

**UNITED STATES OF AMERICA**  
**NUCLEAR REGULATORY COMMISSION**

**Title:                BRIEFING BY IG AND STAFF CONCERNING**  
**AUDIT OF HLW LICENSING SUPPORT SYSTEM**  
**(LSS) - PUBLIC MEETING**

**Location:           Rockville, Maryland**

**Date:                Thursday, April 27, 1995**

**Pages:              1 - 63**

**ANN RILEY & ASSOCIATES, LTD.**  
1250 I St., N.W., Suite 300  
Washington, D.C. 20005  
(202) 842-0034

#### DISCLAIMER

This is an unofficial transcript of a meeting of the United States Nuclear Regulatory Commission held on April 27, 1995 in the Commission's office at One White Flint North, Rockville, Maryland. The meeting was open to public attendance and observation. This transcript has not been reviewed, corrected or edited, and it may contain inaccuracies.

The transcript is intended solely for general informational purposes. As provided by 10 CFR 9.103, it is not part of the formal or informal record of decision of the matters discussed. Expressions of opinion in this transcript do not necessarily reflect final determination or beliefs. No pleading or other paper may be filed with the Commission in any proceeding as the result of, or addressed to, any statement or argument contained herein, except as the Commission may authorize.

1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

3 \*\*\*

4 BRIEFING BY IG AND STAFF CONCERNING AUDIT  
5 OF HLW LICENSING SUPPORT SYSTEM (LSS)

6 \*\*\*

7 PUBLIC MEETING

8  
9 U.S. Nuclear Regulatory Commission  
10 One White Flint North  
11 Rockville, Maryland

12  
13 Thursday, April 27, 1995

14  
15 The Commission met in open session, pursuant to  
16 notice, at 10:00 a.m., Ivan Selin, Chairman, presiding.

17  
18 COMMISSIONERS PRESENT:

19 IVAN SELIN, Chairman of the Commission  
20 KENNETH C. ROGERS, Commissioner  
21 E. GAIL de PLANQUE, Commissioner

22  
23  
24  
25  
ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1250 I Street, N.W., Suite 300  
Washington, D.C. 20005  
(202) 842-0034

1 STAFF SEATED AT THE COMMISSION TABLE:

2 JOHN HOYLE, Secretary of the Commission

3 KAREN CYR, General Counsel

4 THOMAS BARCHI, Assistant Inspector General for  
5 Audits

6 RUSSELL IRISH, Senior Auditor, OIG

7 ROBERT SHIDELER, Senior Level Assistant for  
8 Policy, Planning and Reporting, OIG

9 HUGH THOMPSON, Deputy Executive Director, NMSS &  
10 Operations Support

11 DR. MALCOLM KNAPP, Deputy Director, NMSS

12 ARNOLD (MOE) LEVIN, Deputy Director, Office of  
13 Information Resources Management/Licensing  
14 Support System Administrator

15 WILLIAM OLMSTEAD, Associate General Counsel for  
16 Licensing & Regulation

17

18

19

20

21

22

23

24

25

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1250 I Street, N.W., Suite 300  
Washington, D.C. 20005  
(202) 842-0034

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

[10:00 a.m.]

CHAIRMAN SELIN: Not because of the baseball strike, but we have a double header today also. First we're going to hear from the Inspector General on the results of the -- or from the Associate Inspector General on results of his recent audit of the high-level waste licensing support system and then the staff will brief us. But the staff's presentation, of course, will be informed but not limited to the topic of the audit. Staff will discuss more generally what's going on in the licensing support system.

Just as background, I would like to point out we spent a lot of time worrying about the resources that we will expend on the whole issue of high-level waste and of the repository, but in fact the resources that are to be devoted to the licensing support systems dwarf all the other resources that the agency will invest. So, when it comes to using the taxpayers' and ratepayers' money efficiently, this is the highest priority item in this program for the agency and we always welcome the IG's report. It's especially welcome in this area.

The licensing support system is an important document on its own. It's also the basis for an agreement among a number of parties that have interest in the high-level waste repository. It is to provide a facility

1 available to all interested parties to be available within  
2 three years after DOE submits its license application. Not  
3 only is it supposed to be a facility in which documents will  
4 be stored and retrieved, but more importantly it is supposed  
5 to provide the tree so that the relevant documents could be  
6 sifted out of the huge mass of documents available relevant  
7 to any particular issue. That's a lot of weight to put on a  
8 large system. It's something the Commission decision  
9 tracking system, but magnified several orders of magnitude.  
10 The Commission is concerned about the lack of progress in  
11 defining the mission and the design of the system, but in  
12 particular the relative roles of NRC and DOE. Also, we  
13 don't have a definitive funding agreement. We have a  
14 requirement to meet a schedule. We've made it clear to DOE  
15 that it's primarily their responsibility to facilitate such  
16 a system since we won't be able to process their application  
17 without it, but we have our own responsibilities as well and  
18 we need to make sure that we're holding up our share of the  
19 bargain.

20           So, this briefing today by Mr. Barchi, the later  
21 briefing by our own staff and then next month the briefing  
22 from DOE on the LSS really are all essential elements for  
23 this important system, to decide whether we continue with  
24 the present concept for licensing support or perhaps even  
25 strategic changes might be called for.

1 Commissioner Rogers?

2 Commissioner de Planque?

3 Mr. Barchi?

4 MR. BARCHI: Good morning and thank you for the  
5 opportunity to be with you this morning. We very much  
6 appreciate it, the chance to discuss with you the results of  
7 our audit work.

8 I wanted to first introduce our staff and then  
9 touch on a couple key points before we get into the actual  
10 briefing. First of all, on my right is Bob Shideler, as you  
11 all have met. Bob is our Senior Level Assistant for Audit,  
12 Policy, Planning and Review. Russ Irish, who's had the  
13 opportunity to brief you in the past, was a senior auditor  
14 on this particular assignment.

15 I had thought through some thoughts, but they kind  
16 of were swept away by some comments I heard this morning. I  
17 just came from listening to the Chairman and others talk  
18 with the Russian Control Board about a vision of what a  
19 control board, translated in my mind an inspector general,  
20 should be doing and not be doing. I couldn't help but touch  
21 on some of the points that the Chairman made about  
22 indicators of success. We tend to look at our agency with  
23 that concept in mind. Certainly one of the areas that has  
24 stood out in looking at our agency is our ability to look  
25 over the horizon and identify those kinds of issues that we

1 need to be positioning ourselves now to be able to address  
2 and certainly LSS in our mind raises that kind of need for  
3 strategic planning.

4 The other part of that that I would want to  
5 underscore, and I think you'll hear us come back to time and  
6 time again this morning in this briefing, is a need for a  
7 sense of urgency. Our sense is that the clock is ticking on  
8 where we need to be as an agency. Certainly DOE is key to  
9 all of this, but there are still a number of issues that we  
10 have to address internally irrespective of the DOE. I  
11 believe what we're urging the staff, and my sense is the  
12 staff has been receptive to it, is a need to be thinking in  
13 strategic terms and to be moving a game plan ahead that  
14 addresses those strategic issues.

15 So, having said that, I would ask Russ to walk us  
16 through the presentation. As always, please feel free to  
17 ask any questions you should have.

18 CHAIRMAN SELIN: Thank you.

19 Mr. Irish?

20 MR. IRISH: Mr. Chairman, Commissioners Rogers and  
21 de Planque, as you know since the late 1980s, the NRC has  
22 been attempting to establish a licensing support system to  
23 support licensing activities for the Department of Energy's  
24 planned high-level radioactive waste repository. The LSS,  
25 to which it is commonly referred, is envisioned to be an



1 electronic information management system to help streamline  
2 NRC's process for approving or denying a construction permit  
3 for the repository. This effort is a joint responsibility  
4 of NRC and the Department of Energy. DOE is responsible for  
5 designing and developing the LSS while NRC is responsible  
6 for operating and maintaining it.

7 We've just issued an audit report covering the  
8 history and status of this effort and we're going to present  
9 the Commission with our findings and recommendations. We  
10 recognize that legislation is currently pending before  
11 Congress that could ultimately impact the timing and/or the  
12 need for the LSS. However, because its passage is uncertain  
13 in the interim, we believe it's prudent that NRC should  
14 proceed to act on our findings and recommendations.

15 Overall, we found that NRC needs to provide strong  
16 leadership and direction to help resolve several  
17 longstanding interagency and intraagency LSS issues. These  
18 issues must be resolved in order to prevent unnecessary and  
19 costly delays in approving DOE's construction authorization  
20 for the high-level waste repository. Since its inception,  
21 the LSS program has suffered setbacks and delays that have  
22 significantly slowed its process. Given current program  
23 plans, the LSS is on a time critical path if it is to be  
24 useful in NRC's consideration of DOE's high-level waste  
25 repository application within the mandated period.

1 Therefore, the timely resolution of issues in development of  
2 the LSS are essential.

3 We also found that several interagency issues  
4 between NRC and DOE remain unresolved. Key among these are  
5 defining the roles and responsibilities of DOE and NRC,  
6 reaching agreement on the funding for the LSS, and agreeing  
7 on LSS technical requirements. While NRC and DOE have  
8 recently taken some positive steps towards resolving these  
9 issues, the solutions are still in a preliminary stage of  
10 development and have not yet been formally agreed upon by  
11 the parties.

12 Finally, our work disclosed the need for NRC to  
13 address and resolve several intraagency issues. Key among  
14 these are defining the roles and responsibilities of NRC  
15 groups which will provide information to or utilize the LSS,  
16 issuing guidance regarding internal requirements,  
17 establishing milestone dates for loading and operation of  
18 the LSS, identifying, segregating and formatting NRC  
19 documents placed into the LSS, and identifying internal  
20 funding for these activities. As such, we believe the LSS  
21 administrator must provide strong, effective leadership and  
22 direction to ensure that longstanding management issues are  
23 resolved and the LSS is ready when needed.

24 At this time, I want to briefly recap some of the  
25 more recent events that have continued to delay the design

1 and development of the LSS. Although the rule was  
2 negotiated and enacted in 1989, little system development  
3 has taken place to date. The complete history and  
4 chronology of LSS delays are included in our audit report.

