

UNITED STATES OF AMERICA  
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DEFENSE NUCLEAR FACILITIES SAFETY BOARD

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WEDNESDAY  
MAY 12, 2010  
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The Board met in the DNFSB Hearing Room at 625 Indiana Avenue, N.W., Suite 300, Washington, D.C., Peter S. Winokur, Chairman, presiding.

PRESENT:

PETER S. WINOKUR, Chairman  
JOHN E. MANSFIELD, Vice Chairman  
JOSEPH F. BADER, Board Member  
LARRY W. BROWN, Board Member  
JESSIE H. ROBERSON, Board Member

STAFF PRESENT:

RICHARD A. AZZARO, General Counsel  
  
TIMOTHY J. DWYER, Technical Director  
BRIAN GROSNER, General Manager

ALSO PRESENT:

THE HONORABLE THOMAS P.  
D'AGOSTINO, Administrator,  
  
National Nuclear Security Administration  
RICHARD H. LAGDON, JR., Chief of Nuclear Safety, Office of the Under Secretary, Department of Energy  
GLENN PODONSKY, Chief Health,  
  
Safety and Security Officer,  
Office of Health, Safety and Security

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

8:59 a.m.

CHAIRMAN WINOKUR: Good morning.

My name is Peter Winokur and I am the Chairman of the Defense Nuclear Facilities Safety Board. I will preside over this public meeting and hearing.

I'd like to introduce the members of the Safety Board who are all present here today. To my immediate left is Dr. John Mansfield. And to his left is Mr. Joseph Bader. On my right is Mr. Larry Brown. And to his right is Ms. Jessie Roberson. We five constitute the Board.

The Board's General Counsel, Richard Azzaro is seated to my far left. And next to him is the Board's General Manager, Brian Grosner. The Board's Technical Director, Tim Dwyer, is seated to my far right.

Several members of our staff closely involved with the oversight of the

1 Department of Energy's Defense Nuclear  
2 Facilities are also here.

3 Today's meeting and hearing were  
4 publicly noticed in the Federal Register on  
5 April 22nd, 2010. The meeting and hearing are  
6 held open to the public in accordance with the  
7 provisions of the Government and Sunshine Act.

8 To provide timely and accurate  
9 information concerning the Board's public and  
10 worker health and safety mission throughout  
11 the Department of Energy's nuclear weapons  
12 complex, the Board is recording this  
13 proceeding through a verbatim transcript and  
14 video recording.

15 As part the Board's E-Government  
16 initiative, the meeting is also being made  
17 available over the internet through video  
18 streaming. The transcript, associated  
19 documents, public notice, and video recording  
20 will be available for viewing in our public  
21 reading room on the seventh floor of this  
22 building.

1           In addition, an archived copy of  
2           the video recording will be available through  
3           our website for at least 60 days.

4           In accordance with the Board's  
5           practice and as stated in the Federal Register  
6           notice, we will welcome comments from  
7           interested members of the public at the  
8           conclusion of testimony.

9           A list of those speakers who have  
10          contacted the Board is posted at the entrance  
11          to this auditorium. We have listed the people  
12          in the order in which they have contacted us  
13          or, if possible, when they wish to speak. I  
14          will call the speakers in the order and ask  
15          that speakers state their name and title at  
16          the beginning of their presentation.

17          There is also a table at the  
18          entrance to this room with a sign-up sheet for  
19          members of the public who wish to make a  
20          presentation but did not have the opportunity  
21          to sign up previous to this time. They will  
22          follow those that have already registered with

1 us in the order in which they have signed up.

2 In order to give everybody wishing  
3 to speak an equal opportunity, we ask  
4 presenters to limit their original statements  
5 to five minutes. The Chair will then give  
6 consideration to additional comments should  
7 time permit.

8 Presentations should be limited to  
9 comments, technical information, or data  
10 concerning the subjects of this meeting and  
11 hearing. The Board members may question  
12 anyone making presentations to the extent  
13 deemed appropriate.

14 The record of this proceeding will  
15 remain open until June 12th, 2010.

16 I would like to reiterate that the  
17 Board reserves the right to further schedule  
18 and otherwise regulate the course of this  
19 meeting and hearing to recess, reconvene,  
20 postpone, or adjourn this meeting and hearing,  
21 and to exercise its authority under the Atomic  
22 Energy Act of 1954, as amended.

1                   Today's meeting is the second in a  
2 series during the Board will examine the  
3 Department of Energy's and the National  
4 Nuclear Security Administration's actions to  
5 date in response to Board Recommendation 2004-  
6 1, Oversight of Complex, High-Hazard Nuclear  
7 Operations.

8                   When the Board issued  
9 Recommendation 2004-1, it was concerned about  
10 DOE's [Department of Energy] and NNSA's  
11 [National Nuclear Security Administration]  
12 desire to shift responsibility for safety  
13 oversight at defense nuclear facilities from  
14 Headquarters and Field Offices to contractors'  
15 self assurance programs.

16                   What continues to concern the  
17 Board is the following question: Will  
18 modifications to the DOE and NNSA  
19 organizational structure and practices, as  
20 well as increased emphasis on productivity  
21 improve or reduce safety and increase or  
22 decrease the probability of a high-



1 consequence, low-probability accident?

2 The public meeting and hearing  
3 focuses on the important topic of safety  
4 oversight at defense nuclear facilities. Is  
5 oversight going to continue to be an effective  
6 component of conducting the vital work of the  
7 Department of Energy?

8 It is the Board's view that  
9 oversight responsibility cannot be diminished  
10 or delegated from the Government to its  
11 contractors. Today we hope to hear DOE's  
12 views on this issue.

