the necessary feedback and
22 reviews internally that we should have to assure
23 ourselves that what we think we have done, we actually
24 have done.

25 CHAIRMAN CARR: Well, that's a good point.

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1 I think self-assessment is always in order. I'm not
2 sure, are we treading on the IG's ground there,
3 Counselor?

4 MR. PARLER: I don't think so.

5 CHAIRMAN CARR: Okay.

6 MR. PARLER: The IG's ground is principally
7 focused on wrongdoing and audits. But I would think
8 that what the Commissioner --

9 CHAIRMAN CARR: This is kind of an audit.

10 MR. PARLER: -- is talking about is a much
11 more routine, across-the-board --

12 COMMISSIONER ROGERS: Right.

13 MR. PARLER: -- thing where you have a much
14 more early warning indication that would typically
15 come up when the IG got involved in it. But even if
16 we are treading on the IG's ground a little bit, the
17 IG's ground in that area is not exclusive in any
18 event.

19 CHAIRMAN CARR: Okay. But I agree that
20 self-assessment is obviously -- we know --

21 COMMISSIONER ROGERS: I'm not talking about
22 an ad hoc thing, you know. That's the way IG works.
23 I'm talking about a routine follow through checkup --

24 CHAIRMAN CARR: Just preparing for the Synar
25 hearing, it's obvious that we've got a lot of things

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1 we haven't really cleaned up behind, waste being one
2 of them. And I put out a little -- we made up a
3 little list of about 22 items that we agreed to do
4 either getting ready for that hearing or as a result
5 of the hearing which I'll send you a copy of the list
6 so you'll know the kinds of things. But we've got--
7 I'm sure that any time you pull those threads that
8 hard, you'll come up with things that we could do
9 better. As the former Chairman always like to say,
10 there's always room for improvement.

11 COMMISSIONER ROGERS: Well, I keep saying in
12 my speeches that the Kaizen approach of the Japanese
13 unending quest for improvement, self-improvement, is
14 something that I think we should be doing too,
15 internally. We ask our licensees to do it in their
16 quest for excellence and I think we should be doing it
17 ourselves.

18 CHAIRMAN CARR: At the next meeting we're
19 going to get some suggestion from our employees, I
20 think, that we can listen to.

21 COMMISSIONER ROGERS: Good.

22 CHAIRMAN CARR: Anything else?

23 COMMISSIONER ROGERS: Nope.

24 CHAIRMAN CARR: Jim?

25 COMMISSIONER CURTISS: One quick topic. On

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1 the Clean Air Act we made a pretty convincing case, I
2 thought, to OMB that we ought to -- Congress ought to
3 decouple the EPA authority from ours and eliminate the
4 overlap. That might be one that we'd like to talk at
5 the next meeting and see what kind of follow-up we'd
6 like to pursue. It seems to me it's a sound idea to
7 take the bull by the horns. We're now to the point
8 where in the next six months, maybe shorter than that
9 depending on what the EPA's deadline is, that their
10 regulation is going to come out on the street. If we
11 haven't worked out the differences, we may have
12 problems. I thought the package that we sent over to
13 OMB was well done in a short period of time. It
14 really was a very persuasive case that the time has
15 come to eliminate the overlapping.

16 CHAIRMAN CARR: Yes, that ball is in my
17 court. Let me see if I can --

18 COMMISSIONER CURTISS: With things moving
19 on.

20 CHAIRMAN CARR: Administrator Riley said
21 he'd get back to me, but he hasn't yet. But he's got
22 a lot on his plate over there. I'll see what I can do
23 as far as --

24 COMMISSIONER CURTISS: One option we might
25 want to take a look at with things moving on the Hill,

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1 and since we didn't get our suggestion included in the
2 OMB package is to send it on up directly and get that
3 debate going on the Hill so that as they consider
4 clean air legislation, we've got our oar in the water.

5 CHAIRMAN CARR: All right. We'll give that
6 some thought too.

7 What else?

8 COMMISSIONER CURTISS: That's it for me.

9 CHAIRMAN CARR: Anybody else?

10 COMMISSIONER ROGERS: I think it's good idea
11 to have a meeting to --

12 CHAIRMAN CARR: Counselor?

13 MR. PARLER: I don't have any comments.

14 CHAIRMAN CARR: Thank you.

15 COMMISSIONER ROGERS: Look forward to the
16 next one.

17 CHAIRMAN CARR: Well, how often is when we
18 get together and weekly you can --

19 COMMISSIONER ROGERS: No, weekly is too --

20 CHAIRMAN CARR: They'll be shorter weekly.

21 COMMISSIONER ROGERS: Weekly is too often.

22 COMMISSIONER ROBERTS: Not weekly.

23 COMMISSIONER ROGERS: I would think about
24 once a month.

25 CHAIRMAN CARR: On occasion. How is that?

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1 COMMISSIONER ROBERTS: On occasion.

2 CHAIRMAN CARR: On occasion? So be it.

3 We stand adjourned.

4 (Whereupon, at 9:21 a.m., the above-entitled
5 matter was adjourned.)

CERTIFICATE OF TRANSCRIBER

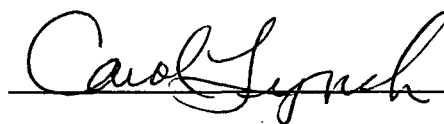
This is to certify that the attached events of a meeting
of the United States Nuclear Regulatory Commission entitled:

TITLE OF MEETING: COLLEGIAL DISCUSSION OF ITEMS OF COMMISSIONER INTEREST

PLACE OF MEETING: ROCKVILLE, MARYLAND

DATE OF MEETING: AUGUST 15, 1989

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