5 In mid-1991, the license support system  
6 administrator recommended that NRC assume LSS development  
7 responsibilities under existing design functionality and  
8 schedule requirements. While this recommendation was under  
9 consideration by the Commission, DOE announced an initiative  
10 to develop an internal automated information system  
11 capability. DOE planned to use this system, called  
12 INFOSTREAMS, to capture the Department's high-level waste  
13 repository material. DOE envisioned using INFOSTREAMS to  
14 process and store documents for the Department's internal  
15 purposes as well as those documents meeting LSS  
16 requirements. In addition, the system would have document,  
17 storage and retrieval capabilities similar to those planned  
18 for the LSS.

19 Later in 1991, believing that INFOSTREAMS could  
20 potentially eliminate the need for an LSS, the NRC and DOE  
21 formed a joint technical working group to study the issue.  
22 One objective of the group was to examine the design,  
23 development, implementation and operational aspects of the  
24 LSS. Another was to search for ways to reduce the overall  
25 costs which are reimbursed from the Nuclear Waste Fund.

1           In early 1992, the technical working group  
2 recommended that INFOSTREAMS be used as the data capture  
3 mechanism and the LSS used as a search and retrieval system.  
4 However, DOE objected to implementing those recommendations  
5 until NRC and DOE resolved the broader issues pertaining to  
6 LSS program and budget responsibilities. Following this  
7 action, NRC staff recommended to the Commission that NRC  
8 develop the LSS as an information storage and dissemination  
9 system and then operate and maintain it, that DOE and NRC  
10 share the cost equally, and that DOE capture all LSS  
11 discovery material.

12           In September 1992, the Commission rejected the  
13 staff's recommendations. Rather, the Commission noted that  
14 when they approved the staff proposal in 1988 they  
15 stipulated that DOE must pay for all costs associated with  
16 the LSS, including the costs of operation and maintenance.  
17 The Commission also noted that it was not prepared to depart  
18 from that condition. Instead, the Commission requested that  
19 the staff examine additional alternatives that would expand  
20 DOE program and budget responsibilities for the LSS.

21           By 1993, NRC and DOE still had not agreed upon  
22 program and budget responsibilities. This issue and the  
23 emergency of INFOSTREAMS as a possible replacement for the  
24 LSS caused NRC Commissioners to question the need for NRC to  
25 have operational responsibilities for the LSS. NRC staff

1 pointed out that a rule change would be required if DOE was  
2 responsible for the operation and maintenance of the system.  
3 Also making DOE responsible for operating the LSS was  
4 objectionable to many of the negotiators of the original  
5 rule. To overcome this objection, NRC and DOE developed an  
6 alternative proposal. NRC's LSS administrator would serve  
7 as the contracting officer's technical representative for  
8 DOE's operation and maintenance contract for the system once  
9 it was designed and developed. However, by the end of 1994,  
10 DOE found that they could not support such an arrangement.

11 Later in a December 1994 Licensing Support System  
12 Advisory Review Panel meeting, DOE announced that it was no  
13 longer relying on INFOSTREAMS to meet the LSS requirements.  
14 Instead, DOE said it was considering use of a suite of  
15 software called the Licensing Data Management System as the  
16 basis for the LSS. However, even the extent to which DOE  
17 will use the Licensing Data Management System remains  
18 uncertain as DOE is also currently performing a make versus  
19 buy analysis on the LSS.

20 At the same December 1994 meeting, DOE staff also  
21 offered a new alternative to resolve operational and  
22 budgetary issues. This proposal called for NRC and DOE to  
23 negotiate and formalize an interagency agreement in which  
24 the NRC would be responsible for operating and maintaining  
25 the LSS and DOE would request funding for these

1 responsibilities in the Department's budget.

2 Organizational changes in DOE's repository program  
3 have also contributed to delays in the LSS program. In  
4 1994, DOE began a revised program approach for the entire  
5 repository program which included a reorganization of the  
6 Office of Civilian Radioactive Waste Management. During  
7 this same period, DOE transferred responsibility for the  
8 design and development of the LSS from its Office of  
9 Civilian Radioactive Waste Management in Headquarters to the  
10 Yucca Mountain site characterization office in Las Vegas,  
11 Nevada. Following this transfer, the Yucca Mountain site  
12 characterization office began a complete reevaluation of the  
13 LSS concept and implementation requirements. Additionally,  
14 the DOE staff with whom the LSS administrator originally had  
15 been working, were no longer responsible for LSS matters.  
16 During this change, virtually all lines of communication  
17 between the licensing support system administrator and DOE  
18 on LSS issues ceased for several months and had to be  
19 reestablished.

20 In addition, the time for designing and developing  
21 an LSS is short if the system is to be ready for DOE's  
22 license application submittal by the year 2001. A 1992  
23 preliminary NRC/DOE report noted that it normally requires  
24 about five years to procure, develop, implement and test a  
25 major automated system like the LSS. Therefore, if DOE were

1 to begin this process today, the system may not be ready  
2 until the year 2000. The report also noted that if the  
3 system is not developed on a schedule that makes it  
4 available for database loading four to five years before the  
5 submission of the license application, it is unlikely that  
6 the estimated 18 million pages of relevant material would be  
7 in the LSS system by 2001.

8           Moreover, the Nuclear Waste Policy Act of 1982  
9 mandates DOE to construct, operate, and permanently close a  
10 high-level radioactive waste and storage disposal facility.  
11 The Act requires NRC to issue a final decision on the  
12 issuance of a construction authorization for the high-level  
13 waste repository in accordance with applicable laws. This  
14 must be done within three years after DOE submits its  
15 construction license application. A one year extension is  
16 possible for justifiable cause. If NRC determines that  
17 these deadlines cannot be met, the NRC must report the  
18 expected delay and its reasons to Congress.

19           NRC's past experience indicates that meeting this  
20 deadline is very difficult. On average, NRC took five years  
21 to complete a typical reactor operating license hearing. In  
22 highly contested cases, NRC needed up to nine years to  
23 license a power reactor. The repository licensing is also  
24 likely to be a highly contested case involving a one-of-a-  
25 kind facility which will add to the complexity of the

1 hearing.

2 With that regard, our findings on these issues  
3 need to be presented to you now. First of all, NRC has not  
4 yet reached a resolution with DOE on the issue of when the  
5 LSS will be available to potential users. Specific time  
6 tables are not addressed in the LSS rule, although  
7 supplementary information indicates the Commission's  
8 anticipation that LSS participants will have access to the  
9 system well before DOE submits the license application.  
10 Additionally, the rule implies that the database must be  
11 fully loaded six months before DOE submits its license  
12 application under Subpart J of 10 CFR Part 2.

13 Additionally, NRC has not come to an agreement  
14 with DOE on the details of the respective roles of each  
15 agency for the LSS. Specifically, NRC has not agreed with  
16 DOE on the issue of who will capture and load LSS documents  
17 into the system. NRC has also not specifically defined the  
18 role it will play as overseer of or consultant to the design  
19 and development phase.

20 Another unresolved issue concerns funding for the  
21 LSS. As previously pointed out, the Commission stated that  
22 DOE must pay for all costs associated with the LSS,  
23 including operation maintenance. Although envisioned during  
24 the negotiation of the 1989 rule, NRC has not reached a  
25 formal agreement with DOE on this issue.



1           We also found that within NRC there are various  
2 groups that have LSS responsibilities. For example, the IRM  
3 staff includes the licensing support system administrator  
4 who is responsible for operating and maintaining the system.  
5 The Office of Nuclear Material Safety and Safeguards is  
6 responsible for necessary planning to meet the licensing  
7 time frame for the repository and will be a primary user of  
8 the LSS. Labot Anderson, Price Waterhouse are NRC  
9 contractors and have performed many tasks for the licensing  
10 support system administrator. NRC's federally funded  
11 research and development center, the Center for Nuclear  
12 Waste Regulatory Analysis, has also performed some tasks for  
13 the LSS. Other groups which are involved with the LSS  
14 include the Atomic Safety and Licensing Board Panel and the  
15 Offices of Nuclear Regulatory Research, the General Counsel,  
16 the Secretary and Commission Appellate Adjudication. As  
17 such, several key intraagency issues need to be resolved.

18           First, because various NRC units may possess  
19 documents which will need loading into the LSS, NRC needs to  
20 ensure that they have clearly delineated roles and  
21 responsibilities for the LSS. NRC also needs to ensure --

22           CHAIRMAN SELIN: With NRC agency --

23           MR. IRISH: Correct. NRC also needs to ensure  
24 that each group carries out these responsibilities in a  
25 timely manner. Many of these requirements are enumerated in

1 NRC Manual Chapter 0109, Organization and Function, Office  
2 of Licensing Support System Administrator. However, the  
3 manual chapter needs revision to reflect the current  
4 organizational structure and responsibilities.

5 NRC also needs to determine milestone dates for  
6 LSS loading and operation. NRC needs to determine what  
7 internal documents are relevant for input into the LSS and  
8 then begin segregating and formatting those documents.

9 Finally, NRC needs to ensure that it has  
10 adequately planned for internal funding requirements. As  
11 Commissioner Rogers noted, the Commission needs to fully  
12 determine LSS budgetary and staffing needs.

13 NRC is currently working towards resolution of  
14 some of these intraagency issues. However, much more needs  
15 to be done before DOE turns over the system to NRC for  
16 operation and maintenance. NRC needs to ensure that all  
17 offices are fully informed as to their roles and  
18 responsibilities with regard to the LSS. Additionally, NRC  
19 needs to ensure that licensing support system administrative  
20 responsibilities are met, including those outlined in the  
21 manual chapter. It is important these issues are addressed  
22 in a timely manner to help ensure the repository licensing  
23 actions by NRC are not unnecessarily delayed.