13 Just like in 2003, DOE is again  
14 implementing significant changes to their  
15 directives, oversight processes, and  
16 governance models. The intent of this public  
17 meeting is to understand what DOE's concerns  
18 are with their current system of directives,  
19 oversight, and governance, and how these  
20 changes will address those concerns.

21 A strong system of safety  
22 oversight plays a key role in managing high-

1 risk activities. One need only invoke the  
2 names of Challenger, Columbia, Davis-Besse,  
3 Chernobyl, Texas City, or Bhopal to remind us  
4 of the consequences of failing to learn that  
5 lesson.

6 But we, as a nation, continue to  
7 learn that lesson the hard way. The loss of  
8 life last month in the Upper Big Branch coal  
9 mine is another stark example. In all  
10 instances, the primary cause of these  
11 accidents has been the failure of government  
12 oversight that was preceded by delegation of  
13 inherently governmental responsibility to the  
14 private sector.

15 We are all committed to ensuring  
16 public and worker safety in DOE's Defense  
17 Nuclear Complex. And during the past 20  
18 years, the Department has achieved significant  
19 improvements in safety.

20 Actions take by DOE in  
21 implementing elements of Recommendation 2004-  
22 1, as well as the successful completion of

1 early related Board recommendations have led  
2 to clear requirements for oversight, a  
3 technically-capable workforce to conduct that  
4 oversight, and processes like corrective  
5 actions and lessons learned for ensuring the  
6 issues identified during oversight are  
7 properly addressed.

8 The current DOE Oversight Policy,  
9 DOE Policy 226.1A, has a key role in DOE's  
10 efforts for protecting the public, workers,  
11 the environment, and national security assets.  
12 Through that policy, DOE mandates that all DOE  
13 organizations implement assurance systems to  
14 ensure compliance with requirements. And that  
15 all DOE organizations pursue excellence  
16 through continuous improvement.

17 The Board supports the  
18 strengthening of contractor assurance systems  
19 that are vital to managing the risk inherent  
20 in defense nuclear facilities. But it is  
21 critical that the Government independently  
22 verify and validate that safety controls at

1 its defense nuclear facilities are adequate,  
2 implemented, and maintained.

3 The Government must use its line  
4 management and independent oversight functions  
5 to ensure that the appropriate balance between  
6 mission and safety and help mitigate DOE's  
7 inherent conflict of interest that arises from  
8 its self-regulation.

9 DOE directives, in conjunction  
10 with DOE's safety rules, provide the bedrock  
11 upon which adequate protection of the public,  
12 workers, and the environment is built. And  
13 they provide the insurance that DOE  
14 contractors will safely conduct operations at  
15 defense nuclear facilities.

16 These directives embody over six  
17 decades of experience in operating nuclear  
18 facilities and are rooted in commercial  
19 nuclear power, naval reactors, and defense  
20 programs. The Board is concerned that  
21 recently DOE established a goal to reduce the  
22 number of directives by 50 percent.

1           The Board believes that any effort  
2           to overhaul the directive system should be  
3           undertaken with the objective of strengthening  
4           and improving the directives while continuing  
5           to ensure adequate levels of protection and  
6           prevent accidents or incidents at defense  
7           nuclear facilities.

8           Finally, the Board is concerned  
9           that recent messages from DOE and NNSA  
10          leadership have the potential to cause  
11          misinterpretations of the vital role of  
12          oversight and the importance of directives.

13          These messages include the Deputy  
14          Secretary's March 16th, 2010 memorandum  
15          entitled Department of Energy 2010 Safety and  
16          Security Reform Plan, the NNSA Administrator's  
17          memorandum dated December 18th, 2009 entitled  
18          Six-Month Moratorium on NNSA-Initiated  
19          Assessments, and the NNSA Administrator's  
20          memorandum dated December 22nd, 2009 entitled  
21          NNSA Enterprise Reengineering Reform  
22          Initiative LOCAS [Line Oversight and

1 Contractor Assurance System].

2 Each memorandum suggests that  
3 reform is needed to mission of the Department,  
4 leaving at least the impression that safety is  
5 a barrier and not an enabler to that mission.

6 So, once again, and in the  
7 simplest terms, we are asking what is wrong  
8 with the current DOE oversight systems and  
9 directives at defense nuclear facilities and  
10 how will the ongoing changes improve the  
11 situation?

12 That concludes my opening remarks.

13 My fellow Board members will now  
14 present their opening remarks. First the Vice  
15 Chairman, Dr. John Mansfield.

16 VICE CHAIRMAN MANSFIELD: Thank  
17 you, Mr. Chairman.

18 I'm John Mansfield. I was  
19 originally named to this Board by President  
20 Clinton. And before that I served on the  
21 staff of the Senate Arms Services Committee  
22 when the legislation establishing the Board

1 was first considered. And, in fact, that was  
2 one of my duties, DOE activities and defense  
3 nuclear activities were part of my duties.

4 At that time, there was a  
5 widespread loss of public confidence in DOE,  
6 in particular having to do with readiness to  
7 restart reactors and resume plutonium  
8 operations at Rocky Flats.

9 The DOE, itself, under Admiral  
10 Watkins sent tiger teams to ascertain the  
11 current state of safety at DOE facilities.  
12 And that resulted in a series of about 20  
13 articles in the New York Times over a month or  
14 so about DOE's highest risk plants.

15 That series was a list of horror  
16 stories. The only conclusion the public could  
17 make was that the system was out of control  
18 and DOE was not at the helm at that time. No  
19 one at DOE Headquarters appears to remember  
20 these stories. I haven't found anybody that  
21 has a copy of them. And I've been handing  
22 them out.

1           The DOE doesn't remember those  
2 stories. They don't remember the public  
3 outrage that they caused. But believe me,  
4 Congress does remember.