24 In summary, the LSS Program has stalled over the  
25 past five years primarily due to delays in the construction

1 license application schedule, personnel changes in DOE and  
2 NRC, changes in program direction and a lack of agreement  
3 over funding. Many of these delays may be attributed to a  
4 lack of a clear definition and agreement on the roles and  
5 responsibilities both between and within DOE and NRC. As a  
6 result, only six years remain in which to develop and  
7 implement an LSS prior to the scheduled repository license  
8 application date of 2001. Ironically, this is the same time  
9 period that existed in 1989 when the license application was  
10 scheduled for 1995. Accordingly, because of NRC's mandated  
11 role for a timely licensing proceeding, we believe NRC needs  
12 to take a strong, aggressive leadership role. We believe  
13 NRC, through the licensing support system administrator,  
14 should take the lead in obtaining resolution to  
15 longstanding, unresolved issues, including the development  
16 and finalization of a formal agreement with DOE. In our  
17 report, we recommend that to ensure that DOE and NRC  
18 understand and agree upon key interagency issues. The  
19 licensing support system administrator should obtain a  
20 formal commitment from DOE in the form of an interagency  
21 agreement or memorandum of understanding on key aspects of  
22 the LSS. At a minimum, such an agreement should include  
23 such items as the respective roles of each agency, funding  
24 and the LSS time table.

25 To ensure that NRC understands and resolves key

1 intraagency issues and requirements, the LSS administrator  
2 should develop a management plan for Commission approval  
3 that minimally includes items such as the roles and  
4 responsibilities of NRC staff in different offices,  
5 contractor support responsibilities and internal funding for  
6 the LSS. If, after a reasonable period of time, DOE and NRC  
7 cannot agree on key issues such as funding and timing or DOE  
8 cannot meet its LSS design and development responsibilities,  
9 the licensing support system administrator should develop a  
10 contingency plan for implementation of the LSS or reevaluate  
11 NRC's commitment to ensure that an LSS is available before  
12 submittal of DOE's license application.

13 In response to our audit report, the staff has  
14 agreed with our findings and recommendations and provided an  
15 action plan for implementing those recommendations. Of  
16 particular note, the Executive Director for Operations  
17 established a senior management team for the LSS to review  
18 the direction, roles and responsibilities and user needs of  
19 the LSS.

20 More recently, David Williams, the Inspector  
21 General, and I attended the most recent Licensing Support  
22 System Advisory Review Panel meeting held on March 22nd and  
23 23rd of this year. We presented a brief overview of our  
24 report's message, findings and recommendations and answered  
25 questions presented by the panel. We believe the report was

1 well received by all participants.

2 This concludes our presentation.

3 CHAIRMAN SELIN: Commissioner Rogers?

4 COMMISSIONER ROGERS: Well, I'm very glad that  
5 you've taken this on and dug into it the way you have. I've  
6 personally been very concerned about this whole status of  
7 the LSS for some time. Just a general comment. This is  
8 really a very sad history of bureaucratic bungling. One can  
9 only call it that between the two agencies. I'm not blaming  
10 any one person or any agency, but it certainly doesn't stand  
11 up to any kind of a look in terms of a credible operation of  
12 government functions. It's just absurd.

13 I wonder if in your examination of this whether  
14 you had any thoughts of perhaps what was the root cause of  
15 all this difficulty? You've pointed out the difficulties  
16 and solutions that need to be examined and so on and so  
17 forth. Do you have any sense of how -- I'm not trying to  
18 find out who shot John, but how could we somehow or other  
19 get to the root of what the problem has been here? The  
20 history on this is absolutely absurd. It is absolutely  
21 absurd. Did we contribute, for example, as a Commission in  
22 the position that we took in insisting that all the costs be  
23 borne by DOE, for example? Was that a contributing factor?  
24 I don't know.

25 But it seems to me that I'm not at all confident

1     that our doing things here to straighten out our in-house  
2     problems are going to ultimately lead to a solution. It  
3     will put us in good shape, but will it really lead to a  
4     solution of the problems with LSS if we don't understand  
5     where the stumbling blocks have come from that have allowed  
6     us to or gotten in the way from our really coming to just  
7     some kind of a sensible arrangement on this thing? I think  
8     we have to try to understand that because I think something  
9     dramatic needs to be done here. Not just our internal  
10    setting of our house in order. We have to do that  
11    obviously. I think we shouldn't be subject to a lack of  
12    organizational clarity on how to address responsibilities  
13    inside NRC. But if you stand back and take a look at the  
14    whole system from outside and you've got DOE and you've got  
15    NRC, I have an NRC point of view, of course. It seems to me  
16    we've been relatively stable in how we've addressed these  
17    things, but the situation in DOE over the last six or seven  
18    years has changed dramatically. People have changed,  
19    responsibilities have changed. The whole point of view of  
20    what kind of a system would be used has changed. We've not  
21    been consulted at critical times on this, as far as I can  
22    see.

23                 There's something terribly wrong here and I wonder  
24    if you have any thoughts as to how the broader question can  
25    be addressed of how to make sure that this thing ultimately

1 gets to do the job it has to do? Because it's clear that  
2 NRC by itself -- you say we have to take more leadership. I  
3 think that's probably right. But can we? Can we really  
4 take the leadership that's necessary to solve this terrible  
5 problem that has developed? I have my doubts. It's a  
6 shared responsibility here and I'm terribly concerned that  
7 we'll do whatever we can do and the problem will still be  
8 there that has to be solved.

9 MR. BARCHI: That's a very complex question. In  
10 looking at the chronology of events that have taken place  
11 over the number of years that we've looked at this, you can  
12 see -- and I will use your phrase because there has been a  
13 degree of bureaucratic bungling associated with this. My  
14 sense is that this has almost been viewed as a hot potato at  
15 times. It was kind of like, "You have it." "No, you have  
16 it." "No, you have it."

17 Frankly, what we're arguing for and seems to make  
18 sense is that unless and until we get our house in order  
19 it's awfully difficult to present a terribly convincing case  
20 to DOE that it needs to get on with affairs.

21 The second thing is -- if you ask us, we're going  
22 to tell you. I really think what needs to be done is that  
23 this needs to be resolved at a very senior level. We've got  
24 a lot of hard working, well-intentioned folks that are  
25 trying to push this stone up a very slippery slope.

1 Frankly, my concern is that each time they reach the top it  
2 kind of slides back down and it slides down because we have  
3 folks at a very senior level that may not be communicating  
4 as well as they need to be to bring resolution to some of  
5 these issues.

6 We were very pleased with the list of questions  
7 that went over to the Department of Energy, frankly. My  
8 sense is that those questions need answers and not the  
9 typical, "Let's dance around the issue." Let's really  
10 answer those questions because from those questions really  
11 flow hopefully what is needed to bridge this gap. My sense  
12 is that a very strong memorandum of understanding which  
13 really begins to define who's responsible for what is long  
14 overdue. Unless and until we have that in place, I'm afraid  
15 we're going to see much of the same grinding that we've seen  
16 in the past.

17 So, the bottom line is we need senior management  
18 to be involved, we need a clear definition of what needs to  
19 be answered and then we've got to start holding some  
20 people's feet to the fire to make sure these things do  
21 happen.

22 COMMISSIONER ROGERS: I'm not blaming staff  
23 because I think staff have been working very hard to try to  
24 come to something. But the whole philosophy, guiding  
25 philosophy behind this thing seems to have been jerked



1 around from here to there four or five times over the last  
2 half a dozen years. Partly we were responsible here at the  
3 Commission. The negotiated rulemaking that took place led  
4 to one approach that then somewhat got undermined, I feel,  
5 internally from within the Commission itself. That sort of  
6 fell apart and the Commission took rather strong positions  
7 on things. Should those positions be reviewed? Were they a  
8 contributor in some way? There is the question of the whole  
9 status of our funding, the fact that we have to get  
10 everything from our licensees these days. That didn't exist  
11 at the time that many of these discussions were taking  
12 place. That changes a great deal.

13 It seems to me that we have to try to really get  
14 at the key matters that really have to be decided and who  
15 the players are that are going to decide them. It's not  
16 only DOE and NRC, there's OMB in the picture. OMB has  
17 objected to certain possible solutions that we've offered in  
18 the past, but that has been a different OMB.

19 MR. BARCHI: Yes.

20 COMMISSIONER ROGERS: And so, you know, here you  
21 are. You've got all these players. They're not linked  
22 together. They have a different point of view.

23 MR. BARCHI: And a different agenda at times.

24 COMMISSIONER ROGERS: And a different agenda.

25 This is something that somehow -- I think you're absolutely

1 right. It's got to be dealt with at the highest level we  
2 can get it because somehow nothing stays glued together. It  
3 always just comes unglued.

4 MR. IRISH: I think in considering the  
5 recommendation on the memorandum of understanding or the  
6 interagency agreement that the elements that we're  
7 recommending are probably just as significant in that if  
8 there are milestones established in the agreement, you have  
9 a measure that you can go against. If those milestones  
10 aren't being reached, there's a red flag, communication goes  
11 on. You also have the responsibility that if you know you  
12 can't meet the deadline for the license application in the  
13 three or four year mandate, you have to notify Congress.  
14 That doesn't mean you have to wait until the year 2001 when  
15 the application comes in. If you know a year from now or  
16 two years from now nothing is going on, you're not going to  
17 have it, it doesn't say you can't go to Congress then and  
18 say, "We don't have what we need to do the licensing."

19 COMMISSIONER ROGERS: Yes, absolutely.

20 MR. BARCHI: We are particularly concerned with  
21 that point. As the British would say, at the end of the day  
22 we need to be in a position where we as an agency can say,  
23 "Here's what we did and here's a good faith effort at  
24 getting this thing resolved," because if and when it falls,  
25 we need to have our act together on this one.

1                   COMMISSIONER ROGERS: Well, if it falls, we will  
2 take it. We'll get it right on the head. Ultimately it  
3 will be held against us because it would be a key element in  
4 our ability to proceed with the licensing decision.

5                   MR. BARCHI: Certainly.

6                   COMMISSIONER ROGERS: That's the bottom line. So,  
7 it seems to me it is absolutely essential that we get this  
8 thing on track. I think it's absurd that it's gotten to  
9 where it is and I think it just has to get on track. I  
10 think there's been questions raised as to whether you really  
11 need an LSS right now by some people. I think our own staff  
12 will probably be talking to this a little bit later and I  
13 think they feel very strongly and what I've heard from them  
14 makes very good sense as to why we ought to have it in place  
15 right now. It's very important. Not the whole system, but  
16 at least something that we've defined and can work with to  
17 get some idea of how it's going to function and what kind of  
18 decisions have to be made in using it. Right now it's all  
19 theory. It's all speculation. It's all talk. Until you  
20 get some kind of a definite system that you have to start  
21 trying to use and see whether it's going to meet your needs  
22 and begin to ask yourself the critical questions of what  
23 decisions have to be made on what kind of documents are  
24 going to be put in there, really, not theoretically but  
25 really, that it's all talk. So far we have nothing to show

1 for years of effort here. Nothing as far as I can see.  
2 It's part of the general problem of the whole program that  
3 everybody is upset about.

4 Well, what can we do to get this thing, at least  
5 our part of it, on track. I think your report is very  
6 helpful, very important, and I hope we will be able to use  
7 your findings to come to some resolution on these issues  
8 that will have to be done at the highest levels of the  
9 agencies, I quite agree.

10 CHAIRMAN SELIN: Commissioner de Planque?

11 COMMISSIONER de PLANQUE: I certainly agree that  
12 we have to do whatever we can to hold up our part, to make  
13 sure that we've done everything possible and the last resort  
14 is notification to Congress that we're not going to make it.  
15 But there are a couple of other issues I think I'd like to  
16 hear more from you about. You mention a contingency plan.  
17 It's not all clear to me what you had in mind when you said  
18 a contingency plan as the alternative to going to Congress  
19 and throwing up our hands and saying, "We can't do it, we're  
20 not playing nice with DOE."

21 What did you have in mind?

22 MR. IRISH: The general thought as we looked at  
23 that was if, in fact, the LSS were to bottom out, what is  
24 NRC proposing to do in place of the LSS? Are we going to go  
25 to Subpart G and tell Congress we're going to have to do it

1 as a typical reactor licensing approach? Do we have other  
2 alternatives? We are familiar with some systems within the  
3 agency that have been developed as an interim step to allow  
4 the agency to do what it has to do. Is there an  
5 application? Can it be expanded? Can it be looked at? In  
6 particular, the one system we're talking about is TDOCs.

7 So, we're simply saying that if, in fact, we're  
8 not going to have an LSS or it looks like DOE is not going  
9 to be able to bring it on board, what contingency do we  
10 have, what are our plans or do we have to go to Congress and  
11 say, "We aren't going to have it and we're going to have to  
12 go to Subpart G?"

13 MR. BARCHI: Again with the idea of strategic  
14 planning, if we have an alternative here, for instance Russ  
15 just made reference to this TDOCs and I'm not all that  
16 terribly familiar with it, but what I'm hearing are some  
17 relatively positive things about it. Well, if, in fact,  
18 there's some technology out there that we can avail  
19 ourselves of, where is it and how do we position ourselves  
20 to use it?

21 COMMISSIONER de PLANQUE: I'm not sure that  
22 technology is the problem, but what about the funding aspect  
23 of it? That's an entirely different can of worms and how do  
24 you handle that as a contingency?

25 MR. IRISH: Again, I think as we look at this and

1 with all due respect we looked at this as being -- this was  
2 NRC's rule. NRC determined they needed to have the LSS in  
3 order to meet the licensing process. The funding decision  
4 that was made was made at the highest level and we're not  
5 attempting to second guess that decision.

6 COMMISSIONER ROGERS: Why not?

7 MR. IRISH: However --

8 CHAIRMAN SELIN: They're not policymakers.

9 MR. IRISH: Well, given the history, that may be  
10 something that you need to look at again. So, as part of  
11 your contingency -- we haven't defined it, only from the  
12 point that it's pretty obvious that all the eggs are in the  
13 basket if the LSS development through DOE were to fall  
14 apart.

15 COMMISSIONER de PLANQUE: Well, if you're on that,  
16 I had another point. So, go ahead.

17 CHAIRMAN SELIN: I think it's very important to  
18 understand what the issue is. At the end I'll tell you what  
19 a good job you've done and stuff, but this is Commissioner  
20 de Planque's point and I'd like to follow-up.

21 Number one, the problem is not getting a system  
22 which can accept documents and retrieve them. What we've  
23 tried to do -- since 90 percent of the documents are going  
24 to come from DOE and since DOE presumably will have these in  
25 a machine read form, not just readable but read form, but

1 we're trying to do is avoid having a stand alone NRC system  
2 where we would take all these documents and re-enter them.  
3 So, we're trying to save the ratepayers and the taxpayers  
4 the money by taking advantage -- maybe that was an unwise  
5 decision, but that's what's really been driving this thing.  
6 We can always find the technology. We can always say, "Give  
7 us the documents and we'll start scanning them." What we're  
8 trying to do is avoid scanning them twice, reading them  
9 twice, maintaining them twice. This is a \$50 million issue  
10 there. It's not trivial. So, we could have a contingency  
11 plan, but if it doesn't take advantage of what we think DOE  
12 is going to do anyway, we're just going to throw away an  
13 awful lot of money.

14 The second problem is we may be wrong about what  
15 we think DOE is going to do anyway. We've assumed they're  
16 going to all be on something like an INFOSTREAMS and that we  
17 could therefore find some technically acceptable way to get  
18 the same data, maybe even the same software, but make sure  
19 we have audit control of it.

20 The third thing is that it's not just getting  
21 documents and getting them out. What's missing, and  
22 something the whole agency forgot until Bill Olmstead came  
23 back, is we need the treatise to say, "Here are the 30 major  
24 issues that are going to come up in litigation and which  
25 documents are going to be needed for which of these issues?"

1 That's substantive work that we haven't done. I think it's  
2 clearly our responsibility to do this work.

3 So, when we talk about backups and stuff -- I  
4 guess the fourth issue is DOE is going to pay for this one  
5 way or another. They're either going to pay it out of their  
6 budget or they're going to pay it by our taking money out of  
7 the high-level waste fund. So, it sounds a little bit like  
8 it's an issue of whether DOE or NRC pays for it. It's not  
9 that. The issue is how can we keep the total cost to the  
10 government to a minimum rather than how do we split up these  
11 high costs?

12 MR. BARCHI: Right.

13 CHAIRMAN SELIN: So, when talking about backups  
14 and alternatives, I think the backup is how do we avoid or  
15 are we unwise trying to avoid entering the data twice rather  
16 than can we find some technology to maintain the files.  
17 That's the least of the three problems. The data entry and  
18 the intelligence, the trees, what Commissioner de Planque  
19 calls CDTs 2, the tracking the issues. Those are the two  
20 big issues. You've pointed out we haven't done our job on  
21 coming to solutions to these issues.

22 MR. BARCHI: We couldn't agree more with your  
23 analysis. One point though that we do need to keep in mind,  
24 since 1989 we've spent over \$4 million of monies that -- and  
25 the question is what do we have to show for it.



1           CHAIRMAN SELIN: In that respect, I think  
2 Commissioner Rogers' remarks are probably understated.

3           MR. BARCHI: Yes. I would agree.

4           COMMISSIONER de PLANQUE: Well, I would agree with  
5 that analysis too. The bottom line is to prevent doing  
6 double work here. That's the cost issue at hand.

7           The other thing I would like to ask you more about  
8 is this is a "two to tango" problem. It's us and DOE and no  
9 matter what we do, we can't solve the problem totally  
10 ourselves. Would you have anything more to offer in terms  
11 of suggested either carrots or sticks to make that  
12 relationship work better?

13          MR. IRISH: Again, I think if we go back to  
14 looking at the history, and I think this is part of what  
15 happened, without having a firm memorandum of understanding,  
16 without having firm commitments that are there without  
17 having a clear understanding of what is our role that while  
18 DOE is designing and developing it how much oversight do we  
19 have, how much do we have that we can say, "Stop, we don't  
20 need that bell or whistle," or, "Hey, wait a minute. We've  
21 got some concerns in that area." When you look at DOE --  
22 and recognize we do not audit DOE. So, we only have  
23 anecdotal information. But they start with SAIC and what  
24 they did. That gets transferred into the INFOSTREAMS  
25 system. That gets transferred into this new database

1 system. I'm not sure really where they are.

2 So, with the starts and stops, the switch from  
3 Headquarters out to Yucca Mountain, the people out there  
4 doing a complete reevaluation of the entire process at the  
5 meeting we were at back in March, getting into questioning  
6 words in the rules and what they mean and having to  
7 renegotiate the rule rather than just simply using some  
8 common sense or coming up with a document which will define  
9 what do we mean by this, there's an awful lot of things of  
10 that type going on that at this stage in my opinion  
11 shouldn't even be happening. You wonder why are those  
12 questions being asked now. But all that needs to get out on  
13 the table up front, get resolved and move ahead.

14 MR. BARCHI: There's another piece to this that's  
15 intrigued me from day one and that is the role of industry.  
16 One of the things that we've heard in attending the  
17 LSSARP -- I'm great on acronyms -- was the industry's  
18 representative there and listening to his comments about a  
19 level of frustration. In fact, I think at this more recent  
20 one, while I wasn't there, what I understand is that he came  
21 back a couple of times and pointed out these were questions  
22 that they had been dealing with for lo these many years.

23 Industry is paying for this, as the Chairman has  
24 rightfully pointed out, and you've got to believe that  
25 there's a level of frustration on their part as well.

1           So, to answer your question, Commissioner de  
2 Planque, I wonder if there isn't a way that industry can do  
3 more perhaps in its role and certainly in working with DOE  
4 to cause this sense of urgency and, as Russ has alluded to,  
5 to come to some awfully fundamental questions, recognizing  
6 they're difficult to grapple with, particularly when you  
7 have two government bureaucracies at work here. But  
8 nonetheless, there is a common ground here and industry  
9 certainly shares that level of frustration. Is there a way  
10 to build off of that? I don't know. I'm kind of  
11 brainstorming with you as we sit here this morning. But I  
12 just wonder if there isn't more that they can be doing.

13           I definitely underscore what Russ is saying. I've  
14 seen government at its worse and at its best over the years.  
15 This one really is a fascinating study in how do we kick the  
16 football back and forth. It's time for us to say, "That's  
17 it. Here it is. Here's what we're going to do. The train  
18 is leaving the station."

19           COMMISSIONER de PLANQUE: Yes. Thank you.

20           CHAIRMAN SELIN: First of all, I haven't been very  
21 much involved in this program and I've sort of assumed that  
22 the ball was in DOE's court and your report has served an  
23 excellent function as a wake-up call that says, "We've got  
24 our stuff that we have to do," and not just assume it's  
25 DOE's job.