5           The Board immediately addressed  
6 the issues raised in those -- I think they  
7 were 1988 articles. In the first three years,  
8 the Board made 19 recommendations, fully a  
9 third of the total we've ever made in the 20  
10 years we've been around, nearly all directed  
11 at deficient or non-existent standards and  
12 very poor conduct of operations and training.

13           All 19 were accepted by the  
14 Secretary. What came of this, under the  
15 Secretaries' direction, Secretaries'  
16 direction, was a body of technical standards,  
17 a body of regulatory statements of one sort or  
18 another, orders, directives, orders, manuals,  
19 policies, et cetera, that have, in some cases,  
20 not been changed until today.

21           There was also a body of federal  
22 regulation, 10 CFR 830 and 835.



1           These were rapidly put together,  
2 rapidly promulgated, and established as DOE's  
3 operating rule. Furthermore, a rigid system  
4 of operational readiness reviews was  
5 established, which did not exist before.

6           These standards, regulations, and  
7 readiness reviews were made mandatory by DOE  
8 precisely to eliminate the horror stories of  
9 the New York Times articles.

10           No one at DOE seems to remember  
11 that that's where these regulations, et  
12 cetera, came from. But Congress remembers.

13           Now -- so it's not surprising that  
14 the first duty established in the Board's  
15 enabling statute, the very first, is to review  
16 DOE standards that underpin safety pertaining  
17 to all cycles -- all the life cycle phases of  
18 DOE operations. And then to make  
19 recommendations -- and to make recommendations  
20 to improve those standards.

21           These standards were meant to be  
22 comparable to those that prevailed in the

1 commercial nuclear power industry but had not,  
2 up to that time, been applied to DOE defense  
3 nuclear facilities.

4 As the Board often pointed out,  
5 unlike commercial plants, the risks are not,  
6 at DOE's Defense Nuclear Facilities, are not  
7 solely a function of the quantities of nuclear  
8 material but more importantly, the material  
9 processes involved and the physical states and  
10 the potential for explosive disbursement of  
11 radioactive materials or inadvertent nuclear  
12 detonation even.

13 So DOE's standards and regulations  
14 are necessarily different from those for the  
15 commercial nuclear standards. And if you  
16 hadn't written them in the early 1990s, there  
17 would be none. There would be none.

18 So we've been at this for 20 years  
19 now. And we've made great progress in many  
20 areas together. But we can't take our eye off  
21 the ball. And we can't afford to allow  
22 someone else watch the ball in our stead.

1                   Given the magnitude of the  
2                   accidents that can come out of DOE facilities,  
3                   the federal role in oversights must be  
4                   maintained rigorously at all times.

5                   I now -- that concludes my  
6                   remarks, Mr. Chairman.

7                   CHAIRMAN WINOKUR: Thank you, Dr.  
8                   Mansfield.

9                   Mr. Bader?

10                  MR. BADER: Thank you, Mr.  
11                  Chairman.

12                  I'd like to offer some thoughts on  
13                  how a sound directive system is critical to  
14                  oversight. You need to state what your  
15                  requirements are and you need to be clear in  
16                  how these requirements will be competently  
17                  implemented and rigorously maintained.

18                  The directive system does this for  
19                  you. Without a strong and well-considered  
20                  directive system, oversight degrades to an ad  
21                  hoc process. And I believe this will stymie  
22                  DOE's ability to effectively identify safety

1 issues and resolve them early.

2           Whether it's new design,  
3 construction, or operations, the resolution of  
4 issues will take more time and more energy  
5 because you'll be reinventing the wheel to  
6 solve problems. This would be a burdensome,  
7 duplicative, and inefficient process.

8           Directives should be used as a  
9 tool that facilitates clarity, efficiency, and  
10 progress. As evidence of this, I point to the  
11 good headway that has been made in both the  
12 uranium processing facility at Y-12 as well as  
13 the integrated waste treatment unit project at  
14 DOE's Idaho site.

15           These are examples of how the  
16 application of Standard 1189 integration of  
17 safety into the design process, as called for  
18 in DOE Order 420.1B, Facility Safety, works in  
19 these matters to date.

20           One of our objectives has been  
21 early identification and early resolution of  
22 design issues and the directive system has

1 facilitated that to everybody's benefit.

2 The Deputy Secretary has called  
3 for the revisions of the directive system  
4 measuring near-term success by relief of  
5 specific low-value, burdensome requirements  
6 unquote. And with an arbitrary goal of 50  
7 percent reduction in directives in eight  
8 months' time.

9 There are directives which are  
10 cumbersome, which are duplicative, and which  
11 are unclear. No argument. There was a  
12 directives review process in place since 2007  
13 to address this issue. It has worked pretty  
14 well. It benefitted from clear, specified  
15 criteria and a thorough review process.

16 It has worked more slowly than it  
17 should in part due to application of  
18 insufficient resources to make it work as  
19 quickly as it should have, at least in my  
20 opinion.

21 Continuing this appropriate  
22 process would benefit both us and DOE and is

1 highly worthwhile.

2 Let's consider the opposite, a  
3 hurried directives review process. What will  
4 this accomplish?

5 Let's consider the situation where  
6 the DOE directives system with respect to  
7 nuclear safety is changed such that a  
8 reasonable degree of specificity is lacking or  
9 it is incomplete with resulting gaps.

10 The Board will be required to  
11 ensure the same level of public and workers'  
12 safety in new and old operating facilities.  
13 It will just take longer to get to the same  
14 place, absorbing more of our time and DOE's  
15 time. We will get there.

16 It will mean more letters, more  
17 recommendations without the efficiencies of a  
18 good, clear, comprehensive system of  
19 directives. In some respects, it would be a  
20 return to the situation at the beginning of  
21 the Board's operation that Dr. Mansfield just  
22 referred to. This is in nobody's interest and

1 should be avoided.