1           I would like to frame the issue. The first point  
2   is -- I've already said it. You've made it sound like the  
3   question was whether we were going to pay or DOE was going  
4   to pay. The real question is whether we're going to do one  
5   data entry function which is \$50 million of data entry or  
6   two data entry functions. So, we have tried to reduce the  
7   total cost to the ratepayers, maybe unwisely, and so we  
8   don't need a memorandum of understanding with DOE. We can  
9   just treat them as an applicant and say, "Okay, here are the  
10   specs. You want your application done. You give us all  
11   this data in this form. We'll do it. We'll charge you for  
12   the money." It seems sort of outrageous to be in that  
13   position, but if we are in that position we could do that.  
14   I mean, that's our back-up.

15           Our back-up is not some kind of a compromise. Our  
16   back-up is just to treat them as an applicant and ignore the  
17   fact that we are then wasting a third party -- a huge amount  
18   of a third party's money. And maybe we've been unwise in  
19   trying to come up with a compromise that would cause that  
20   not to be repeated.

21           We have a lot of work to do in addition to  
22   organizational work in figuring out what the issues are,  
23   what the trees are. That's our job. That's unequivocal.  
24   That's not DOE's job. That's our job to figure out what the  
25   issues are and what are the characteristics of the documents

1 to support these issues.

2 It seems to me we have three options at this  
3 point. The first is to continue to work with DOE and say  
4 we're not going to throw away the ratepayers' money,  
5 therefore if you want an application you will be required to  
6 give us the data and the software to use that data to which  
7 we can add the other 10 percent documents. That's probably  
8 the best position. Unfortunately, the rule doesn't allow us  
9 to say that. The rule does not let us say we can't process  
10 the application if we don't get the system from DOE, but it  
11 is an alternative and it's one that would have to be sealed  
12 by a memorandum of understanding.

13 The second alternative would say, "Well, we're  
14 just not going to do anything until you give us this  
15 information." We probably can't quite do that.

16 And the third we'll say, "Okay, it's an  
17 application. We are now going to turn off our sensitivities  
18 to what we think is the common interest, the funding  
19 efficiency of the program. We're going to build a system  
20 and we're going to bill you for the system. We're going to  
21 forget that you're then going to rebill the industry for  
22 that system and we'll waste \$50 million to \$75 million over  
23 what could have been done if we'd achieved a memorandum of  
24 understanding.

25 Those are unpalatable alternatives and it seems to

1 me it's incumbent on us to, A, get our house in order, as  
2 you have suggested and, B, make it clear to DOE and the  
3 general public that we are still open for compromise. But  
4 in the absence of compromise, at some point we can't go to  
5 the Congress and say, "We didn't do all that was available  
6 to us," so we did it and that would push us to a very  
7 undesirable alternative, namely to duplicate not just the  
8 building of the system but the huge cost of operating two  
9 systems in parallel.

10 Thank you very much.

11 Now, having set that standard, we'd like to hear  
12 what the staff has to say.

13 Again, it's a very useful service you've done.  
14 It's a real wake-up call to say we have our own work to do  
15 as well.

16 Mr. Thompson?

17 I think we could have picked an item which our  
18 performance was a little better for all the employees'  
19 daughters who are coming in to see how government really  
20 works.

21 MR. THOMPSON: Yes, I think so.

22 Thank you, Mr. Chairman.

23 I too would like to thank the IG for the fine  
24 report. They've really covered in very elaborate detail the  
25 histories. In my own view, the issue that has been the most

1 difficult for us to deal with is the budget issue where we  
2 have made proposals and found those to be not acceptable to  
3 OMB and to DOE at the same time. Then we came lulled into  
4 kind of inactive status which led us to the state that we're  
5 in today.

6 The IG report was extremely helpful in focusing on  
7 the now is the time to be more proactive. We certainly  
8 intend to be more proactive in that area. We thank the  
9 Commission for your assistance recently in sending the  
10 letters to DOE because I think they are a key player, as  
11 Commissioner de Planque says. Right now it is at least a  
12 two party effort to go forward. We believe DOE, quite  
13 frankly, is much more receptive today than they have been  
14 many times in the past and we are very encouraged by their  
15 efforts today. Hopefully we don't get into line dancing  
16 with the achy breaky and going sideways and backwards and  
17 forwards again. So, I do hopefully --

18 CHAIRMAN SELIN: If that simile is supposed to  
19 clear things up for us --

20 MR. THOMPSON: Well, the country junction is a  
21 little bit over --

22 But in any event, the EDO did establish a senior  
23 management team which reflects the key offices that are  
24 involved with respect to the follow-up and we're doing a  
25 serious reevaluation of what we really see the LSS role and

1 function is for this agency as well as how it assists the  
2 program offices and the Office of General Counsel and other  
3 activities that we have. Today, the members of the senior  
4 management team who are doing that review are here. We're  
5 prepared to respond to questions and I'd like Moe, who is  
6 the LSS administrator, to walk us through the staff's  
7 response to the IG's audit, which I do think was a very  
8 valuable effort on their part.

9 CHAIRMAN SELIN: Mr. Levin?

10 MR. LEVIN: Good morning, Mr. Chairman,  
11 Commissioner de Planque, Commissioner Rogers. I want to  
12 thank you for the opportunity to present our current LSS  
13 activities that relate to the Inspector General's audit  
14 report. During this presentation, I'll respond to the  
15 Inspector General's recommendations and also highlight the  
16 activities of the newly created LSS senior management team.

17 I'd like to start off by saying that we think the  
18 timing of the Inspector General's audit was helpful because  
19 it highlighted concerns that the staff has been discussing  
20 for some time. In general, we feel the report is fair and  
21 accurate and we agree with its findings and conclusions. We  
22 also believe that the chronology included as Appendix 2  
23 accurately reflects the significant events and  
24 communications that have transpired since 1986. The report  
25 correctly characterizes the issues that have impeded LSS



1 implementation and we want to recognize the contribution  
2 made by this audit and its positive approach in highlighting  
3 those issues.

4 At the LSS Advisory Review Panel meeting last  
5 month in Nevada, Dave Williams and staff from OIG presented  
6 a summary of the conclusions and recommendations detailed in  
7 the audit. In the remarks they stated that, "If DOE does  
8 not meet its LSS requirements under the rule, NRC cannot  
9 meet its requirements." And that, "If after a reasonable  
10 period of time DOE and NRC cannot agree on key issues or DOE  
11 cannot meet its LSS design and development responsibilities,  
12 NRC should develop a contingency plan for implementing the  
13 LSS or reevaluate NRC's commitment to ensure that an LSS is  
14 available before submittal of DOE's license application."

15 We think this message is straightforward and was  
16 clearly understood by all who attended that meeting. It's  
17 an important statement because it also echoes the feelings  
18 of the staff about the current situation with the LSS.

19 The theme of the audit report is that NRC needs to  
20 provide strong direction for the LSS. I believe we've shown  
21 strong leadership over the years as changes have occurred at  
22 both DOE and NRC. We've recommended new approaches to the  
23 LSS design which would have identified opportunities for  
24 cost savings by reuse of DOE technologies. We've worked  
25 with DOE and other potential parties to the licensing at

1 every turn in order to develop a workable LSS compliance  
2 assessment plan that would ensure a viable LSS. But even  
3 the strongest leadership must have an environment conducive  
4 to success and creating a more stable environment is an  
5 objective we have for the near term.

6 The three recommendations from the Inspector  
7 General's report reflect our strategy for fostering this  
8 stability. In fact, even as the Inspector General's audit  
9 was being conducted, we were working on a memorandum of  
10 understanding between NRC and DOE that we hope will go a  
11 long way toward clearing up confusions and unresolved issues  
12 such as the implementation time table, the funding mechanism  
13 and the technological approach to the LSS design.

14 Before detailing the steps that we are taking  
15 related to the Inspector General's report, I'd like to say a  
16 few words about possible legislative change. Everyone  
17 involved with the LSS has recognized the potential for major  
18 legislative actions during this congressional term.  
19 Everyone also recognizes that the prospects for  
20 congressional action range from major schedule, funding and  
21 prioritization changes such as those envisioned in the  
22 Johnston bill, to no action being taken at all. While these  
23 changes may be dramatic and fundamental, the NRC cannot sit  
24 back and take a "wait and see" approach. So, we're moving  
25 ahead to respond to the Inspector General's recommendations

1 without any contingency based on the outcome of legislation.  
2 We're also not reducing the intensity of our efforts to  
3 bring all existing LSS issues to rapid closure.

4 The Inspector General's report recommends that NRC  
5 obtain a formal commitment from DOE in the form of an  
6 interagency agreement or a memorandum of understanding that  
7 covers the respective roles of each agency, funding  
8 mechanisms and a time table for the LSS. DOE proposed a  
9 memorandum of understanding to the NRC in 1992. Using that  
10 as a base, we drafted a new version containing language  
11 intended to nail those issues down. This draft was given to  
12 DOE and we've been discussing its contents and how to  
13 finalize it. Some of the elements we are discussing include  
14 the details of the fund transfer that does not affect the  
15 NRC budget cap and a detailed time table with milestones to  
16 track progress against.

17 The Inspector General's report also recommends  
18 developing a management plan to address tighter coordination  
19 and integration of the roles and responsibilities of offices  
20 within NRC. As a result, we established an LSS senior  
21 management team on March 20th of this year. This team  
22 consists of me, Mal and Bill Olmstead and is supported by  
23 staff from SECY, IRM, NMSS, OGC and EDO. We will also  
24 invite other offices that have a vested interest in the LSS  
25 to provide input if they so desire. In conjunction with

1 this recommendation, we have also committed to update NRC  
2 management directive 9.9 which details the responsibilities  
3 of the LSS administrator.

4 The Inspector General's report makes a third  
5 recommendation, that we develop a contingency plan for  
6 implementation of the NRC or that NRC reevaluate its  
7 commitment to ensure that the LSS is available before the  
8 submittal of DOE's license application. Specific  
9 contingency plans will be an outgrowth of the senior  
10 management team activities. For example, in the development  
11 of the memorandum of understanding, we will identify  
12 milestones that we believe are necessary to bring the LSS  
13 on-line in time to be of value to the licensing process. We  
14 think of these milestones as triggers. When one isn't met  
15 it will single an event that means we have to take  
16 corrective action. For each trigger we will define possible  
17 corrective actions to take when the event occurs. Obviously  
18 these triggers will be adjusted on an ongoing basis in light  
19 of changes resulting from legislative actions or changes in  
20 DOE activities and plans.

21 Moving away from the Inspector General's report,  
22 I'd like to take this opportunity to report on the  
23 activities of the senior management team to date. The  
24 team's goal is to provide senior-level direction for the LSS  
25 program, including a reevaluation of the purpose of the LSS,

1 the role of the LSS administrator, and the roles of the  
2 offices that are involved in the licensing of the high-  
3 level waste repository. The team's first task, which we are  
4 currently undertaking, is to reevaluate the viability of the  
5 LSS concept, given the current high-level waste repository  
6 licensing environment. This activity also coincides with  
7 the Commission's direction to begin a comprehensive  
8 examination of agency functions and activities similar to  
9 the suggestions made by the National Performance Review  
10 Phase II.

11 COMMISSIONER de PLANQUE: Before you go on, is  
12 there really a question about the purpose of the LSS? Is  
13 that really --

14 MR. OLMSTEAD: I don't think there's a question in  
15 the rule, but I think there's a question in the minds of  
16 people that are involved in it that's different from what  
17 was conceived at the outset.

18 COMMISSIONER de PLANQUE: Meaning within NRC or in  
19 NRC and DOE?

20 MR. OLMSTEAD: I think within NRC and even,  
21 although we haven't heard from DOE yet based on what I'm  
22 being told, I think they've completely lost what the purpose  
23 of it was.

24 COMMISSIONER ROGERS: I think that's a very  
25 important point.

1 COMMISSIONER de PLANQUE: Lost it or have decided  
2 it should be different?

3 MR. OLMSTEAD: I think they've lost it.

4 COMMISSIONER ROGERS: Yes, well, that's different.  
5 That's what happens when people change and organizations  
6 change and nobody remembers how they got to where they are.  
7 But I think this question of whether NRC itself within NRC  
8 sees the purpose as fundamentally different -- obviously  
9 there's been some evolution of our thinking on this as time  
10 has gone on when we've been thinking about it and so forth.

11 MR. OLMSTEAD: Well, the environment has changed.

12 COMMISSIONER ROGERS: But the basic purpose of it,  
13 has that changed? Is there any thinking within NRC that the  
14 basic purpose of --

15 MR. OLMSTEAD: The original purpose was to get it  
16 on-line in 1993, meet a three year licensing schedule and  
17 avoid the costs associated with independent spent fuel  
18 storage.

19 COMMISSIONER ROGERS: No, that's not the purpose.

20 COMMISSIONER de PLANQUE: No, no, no.

21 MR. OLMSTEAD: That was the objective.

22 COMMISSIONER ROGERS: Those are objectives.

23 MR. OLMSTEAD: I'm sorry. The objectives --  
24 you're right. Those were the original objectives and the  
25 purpose fell from that was that we were going to have an

1 issue tracking system with all the parties' documents in one  
2 place so that we could eliminate the 18 month to 24 month  
3 discovery phase of traditional licensing adjudication.

4 COMMISSIONER ROGERS: Has that changed?

5 CHAIRMAN SELIN: Wait a second. Bill didn't say  
6 it exactly right. It's not just that the documents in one  
7 place, that they should be retrievable.

8 MR. OLMSTEAD: Yes and be relevant.

9 CHAIRMAN SELIN: Right. What was missed is we  
10 ended up with a document storage and retrieval system and we  
11 forgot that you have to identify the issues and the  
12 selection criteria.

13 MR. OLMSTEAD: Right. Exactly. I mean there is  
14 no way in the litigation to handle 16 million documents.

15 MR. THOMPSON: Yes, I think that's the key, is the  
16 concept of people now having to go through millions and  
17 millions of documents to be able to understand the part of  
18 the discovery I think is probably expanded beyond what the  
19 staff originally expected to have. We obviously understood  
20 our own documents and the license application and our  
21 ability to process and review that promptly was going to be  
22 greatly enhanced by having an LSS or an electronic document  
23 handling system which we still need today. We still, in  
24 fact, have a system at the center that's been developed that  
25 allows us to have some of our documents electronically

1 available today for our own review activities and our own  
2 review research.

3 COMMISSIONER ROGERS: Well, my recollection was  
4 that when we first started talking about this we were  
5 talking about 40 million pages of documentation.

6 MR. OLMSTEAD: Yes.

7 COMMISSIONER ROGERS: And everybody said, "Well,  
8 the only way you can do that is with some kind of computer  
9 system." That was the first thinking, where to put it. You  
10 can't have 40 million pages in file cabinets. You've got to  
11 have some other way of getting at this and so on. So, then  
12 you had to have a computerized storage system. Then the  
13 question was, "Well, how do you get it out easily?" That  
14 was a lot of discussion and it wasn't until somewhat later  
15 and always unresolved, what do you really put in there?  
16 What are the controls on what really goes in there so that  
17 every piece of paper that anybody possibly thinks is  
18 relevant doesn't clog up the system?

19 MR. OLMSTEAD: The rule is very clear that every  
20 piece of paper doesn't go in there. But one of the things  
21 that everybody wanted to do was get the number down by the  
22 use of the system so that people weren't generating  
23 independent of the system lots of documents that you had to  
24 deal with.

25 COMMISSIONER ROGERS: I think the point that I was



1     trying to make was it seemed to me that we never really came  
2     to grips, we always postponed that, as to how we would  
3     define what would go in and what wouldn't go in. We knew  
4     that everything wouldn't go in, but how do you really define  
5     that? What are the criteria? A lot of thrashing around on  
6     it and it never really got resolved.

7             MR. OLMSTEAD: I think that that's somewhat fair.  
8     The reason for continuing the advisory committee was that as  
9     they got the system up and prototyped it, the thought was  
10    they could come to grips with that.

11            COMMISSIONER ROGERS: I think that's right. I  
12    think it's an evolutionary process. I'm not being critical,  
13    I'm just saying I think that's reality. But it never really  
14    did get settled. But then other things started coming in.

15            MR. OLMSTEAD: But I would point out that one of  
16    the things that didn't come to fruit that I had hoped would  
17    come to fruit was that people would start cooperating with  
18    one another.

19            COMMISSIONER ROGERS: Yes.

20            MR. OLMSTEAD: In a litigation, I have to know  
21    what the State of Nevada's documents are every bit as much  
22    as I have to know what DOE's documents are and DOE has to  
23    know that too.

24            CHAIRMAN SELIN: And it's not just cooperating.  
25    You're going to have a question that comes up that says,

1 "How did DOE decide that the Ghost Dance Fault was not a  
2 problem?" They made that decision in 1991.

3 MR. OLMSTEAD: Right.

4 CHAIRMAN SELIN: So either you can go through two  
5 years of discovery and everybody trying to remember, or you  
6 can start putting the documents today that are earmarked for  
7 the issue today. So, it's not just a question of having a  
8 mechanical way of -- you have to define the issues and the  
9 people who are working the project today have to start  
10 cooperating today or the system cannot do its principal --

11 MR. OLMSTEAD: Exactly.

12 COMMISSIONER de PLANQUE: But are we saying that  
13 this wasn't envisioned from the outset?

14 MR. OLMSTEAD: It was envisioned from the outset  
15 but I'm saying that over the time --

16 COMMISSIONER de PLANQUE: It's been forgotten.  
17 It's not that the purpose has changed, it's that you've lost  
18 sight of where you're going.

19 COMMISSIONER ROGERS: Yes, I think that's the  
20 point.

21 MR. LEVIN: People have changed and it wasn't  
22 explicitly stated in the rule and people were looking at the  
23 rule as the Bible and the rule is really kind of an overall  
24 general guidance as far as the system is concerned. Bill  
25 was one of the original negotiators of the rule and came up

1 with the concept of the LSS and it always --

2 MR. OLMSTEAD: But we didn't put a lot of that in  
3 the rule.

4 COMMISSIONER de PLANQUE: No.

5 MR. OLMSTEAD: The only thing that's in the rule  
6 is the discovery stuff.

7 COMMISSIONER ROGERS: But I think the point that  
8 Commissioner de Planque raised is really has anything  
9 fundamentally changed in the purpose of the LSS in our  
10 thinking or anyplace? I'm not talking about timing, but the  
11 fundamental purpose. My sense is it has not.

12 MS. CYR: I don't think so. From a lawyer's  
13 standpoint, in terms of what we always envision in terms of  
14 the process of the litigation and what we need to do at that  
15 point, how to be able to track issues, I think -- I mean  
16 we've sort of kept the religion here in terms of what we  
17 think the system needs to be done. I think we've maybe  
18 just, because there's been changes in personnel on all sides  
19 and stuff, it --

20 COMMISSIONER ROGERS: But I think you have to go  
21 back to that and say, "What is it we really thought this was  
22 supposed to do and do we still believe that?" My  
23 understanding is we do. The details have changed a little  
24 bit and so on and so forth, but I think it's necessary to  
25 reaffirm that apparently because there shouldn't be any

1 question about whether we feel differently about the need  
2 for an LSS. My sense is we don't feel any differently today  
3 than we did seven or eight years ago about the need for the  
4 LSS. The form, the constraints on it, all these things have  
5 to come out of a refinement process, but the basic  
6 fundamental conclusions that we came to, that led to the  
7 rule have not changed in my view.

8 MR. THOMPSON: And that's why we wanted to  
9 reevaluate and reaffirm that position or if there were some  
10 new development --

11 COMMISSIONER ROGERS: Right.

12 MR. THOMPSON: -- that we needed to bring to the  
13 Commission, that's what we established the senior management  
14 team for.

15 CHAIRMAN SELIN: This is the prodigal task  
16 statement really. When Bill was outside the agency, when we  
17 had different folks running the LSS program, if you'd asked  
18 a year and a half ago what the mission was, it was to get  
19 the documents in and be able to treat them. Although as of  
20 today we're back to the original statement, I do think that  
21 we and certainly DOE have lost track of the --

22 MS. CYR: I think people focused on the mission at  
23 hand. As you were moving to try to get it implemented, you  
24 looked at what was your task at hand and unfortunately that  
25 task just kept stretching out so that that became the

1 description of what it was was your focus.