2 Mr. Chairman, I have no further  
3 comments at this time.

4 CHAIRMAN WINOKUR: Thank you, Mr.  
5 Bader.

6 Mr. Brown:

7 MR. BROWN: Thank you, Mr.  
8 Chairman, and fellow Board members.

9 I am Larry Brown. And I look  
10 forward to the testimony from DOE on recent  
11 oversight initiatives, how those initiatives  
12 are intended to improve public and worker  
13 safety, and how they correspond with the  
14 Board's 2004 Recommendation on Oversight of  
15 Complex, High-Hazard Nuclear Operations.

16 One of the actions DOE has  
17 completed in response to the Board's  
18 recommendation was to issue an oversight  
19 policy. This policy can be found in the  
20 document titled DOE Policy 226.1A.

21 The first sentence says, and I  
22 quote, "The purpose of this Policy is to

1 establish a Department-wide oversight process  
2 to protect the public, workers, environment,  
3 and national security assets through continuous  
4 improvement."

5           It is my opinion, and I  
6 acknowledge, that the dedicated technical  
7 cadre of facility representatives and the  
8 cadre of safety system oversight personnel  
9 serving in DOE's Defense Nuclear Complex has  
10 improved since 2004. The importance of their  
11 daily presence in monitoring high-hazardous  
12 operations conducted at defense nuclear  
13 facilities cannot be overstated.

14           However, because this cadre of  
15 safety system oversight personnel is  
16 relatively small, high-hazard nuclear  
17 activities commonly take place when technical  
18 oversight cannot be present. That is to say  
19 federal onsite oversight is just one part of  
20 a larger program. The larger program includes  
21 strong directives program, external oversight,  
22 and technically competent federal leadership.



1                   While preparing for this hearing,  
2                   I took the opportunity to reread a speech  
3                   given in 2004 by the Board's first Chairman,  
4                   John Conway. The public meetings which  
5                   preceded the 2004 recommendation had probed  
6                   into the causes of the space shuttle Columbia  
7                   accident.

8                   One conclusion in the Columbia  
9                   accident investigation report that is relevant  
10                  to the discussion today was the change in  
11                  roles between NASA [National Aeronautics and  
12                  Space Administration] and its contractor.

13                  And let me quote, "NASA's  
14                  structure changed as roles and  
15                  responsibilities were transferred to  
16                  contractors, which increased the dependence on  
17                  the private sector for safety functions and  
18                  risk assessment while simultaneously reducing  
19                  the in-house capability to spot safety  
20                  issues."

21                  Chairman Conway went on to observe  
22                  that the conclusion reached in the accident

1 report was that over the years of budget  
2 reductions and downsizing at NASA, the NASA  
3 engineers and managers came to depend on its  
4 contractors for interpretation and analysis of  
5 technical data and did not have the training  
6 necessary to evaluate the results.

7 We cannot and should not allow  
8 this same sequence of events to affect DOE's  
9 ability to technically manage and direct  
10 contractors in the safe operation of hazardous  
11 activities.

12 Chairman Conway also said that if  
13 you are not moving ahead and improving, you  
14 are falling behind. As I said at the  
15 beginning of my statement, DOE has an  
16 oversight policy that requires continuous  
17 improvement.

18 I look forward to learning from  
19 our speakers today how these recent  
20 initiatives will affect DOE's ability to  
21 technically manage and direct contractors in  
22 the safe operation of hazardous activities.

1                   Mr. Chairman, I have no further  
2                   comments.

3                   CHAIRMAN WINOKUR: Thank you, Mr.  
4                   Brown.

5                   Ms. Roberson?

6                   MS. ROBERSON: Good morning.  
7                   Thank you, Mr. Chairman, and fellow Board  
8                   members.

9                   It is an honor and a privilege to  
10                  serve on the Board again. I have worn many  
11                  hats in my career, as a contractor, federal  
12                  program manager, field office manager, and  
13                  program secretarial officer.

14                  My experience has taught me that  
15                  the oversight model has been key in  
16                  identifying the right problems to solve and  
17                  where and how to deploy resources to solve  
18                  them. I can attest -- I can personally attest  
19                  to the commitment and expertise of the  
20                  oversight folks in the field and the  
21                  incredibly valuable role that they play.

22                  However, they need to be backed up

1 by a rigorous framework. A key premise of  
2 SEN-3591 [Secretary of Energy Notice] states,  
3 and I quote, "DOE and contractor management  
4 are responsible for continuously pursuing  
5 enhancements to safety, not just complying  
6 with the minimal set of requirements."

7 The Department further  
8 demonstrates this value through Department-  
9 wide goal setting. DOE's Policy 450.7, which  
10 states, and I quote, "The DOE's ultimate ES&H  
11 [Environment, Safety and Health] goal is zero  
12 accidents, zero work-related injuries and  
13 illnesses, zero regulatory enforcement  
14 accidents and reportable environmental  
15 releases. This goal is to be pursued through  
16 a systematic and concerted process or  
17 continuous performance improvements using  
18 performance measurements."

19 Effective oversight requires that  
20 we have a firm fix on baseline requirements  
21 and the ability to capture and repeat good  
22 practices while avoiding repeat mistakes. We

1 need to understand how you are embracing the  
2 spirit of SEN-3591 to continuously pursue  
3 enhancements to safety and what role oversight  
4 has played and will make in the future.

5 Thank you, Mr. Chairman, I have no  
6 further questions at this time.

7 CHAIRMAN WINOKUR: Thank you, Ms.  
8 Roberson.

9 This concludes the Board's opening  
10 remarks.

11 At this time, I'd like to welcome  
12 the Honorable Thomas D'Agostino, Administrator  
13 of the National Nuclear Security  
14 Administration to present his testimony  
15 followed by questions from the Board.