2 MR. OLMSTEAD: But I do think when you get to the  
3 cost issue that while I agree that the need is there, no  
4 matter how you do the litigation you've got to do this task,  
5 and in today's space you're going to do it in an automated  
6 way, although if you do a big antitrust case today there are  
7 different techniques than what we were using in 1988 when we  
8 negotiated the rule, you still do it. You do an automated  
9 system, you do document retrieval and that sort of thing.  
10 But the schedules now and the people involved in the type of  
11 discovery you're going to have are now different than they  
12 were at the time we negotiated the rule. I don't know what  
13 that means necessarily, but I do know that we thought we  
14 were going to have to start using this in 1993 and by now  
15 we'd be right up against the license application. Those  
16 times now are much longer than they were before and it does,  
17 I think, say it's appropriate now for us to look at whether  
18 or not we want to redesign this thing to recognize these  
19 different schedules and different assumptions. If I had my  
20 druthers, we'd still have it on-line.

21 MR. LEVIN: Following up on what we've just  
22 discussed, as a result of our discussions of this question  
23 about the purpose of the LSS and reevaluating, we were able  
24 to crystalize the rationales and conditions for success that  
25 underlined the need for the LSS as they were originally

1 presented in SECY-89-027, which detailed the final  
2 rulemaking on the licensing support system for the high-  
3 level waste licensing proceeding.

4 That paper stated that the uses of the LSS in the  
5 licensing proceeding were:

6 One, to provide for a timely review of the LSS DOE  
7 license application by eliminating the most burdensome and  
8 time consuming aspect of the current system of document  
9 discovery;

10 Two, to eliminate the equally burdensome and  
11 numerous FOIA requests for the same information that both  
12 NRC and DOE will surely receive before and after the  
13 application is filed;

14 Three, to enable a comprehensive and early  
15 technical review by the DOE and NRC staff of the license  
16 application and supporting materials;

17 And four, to provide for the electronic  
18 transmission of filings during the hearing.

19 Along the way, the team also identified two  
20 additional advantages of the LSS beyond those I just  
21 mentioned. One was that the negotiated rulemaking requires  
22 that all parties to the proceeding enter their documents  
23 contemporaneously in the LSS, everybody giving NRC early  
24 insight into their possible contentions and greatly reducing  
25 the possibility of a party introducing new evidence late in

1 the process.

2 The other was that, as we just discussed, although  
3 it was not explicitly stated in the rule, the LSS was  
4 originally intended to provide a mechanism for capturing the  
5 decision making process, so that not only DOE and NRC  
6 decisions, but their technical and logical basis can be  
7 immediately retrieved, thus reducing the time it will take  
8 to reconstruct how the decision was made.

9 CHAIRMAN SELIN: I don't agree that that wasn't in  
10 the rule. It wasn't explicitly recognized.

11 MR. LEVIN: It wasn't explicitly --

12 CHAIRMAN SELIN: But when you say we're going to  
13 automate the discovery process, that's the essence of  
14 discovery.

15 MR. LEVIN: Since it wasn't spelled out in  
16 excruciating detail, people have not interpreted that or  
17 made that inference unfortunately.

18 The senior management team is concerned that these  
19 benefits that we discussed may be lost if the LSS is not  
20 available until 1999.

21 The LSS senior management team also believes we  
22 can't complete our evaluation of the current viability of  
23 the LSS and prepare a recommendation for the Commission  
24 without knowing the answers to a number of questions. These  
25 questions were transmitted to DOE and we expect them to be

1 answered at the upcoming briefing by Dr. Dreyfus in May.  
2 These questions were developed in part to help the  
3 Commission consider whether to continue the LSS as presently  
4 envisioned and, if so, under what conditions, or whether to  
5 propose a fundamental rethinking of the concept considering  
6 the substantial changes in assumptions related to the timing  
7 of the licensing proceeding.

8           The questions were also developed to ensure that  
9 DOE was aware of the issues that the staff has identified  
10 related to current efforts to implement the LSS. Our  
11 objective is to complete the evaluation of the viability of  
12 the LSS concept in time to give our recommendations to the  
13 Commission in early June. If, after considering our  
14 recommendations, the Commission's guidance is to continue  
15 with the development and implementation of the LSS as  
16 envisioned. Knowing what DOE intends to do, knowing what  
17 the internal NRC constituencies expect and getting those two  
18 objectives in sync are essential to putting the LSS back on  
19 track and keeping it there. We will therefore concentrate  
20 on finalizing an MOU to memorialize those intentions,  
21 commitments and allocations of responsibilities. This will  
22 also prevent future confusion and will be a stabilizing  
23 factor when new players become involved in the future.

24           If and when congressional action occurs, the MOU  
25 will also assure that NRC and DOE can modify approaches,



1 plans, schedules, milestones and funding from a conformed  
2 position rather than from two individual and sometimes  
3 divergent positions. Thank you.

4 CHAIRMAN SELIN: I'd like to discuss the MOU, but  
5 I have a question first. That is, are we proceeding with  
6 this litigation analysis of what the issues are likely to be  
7 and what are the characteristics of documents that will be  
8 necessary to support these issues?

9 MR. OLMSTEAD: Well, that's one of the things that  
10 we've talked about. We're not -- kind of waiting until we  
11 see where DOE is with respect to the response of those  
12 questions to finalize that. It seems to me there are some  
13 basic questions you have to answer on schedules and time  
14 frames of when this is --

15 CHAIRMAN SELIN: Before you decide whether that's  
16 worthwhile --

17 MR. THOMPSON: But the staff is, as I mentioned to  
18 you the other day, identifying these key technical  
19 uncertainties and those are the focus of, I think, the  
20 primary ones that we would identify initially as the  
21 decision process, the information available on those issues  
22 and how those issues are resolved in a timely fashion and  
23 our concerns with respect to those resolutions would be the  
24 types of issues that we, I think, would likely have high on  
25 our list. There may be some others, but those would clearly

1 be the types that we would see the initial focus of our  
2 efforts being included in the system.

3 CHAIRMAN SELIN: When you come to the MOU, my  
4 discomfort with the earlier version of the MOU was that it  
5 was purely procedural and I think there's some substantive  
6 issues that have to be agreed. Not only will DOE have a  
7 system to capture the documents, but what will it be? If  
8 they don't commit to a particular design and a particular  
9 schedule, if they just say, "Trust me, we'll give you the  
10 documents by a certain date," I don't think we can count on  
11 that. So, it seems to me the MOU has to not just have  
12 assurances from their side that they will, in fact, have an  
13 automated system and so many documents entered by such and  
14 such a date, but they've got to tell us what it is, what the  
15 technology is or at least undertake to give us that  
16 information in a timely fashion. Otherwise we can't really  
17 figure out if we can use their already scanned file or if  
18 we're going to have to do that independently.

19 The second, to me the most tricky issue is how do  
20 we work out this litigative analysis so that even today they  
21 start identifying documents and issues as they make their  
22 technical decisions today because if the documents are not  
23 identified until the system is ready in 1999 or the year  
24 2000, we will not have shortened the discovery process  
25 appreciably. We will have automated it, but it will still

1 be a question of get all the documents and let's look and  
2 try to remember which ones you used.

3 MR. OLMSTEAD: Originally that was the topical  
4 guidelines.

5 CHAIRMAN SELIN: Exactly. Exactly. And as much  
6 as I'd like to say we've never wavered, we really did lose  
7 track of those topical guidelines. There's a lot to be made  
8 up and somehow the MOU, in my opinion, has to address not  
9 only will you automate but how will you automate. Secondly,  
10 how are we going to get these topical guidelines done in a  
11 timely fashion so that as DOE's decisions today, tomorrow,  
12 the next day get made, that there's some kind of  
13 documentation of these decisions. Otherwise, the discovery  
14 will be disastrous and you're talking about 18 years, not 18  
15 months to process the application.

16 I'm very pleased with -- I mean it's way overdue  
17 and all that, but I'm very pleased both with the report and  
18 the reaction to the report. I think the key decision really  
19 is can we go on the same path of specifying and depending on  
20 DOE to provide both the scan documents and the software to  
21 maintain them and to add them or are we going to have to do  
22 some kind of terribly, terribly costly, duplication? Not  
23 only duplication, but you'll end up in a synchronized system  
24 where we have one version of a document and they have a  
25 different version of a document and which one is really

1       evidential is -- that would be quite unsatisfactory.

2                   Commissioner Rogers?

3                   COMMISSIONER ROGERS: Well, I think I'd like to  
4 pick up on that point that the Chairman has been making  
5 because I think that it's a very important point, but I  
6 think there's something else that is related to it that's  
7 very important. I think that it is very important that this  
8 system not be able just simply to capture the decision  
9 making process at some later -- for use at some later date  
10 because I think the discipline of deciding what has to go  
11 into document the capture of the decision making process  
12 will, in fact, influence the decision making process. These  
13 are not independent of each other. So, you don't want to  
14 wait until ten years from now to figure out how the decision  
15 making process was conducted, but right now is important to  
16 define that process and the discipline of deciding what's  
17 going to be entered into the computer system is going to be  
18 a very important driver on what the process is itself.  
19 Those two are connected to each other. One affects the  
20 other. That's why I don't think the memorandum of  
21 understanding can stop it simply asking DOE to tell us what  
22 they are going to give us in the future in the way of a  
23 system.

24                   I think we need a pilot model now, right now.  
25 We're talking about an airplane of the future and I want to

1 see that the model is tested in a wind tunnel. I think just  
2 specifying on paper what its general characteristics will be  
3 even in some detail I don't think is good enough. I think  
4 we have to see how this is going to work. They have to  
5 subject themselves to that discipline early on. I wouldn't  
6 be willing to stop with a paper definition of what this  
7 system is going to be. I'd want to see something working.  
8 I'd want to see a pilot model of it and used in some subset  
9 of the decision making process right now. How do you decide  
10 what documents you're going to put in and how do you decide  
11 what documents you're not going to put in into that model  
12 which then has to be a module for the ultimate system. It  
13 may, in fact, tell you that the ultimate system has to  
14 change a bit once you've tried that, you've built that  
15 model.

16 I'm just terribly concerned about here that this  
17 program isn't going along in a way that, I'll say, follows  
18 good engineering practice. All right? It's all talk. It's  
19 all paperwork. Here we've got to have something we can get  
20 our hands on and try and test and that has to happen soon.  
21 You can't put that off for another ten years. That's got to  
22 happen right now. I think the memorandum of understanding  
23 in my opinion has got to contain that element. That must be  
24 there.

25 MR. OLMSTEAD: I think that might be very useful

1 to do that, particularly if we got the State of Nevada and  
2 the other members of the Advisory Committee to agree to do  
3 that. If we put ours in on a topic, DOE puts theirs in on a  
4 topic, they put theirs in on a topic and --

5 COMMISSIONER ROGERS: You know, all kinds of  
6 things will flush out when you start to do that, where you  
7 agree, where you disagree. Things will come up to the  
8 surface that have just been latent in the past. You may  
9 find much greater agreement on some things that you thought  
10 there'd be big contention on. Other things that you thought  
11 would go easily won't. It's so important to get that  
12 experience and I think that the system has to be tested  
13 under those circumstances.

14 MR. LEVIN: Absolutely. That's the way you  
15 develop systems and get it right. Plus the fact we had  
16 discussion of this in the LSSARP, the advisory review panel.  
17 There was a proposal to do a pilot, to use what's available  
18 now and do a pilot for those very reasons. As a matter of  
19 fact, we're continuing to discuss it to try to find a  
20 suitable pilot for that.

21 COMMISSIONER ROGERS: Yes. Well, I think we have  
22 to push forward on it because it doesn't seem to fit what  
23 we're getting back from DOE. It doesn't fit. They kind of  
24 want to push this off to the side and move on with other  
25 things and I see your LSS additional advantages, this

1 captured decision making process, it's not an additional  
2 advantage. To me it's a fundamental part of the whole  
3 process. It's not icing on the cake, it's the cake.

4 So, I think you're doing a fine job, by the way.  
5 I completely agree with the Chairman. I think the IG's  
6 report has been very useful. I think your response to it is  
7 excellent, but I would say that we've really got to press  
8 hard now and I don't think, quite frankly, the Commission at  
9 our level has paid enough attention to this. I think we've  
10 kind of sort of saw it happening or not happening and I  
11 think we have to really recognize this is very important and  
12 we can't let it go. We've got to see that something is  
13 finalized here in some way so that this thing really starts  
14 to move because it isn't moving. It just isn't moving.

15 Thanks very much.

16 CHAIRMAN SELIN: Commissioner de Planque?

17 COMMISSIONER de PLANQUE: Well, you do have our  
18 attention. I don't know if that's good news or bad news.  
19 Just out of curiosity in your dealings with DOE  
20 staff, do you think we're going to get answers to those  
21 questions?

22 MR. LEVIN: I'm very encouraged. There seems to  
23 be a genuine willingness of the people I've been working  
24 with. There doesn't seem to be any of this dancing and  
25 jockeying. We're coming to fast agreement in principle.

1 We've been here before though and until you get it signed,  
2 you never really know. But right now I've very encouraged.  
3 One of the problems we've had, I think, is one of distance.  
4 The focal point from DOE's perspective, now moving out to  
5 Yucca Mountain and then us being here has made things  
6 complicated. For instance, we would assume certain things  
7 weren't getting done or we'd assume something and when we  
8 talked to them we'd find out, well, no, it really isn't as  
9 bad as you thought.

10 So, we're trying to work out those communication  
11 channels so that that doesn't happen. But right now it's  
12 very encouraging, but you never know until it's signed,  
13 sealed and delivered.

14 MR. THOMPSON: My view is this is probably the  
15 most encouraging dialogue that we've had with DOE since I  
16 think we've had interface with DOE on this effort.

17 DR. KNAPP: There's a couple of things. First, I  
18 think that our interactions with DOE in general are  
19 considerably stronger than they were a year ago. We have  
20 the bimonthly management meetings and there's frequent  
21 communication between a Lake Barrett and John Greeves and  
22 others. I think this attention at all levels is going to be  
23 useful here.

24 I also note that when John Greeves was in Nevada  
25 last week or the week before, he met Wes Barnes, who I



1 believe is presently in charge of the Yucca Mountain Project  
2 Office. They discussed the LSS and Barnes showed some  
3 enthusiasm for it, a willingness to work with us and make  
4 things happen. I think getting this kind of attention at  
5 that level and coordinating the three of us here and  
6 comparable people at DOE, I'm optimistic at this point.

7 COMMISSIONER de PLANQUE: Well, it sounds good.  
8 Again, I would agree with my colleagues that the report was  
9 well done and your response looks appropriate. Thank you.

10 MR. LEVIN: Thank you.

11 CHAIRMAN SELIN: Okay. So, here we are at the  
12 beginning of a new age and we just can't do this again.  
13 We've frittered away six years and that's outrageous. We  
14 should have the system in hand today so DOE can start  
15 documenting their decisions today. It's a very serious  
16 charge that's laid upon you and upon us to carry this out.

17 This licensing will make a reactor licensing look  
18 like a clinical class in law school compared to --

19 Thank you very much.

20 MR. LEVIN: Thank you.

21 [Whereupon, at 11:28 a.m., the meeting was  
22 concluded.]

23

24

25

CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: BRIEFING BY IG AND STAFF CONCERNING  
AUDIT OF HLW LICENSING SUPPORT SYSTEM  
(LSS) - PUBLIC MEETING

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: Thursday, April 27, 1995

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company

Transcriber: Carol Lynch

Reporter: Peter Lynch



# **RESPONSE TO THE INSPECTOR GENERAL'S AUDIT OF THE LICENSING SUPPORT SYSTEM**

**April 27, 1995**

**Arnold E. "Moe" Levin  
LSS Administrator**

**Contact: D. Graser  
415-5507**

# **LSS AUDIT: CREATED A FORUM FOR CONCERNS**

- **Accurate Representation**
- **We Agree with Findings**
- **Comprehensive Chronology**
- **Identifies Key Issues**

# **LSS AUDIT: EMPHASIS ON THE NEED FOR STRONG DIRECTION**

- **Leadership Has Been Strong in an Unstable Environment**
  - **New Approaches to LSS Design**
  - **Creation of Audit & Compliance Plans**
- **Time is Right to Push for Issue Closure**

# **LSS AUDIT: STEPS TAKEN BASED ON RECOMMENDATIONS**

- **Memorandum of Understanding (MOU)**
- **Strengthen Intra-Agency Coordination  
(LSS Senior Management Team)**
- **Updated Management Directive 9.9 (6/16/95)**
- **Contingency Plan “Triggers”**

# **SENIOR MANAGEMENT TEAM (SMT)**

- **Provide Senior Level Direction for the LSS Program Including Re-evaluation of:**
  - **LSS Purpose**
  - **Role of LSS Administrator**
  - **Roles of Offices**
- **Members: Mal Knapp, Moe Levin, and Bill Olmstead**
- **Support Team: Chip Cameron, Dan Graser, Ken Kalman, and Lynn Scattolini**

# **SMT: SECY-89-027 AND THE NEED FOR THE LSS**

- **Speeds Discovery**
- **Reduces FOIA Burden**
- **Enables Timely Review of  
License Application**
- **Expedites Motions Practice**



# **SMT: LSS ADDITIONAL ADVANTAGES**

- **Early Insight into Possible Contentions**
- **Capture Decision Making Process**

# **SMT: FUTURE OF LSS**

- **Understand DOE Intentions**
- **Know Our Own Expectations**
- **Synchronize & Memorialize in an MOU**



**OFFICE OF THE INSPECTOR GENERAL**

**AUDIT 95A-01:**

**NRC NEEDS TO PROVIDE STRONG DIRECTION  
FOR THE LICENSING SUPPORT SYSTEM**

**APRIL 27, 1995**

## **FINDINGS**

---

- ▶ **OVERALL FINDING: NRC needs to provide strong direction to resolve longstanding LSS issues to prevent unnecessary and costly delays**
  - **Setbacks and delays have significantly slowed progress**
  - **Key interagency issues remain unresolved**
  - **Key intra-agency issues remain unresolved**

## **HISTORY OF LSS DEVELOPMENT**

---

- ▶ **1991: INFOSTREAMS introduced**
- ▶ **1993: DOE to operate and maintain/COTR concept introduced**
- ▶ **1994: INFOSTREAMS out - COTR out - return to original funding approach**

## **IMPACT/EFFECT OF SETBACKS AND DELAYS ON FINDINGS**

---

- ▶ **Nuclear Waste Policy Act of 1982**
- ▶ **NRC experience in licensing reactors**
- ▶ **Repository is a one-of-a-kind facility**

## **KEY INTERAGENCY ISSUES UNRESOLVED**

---

- ▶ **Availability to potential users**
- ▶ **Respective roles of each agency**
- ▶ **Funding for the LSS**

## **KEY INTRA-AGENCY ISSUES UNRESOLVED**

---

- ▶ **Various NRC units have responsibilities**
  - need clearly defined roles
  - need to carry them out in a timely manner
  - need to revise Manual Chapter 0109
  
- ▶ **Loading and operation**
  - milestones
  - documents identified, segregated, formatted
  
- ▶ **Internal funding requirements**



## **SUMMARY CONCLUSIONS**

---

- ▶ **Stalled over last 5 years primarily due to**
  - **lack of agreement on funding**
  - **no clear definition of roles and responsibilities**
  
- ▶ **Only 6 years remain until 2001 - the same period as when NRC initiated LSS in 1989 to meet 1995**
  
- ▶ **NRC needs to take strong, effective leadership**

## **RECOMMENDATIONS**

---

- ▶ **To resolve key interagency issues, LSSA should obtain a formal commitment from DOE**
- ▶ **To resolve key intra-agency issues and requirements, LSSA should develop a management plan**
- ▶ **If DOE/NRC cannot agree on key issues or DOE cannot meet its responsibilities, LSSA should develop a contingency plan**

## **RECENT ACTIONS REGARDING THE LSS**

---

- ▶ **Staff agreed with findings and recommendations**
- ▶ **Staff provided an action plan for implementation**
- ▶ **Senior Management Team appointed**
- ▶ **Inspector General attended recent LSSARP meeting**