16 Administrator D'Agostino?

17 MR. D'AGOSTINO: Thank you.

18 Grab a little water.

19 Mr. Chairman, members of the  
20 Board, thank you very much for this  
21 opportunity to meet with you in this public  
22 forum to discuss effective oversight of our

1 nuclear facilities.

2           You provided a written lines of  
3 inquiry prior to the meeting and my formal  
4 response is organized around those written  
5 lines of inquiry. Of course I'll be happy to  
6 answer questions that you may have.

7           Let me begin by describing our  
8 overall oversight approach as it currently  
9 exists. I'll discuss its effectiveness, point  
10 out its strengths, its weaknesses, and use it  
11 as a basis for describing the changes we are  
12 considering.

13           I'll then discuss our approach to  
14 Headquarters assessments, and will close with  
15 a brief discussion of the Central Technical  
16 Authority function and its staffing.

17           The National Nuclear Security  
18 Administration oversight of our nuclear safety  
19 responsibilities, as you pointed out, has  
20 developed over many years and has proven  
21 highly effective in preventing nuclear  
22 accidents and significant radiological

1 exposures to the workers and the public.

2 The primary responsibility for  
3 safety has always rested closest to the work  
4 being performed, first with the workers, and  
5 then oversight beginning with the first line  
6 supervisors who are responsible for the work  
7 that they are doing is performed in accordance  
8 with our nuclear safety requirements.

9 The direct supervisory function  
10 starts with the contractor line management  
11 consistent with the nuclear safety  
12 requirements that are imposed by regulation or  
13 included in the contract.

14 Oversight at the contractor level  
15 also includes contractor self-assessment  
16 functions that vary somewhat from contractor  
17 to contractor but they help provide line  
18 managers with a comprehensive assurance that  
19 key nuclear safety requirements are flowing  
20 down from the contract and are effectively  
21 implemented.

22 Contractor self-assessments

1 include systematic oversight as well as  
2 targeted assessments such as design reviews  
3 for construction projects, readiness reviews  
4 for start up or restart of nuclear facilities,  
5 verification of implementation of safety bases  
6 requirements, and reviews within functional  
7 areas such as those conducted by cognizant  
8 systems engineers for vital safety systems.

9 In a number of situations our  
10 contractors have relied on corporate reach  
11 back to bring in oversight resources from  
12 their parent work corporations to address  
13 particular needs. In other cases, our  
14 contractors have engaged in support  
15 contractors and contractors from other sites  
16 to provide the needed subject matter expertise  
17 for their self-assessments.

18 On the federal side, the primary  
19 responsibility for nuclear safety oversight is  
20 again vested with the line managers who are  
21 closest to the work being performed. These  
22 are generally our Site Office personnel led by



1 our Site Office managers.

2 Site Offices conduct, as you know,  
3 day-to-day oversight through a variety of  
4 mechanisms. These include the use of facility  
5 representatives who spend most of their time  
6 in our nuclear facilities systematically  
7 observing contractor performance, safety  
8 system oversight personnel who are responsible  
9 for ensuring that the contractors' treatment  
10 of vital safety systems preserves their  
11 functionality, and a variety of subject matter  
12 experts who provide routine inspections within  
13 their functional areas.

14 NNSA Site Offices generally  
15 execute a systematic approach to oversight at  
16 both the system level and a transactional  
17 level. At the system level, Site Office  
18 personnel review the implementation of the  
19 nuclear safety requirements through a  
20 combination of scheduled assessments that  
21 address key nuclear safety disciplines.

22 Frequently Site Office personnel

1 observe or shadow contractor self-assessments  
2 and they independently execute focused  
3 oversight functions. Focused oversight  
4 includes reviews of credited safety control  
5 implementation, reviewing readiness of nuclear  
6 facilities to begin operations, design  
7 reviews, and review of vital safety systems.

8           These reviews provide direct  
9 insight regarding the adequacy of the  
10 contractors' implementation of the nuclear  
11 safety requirements.

12           Additionally, Site Office  
13 personnel also provide oversight through  
14 review and approval of specific contractor  
15 deliverables. They include but are not  
16 limited to review and approval of contractor  
17 training implementation matrices, nuclear  
18 maintenance management programs, conduct of  
19 operations implementation plans on reviewed  
20 safety question documentation, documented  
21 safety analysis, technical safety  
22 requirements, justifications for continued

1 operations, and exemptions from or  
2 equivalencies to nuclear safety requirements.

3 The review and approval of these  
4 nuclear safety program documents provides a  
5 direct awareness and measure of control over  
6 how the contractor intends to implement  
7 nuclear safety requirements and how unusual  
8 situations or significant changes that could  
9 affect safety are addressed.

10 Although our contractors and Site  
11 Offices serves as our primary mechanisms for  
12 conducting nuclear safety oversight, we also  
13 rely upon a number of Headquarters' initiated  
14 oversight functions to ensure that delegated  
15 nuclear safety responsibilities are being  
16 executed appropriately as well as to train and  
17 equip personnel while ensuring uniform  
18 understanding and application of the  
19 requirements.

20 NNSA has assembled a network of  
21 resources at Headquarters that provide this  
22 additional level of oversight for our field

1 operations. Headquarters oversight functions  
2 are executed through line manager  
3 organizations such as the Defense Programs  
4 Office of Safety as well as functional area  
5 managers such as the Chief of Defense Nuclear  
6 Safety and other support organization as  
7 circumstances warrant.

8           Headquarters organizations  
9 maintain regular contact with the field  
10 through numerous mechanisms that provide an  
11 opportunity for real-time oversight.  
12 Headquarters personnel observe or participate  
13 in Site Office level discussions of  
14 significant operational events and also  
15 conduct regularly scheduled teleconferences  
16 with site personnel in group settings to  
17 discuss emerging issues.

18           These provide an opportunity for  
19 Headquarters personnel to become engaged on  
20 specific issues when the need exists to do so.

21           Headquarters also provides  
22 oversight through a number of periodic or

1 systematic assessments. The Office of Chief  
2 of Defense Nuclear Safety leads a biennial  
3 review of roughly 18 nuclear safety areas at  
4 each of our Site Offices.

5 Other focused assessments  
6 involving nuclear safety include technical  
7 independence project reviews of design and  
8 construction of nuclear facilities as well as  
9 accident investigations. Headquarters  
10 personnel observe or participate in field  
11 reviews such as readiness reviews and design  
12 reviews and reviews selected safety  
13 documentation and reports to maintain  
14 awareness of situations on the field.

15 Taken together, our contractor  
16 oversight, corporation oversight, reach back  
17 and assistance, Site Office and Headquarters  
18 oversight functions provide multiple layers of  
19 oversight to ensure that nuclear safety  
20 requirements are being effectively  
21 implemented.

22 NNSA receives additional oversight

1 and assistance by external organizations such  
2 as the Office of Health, Safety, and Security,  
3 and, of course, the Defense Nuclear Facility  
4 Safety Board. The Government Accountability  
5 Office and the Office of Inspector General, of  
6 course, also evaluate and provide input on  
7 nuclear safety matters as situations warrant.

8 The strength of the existing NNSA  
9 oversight arrangement is that these  
10 overlapping layers of oversight result in many  
11 experts at many layers and levels, helping to  
12 ensure that nuclear safety requirements are  
13 being implemented effectively.

14 However, the strength is also  
15 related to the weakness, in my view of the  
16 existing approach. As an oversight approach  
17 has evolved, the number of organizations  
18 involved has resulted in some confusion  
19 regarding appropriate oversight roles and  
20 responsibilities.

21 It also appears that our approach  
22 to oversight of non-nuclear safety areas --

1 and I'll repeat non-nuclear safety areas --  
2 may have been generalized from an approach  
3 which is more appropriately in the nuclear  
4 areas, resulting in an inappropriate  
5 concentration of oversight resources on less  
6 important, non-safety requirements -- and non-  
7 nuclear safety requirements.

8 At the contractor level, the need  
9 to support oversight conducting by multiple  
10 organizations has sometimes resulted in  
11 unpredictable impacts on operations when  
12 demands for contractor resources to support  
13 non-contractor oversight and production  
14 schedules have come into conflict.

15 Concerns over the lack of  
16 coherence in the existing process and its  
17 somewhat conflicting nature have led NNSA over  
18 the past few years to seek a way of  
19 streamlining our approach to oversight of our  
20 contractors. This investigation of  
21 alternatives led me to establish in January of  
22 this year a limited six-month moratorium, or

1 pause, on certain low-risk Headquarters  
2 assessments of our Site Offices and their  
3 contractors.

4 This moratorium did not include  
5 high-risk reviews and day-to-day facility  
6 operational awareness activities, especially  
7 in the nuclear facilities. The principle  
8 purpose of suspending certain low-risk  
9 assessments was to free up resources to  
10 evaluate our governance model and associated  
11 roles and responsibilities and come up with  
12 more effective approaches to oversight,  
13 ultimately in the end to improve safety, and  
14 security, and mission performance, all of  
15 which are entirely linked and the same.

16 Once complete, organizations that  
17 are responsible for the suspended low-risk  
18 assessments will review their assessment  
19 schedules in accordance with the new  
20 integrated assessment model that is currently  
21 being developed. This will result in a  
22 rebalancing of priorities to ensuring that the



1 appropriate degree of degrading is applied to  
2 oversight with the higher consequence, higher  
3 hazard activities receiving proportionately  
4 more oversight than low consequence, low  
5 hazard activities. And that's a very  
6 important principle from my view is put the  
7 resources on those higher consequences nuclear  
8 security activities and move them in that  
9 direction.

10 Some of the suspended activities,  
11 such as the nuclear safety biennial reviews,  
12 this is just a temporary suspension, will  
13 resume following this moratorium although  
14 there might be some modifications to  
15 streamline the approach. The details I don't  
16 have right now because it is still in  
17 progress.

18 For the biennial reviews, the  
19 assessment schedule will not be compressed.  
20 It will simply slip six months. And the  
21 reviews that would have been conducted in the  
22 first half of this year are going to commence

1 in the second half. This started particularly  
2 for Pantex and the Savannah River site.

3 Once the moratorium is over, full-  
4 time resources employed to work on governance  
5 matters will largely be released to their  
6 normal duties. However, I anticipate there  
7 will be some additional refinements needed to  
8 governance changes arising from the  
9 moratorium.

10 So I'll periodically ask the  
11 personnel who are currently involved to assist  
12 in evaluating feedback and modifying our  
13 approach as necessary. Ultimately, as was  
14 mentioned in your opening remarks, continuous  
15 improvement, working to get better and better  
16 in safety.

17 As the moratorium is not yet over,  
18 I have not finished determining the specific  
19 changes that we will make to the oversight of  
20 non-nuclear safety. We have adopted a set of  
21 operating principles that are designed to take  
22 the maximum advantage of the expertise of our

1 contractors and of the consensus standards  
2 that are available in industry.

3 We'll have also taken steps to  
4 transition to more of a performance-based  
5 contracting approach at our contractor sites  
6 for oversight of non-nuclear operations. The  
7 advantages of this approach are that the  
8 contractors' parent organization plays a much  
9 more active role in the management of the  
10 contract while the federal offices define the  
11 deliverables via a revised contract  
12 performance and evaluation plan.

13 Federal oversight is increasingly  
14 risk informed while contractors'  
15 accountability and ability for delivering  
16 mission results in the most cost effective and  
17 efficient manner has increased.

18 This approach, this shift over  
19 more towards performance-based contract models  
20 will allow -- has allowed our contractor at  
21 our non-nuclear site in Kansas City to use  
22 industrial standards where appropriate and

1 transferred the responsibility for the design  
2 and implementation of the standard operational  
3 administrative processes from NNSA to the  
4 contractor.

5 NNSA moved more towards  
6 determining desired outcome and the contractor  
7 was allowed more to determine the appropriate  
8 method for achieving it. The key here is the  
9 transparency that covers both.

10 NNSA increased its use of the  
11 contractor assurance system, third-party and  
12 our peer reviews, and for-cause type reviews  
13 in place of additional line management  
14 oversight reviews.

15 Prior to shifting to the  
16 performance-based contracting model, the  
17 Kansas City contractor had demonstrated strong  
18 safety performance. Subsequent review of the  
19 safety performance has shown continuing  
20 improvement in its total reportable case rates  
21 and in overall safety performance that exceeds  
22 that of private industry.

1                   Since the transition to the  
2                   current approach, which began in 2007, Kansas  
3                   City has achieved a 33 percent reduction in  
4                   TRC [Total Reportable Case] rates from 1.02 in  
5                   2007 to .068 thus far in 2010. For comparison  
6                   purposes, private industry TRC rates hover  
7                   been 2.7 and 2.9 whereas the Kansas City TRC  
8                   rate has been between .56 and 1.02.

9                   The 2010 rate is approximately  
10                  four times lower than private industry's best  
11                  available statistics. In addition, the prime  
12                  contractor has worked approximately 4.1  
13                  million hours without a Day Away from Work  
14                  Case. The last case occurred in June of 2009.

15                  Beyond sound safety performance,  
16                  the Kansas City Site Office currently projects  
17                  a cost savings or avoidance of roughly 40  
18                  million over the first five years under this  
19                  new approach. In a resource-constrained  
20                  environment, such savings on low value  
21                  activities makes more funding available for  
22                  high value activities such as upgrades to the

1 safety systems that are needed to make  
2 Departmental safety expectations.

3 Currently NNSA has asked the  
4 Sandia Site Office and the Sandia National  
5 Laboratories (New Mexico) and the Nevada Site  
6 Office and National Security Technologies,  
7 LLC, to take steps for evaluating and possibly  
8 implementing similar performance-based  
9 principles at their respective sites for non-  
10 nuclear operations.

11 Once we have demonstrated the  
12 practicality of this approach, we will  
13 evaluate extending to model to other non-  
14 nuclear activities at other sites.

15 In parallel, roles,  
16 responsibilities, and accountabilities of the  
17 federal workforce at these sites and at  
18 Headquarters would be more clearly aligned and  
19 defined with regards to both mission  
20 performance and oversight.

21 Upon final implementation, there  
22 will be a significant distinction between NNSA

1 oversight of nuclear safety, which will be  
2 essentially unchanged from our current  
3 practices, hopefully improved, and NNSA  
4 oversight of non-nuclear safety areas.

5 I anticipate that there will be  
6 far less transactional oversight and far fewer  
7 process-related requirements in a non-nuclear  
8 safety area than there will be for the nuclear  
9 safety area where it is more appropriate.

10 Application of this approach  
11 requires an evaluation of requirements in the  
12 contract and the consensus standards or other  
13 provisions that could replace them. At this  
14 point in the effort, we're still evaluating  
15 potential changes that may be made so I cannot  
16 tell you what the final requirement set will  
17 look like.

18 As we work to implement this  
19 approach, we are mindful that both the Sandia  
20 and Nevada sites have nuclear facilities as  
21 well as non-nuclear facilities. Our intent is  
22 to apply this approach to non-nuclear

1 operations but not -- I'll repeat -- but not  
2 to affect the safety of our nuclear  
3 facilities.

4 Accordingly, we are carefully  
5 evaluating any changes to the implementation  
6 of the directives and regulations that NNSA  
7 has defined as having an impact on nuclear  
8 safety. Some directives, such as those  
9 covering packaging and transportation, quality  
10 assurance, and design and construction, apply  
11 to both nuclear and non-nuclear facilities and  
12 help ensure the safety of our nuclear  
13 facilities.

14 Where possible, we intend to  
15 simply retain the applicability of those  
16 requirements to the nuclear facilities even if  
17 alternative approaches are approved for the  
18 non-nuclear facilities. Where that is not  
19 feasible, we intend to carefully evaluate any  
20 alternatives proposed to assure that a truly  
21 equivalent level of performance and supporting  
22 methodology is retained for our nuclear



1 facilities.

2 Evaluating alternatives to balance  
3 requirements and resources, considering the  
4 affect on safety as well as the level of  
5 available resources and other drivers, is an  
6 inherent task of line management. But  
7 achieving a proper balance never requires a  
8 decision that trades mission accomplishment  
9 for adequate safety.

10 The nature of our enterprise  
11 requires safety to be integrated into all of  
12 the activities we conduct. Consequently,  
13 safety impact generally carries the greatest  
14 weight when establishing overall priorities  
15 for competing proposed activities so that the  
16 overall decision-making approach ensure  
17 adequate safety.

18 For its ongoing operations, NNSA  
19 uses a number of metrics to help gauge the  
20 significance of needed safety enhancements.  
21 With respect to occupational safety, we track  
22 metrics similar to those tracked by

1 industries, including total reportable cases  
2 and days away/restricted time. We also track  
3 near misses, electrical incidents, and other  
4 safety occurrences.

5 With respect to nuclear safety,  
6 the principle metric I use to determine where  
7 additional attention and resources are needed  
8 is how well our sites perform in nuclear  
9 safety assessments. For design and  
10 construction projects and for age-related  
11 matters of our aging infrastructure, this is  
12 augmented by the results of safety analysis,  
13 which help to determine where significant  
14 expenditures to support both mission and  
15 safety are needed to meet Departmental  
16 expectations.

17 Let me close with a discussion of  
18 NNSA's implementation of the NNSA's Central  
19 Technical Authority, or CTA [Central Technical  
20 Authority] function. When established by the  
21 Secretary of Energy, the CTA was assigned  
22 eight responsibilities associated with nuclear

1 safety requirements. These responsibilities  
2 have not changed.

3 In brief, the CTA concurs on  
4 nuclear safety requirements, applicability,  
5 and inclusion in contracts and on exemptions,  
6 works with the Department on revisions to  
7 nuclear safety requirements, and concurs on  
8 those revisions, and the CTA maintains  
9 operational awareness on the implementation of  
10 nuclear safety requirements.

11 The CTA reviews and assesses  
12 nuclear safety staffing and provides input  
13 into the selection of DOE and NNSA nuclear  
14 safety research and development activities.

15 When the Secretary first  
16 established the NNSA CTA, he assigned  
17 principle staff support responsibility to the  
18 Office of Chief of Defense Nuclear Safety.

19 When the NNSA declared the CTA function  
20 implemented, CDNS [Office of the Chief of  
21 Defense Nuclear Safety] had eight technical  
22 personnel on its staff.

1                   After some reorganization,  
2                   attrition, and hiring actions recently taken,  
3                   the Chief of Defense Nuclear Safety Office has  
4                   that same number of personnel. All of Chief  
5                   of Defense Nuclear Safety functions have the  
6                   same number. Technical personnel are required  
7                   to qualify as senior technical safety managers  
8                   and all are band five members of the accepted  
9                   service, very senior folks.

10                  Additional support for the CTA  
11                  function comes from the Office of the Senior  
12                  Advisor for Environment, Safety, and Health  
13                  and from the Office of Safety within Defense  
14                  Programs itself, both of which work closely  
15                  with the Chief of Defense Nuclear Safety to  
16                  ensure adequate support to the CTA functions.

17                  In addition, NNSA takes advantage  
18                  of field expertise to augment staff  
19                  capabilities while providing value  
20                  opportunities for field personnel to be  
21                  exposed to technical areas at other sites. An  
22                  example of this approach is the conduct of the

1 biennial reviews of nuclear safety  
2 performance.

3 NNSA uses these reviews to assess  
4 many areas of CTA responsibility. When we  
5 review a site office, we staff the review team  
6 with subject matter experts from other Site  
7 Offices as well as from other Headquarters  
8 organizations, including the Office of Health,  
9 Safety, and Security.

10 Creating a blending team of  
11 Headquarters and field personnel helps ensure  
12 uniform understanding of the requirements  
13 across the enterprise while enabling a vital  
14 CTA function with minimum of full-time  
15 assigned staff, though we still main eight  
16 full-time assigned staff.

17 Similarly, the CTA has  
18 responsibility to issue expectations and  
19 guidance on technical matters affecting  
20 nuclear safety. When such matters arise, CTA  
21 staff leads the effort but depends upon  
22 significant coordination and support from

1 subject matter experts throughout the NNSA  
2 enterprise and from elsewhere within the  
3 Department.

4 The approach that we have taken to  
5 staffing the CTA function has resulted in a  
6 small but effective organization that meets  
7 the Department's goals with expectations and  
8 expectations for the CTA function, I believe,  
9 in a robust manner.

10 Again, thank you very much for the  
11 opportunity to speak with you today and for  
12 your attention. I'd be happy to answer any  
13 questions that you may have.

14 CHAIRMAN WINOKUR: Well, thank you  
15 very much for your testimony.

16 MR. D'AGOSTINO: Sure.

17 CHAIRMAN WINOKUR: And I want to  
18 go back to my opening remarks where I asserted  
19 that I felt the Department and NNSA had made  
20 significant improvements in safety over the  
21 last 20 years.

22 And I think that came from DOE and

1 line oversight, independent oversight, which  
2 might be from the Health, Safety, and Security  
3 organization or the Defense Nuclear Facility  
4 Safety Board, and a very strong system of  
5 directives.

6 So I thought we had a process and  
7 a system, at least in the nuclear area, that  
8 was working very well. And it is in that  
9 light that I have been looking at a lot of  
10 these safety reforms that are taking place.  
11 And you are certainly aware of them.

12 MR. D'AGOSTINO: Right.

13 CHAIRMAN WINOKUR: You know that  
14 the Deputy Secretary has set a goal of  
15 reducing 50 percent of directives that are  
16 under the purview of the Health, Safety, and  
17 Security organization. About three-quarters  
18 of those are orders of interest to the Board.

19 And you've also talked pretty  
20 clearly about looking at -- we've seen other  
21 oversight changes potentially going from  
22 transactional to assist. And then you're

1 talking about new governance models.

2 And what I thought I heard you say  
3 today is that you draw a very clear  
4 distinction between non-nuclear and nuclear.  
5 And that you, you know, believe that we're  
6 going to maintain this kind of winning system  
7 we have in the nuclear area because it served  
8 you pretty well. And it is because it is so  
9 important to a national security mission.  
10 Wouldn't that be true?

11 MR. D'AGOSTINO: Yes. And I'd  
12 like to amplify on that a bit.

13 You know what we've observed time  
14 this is, in my view, one of the weaknesses  
15 we've had. While robust in robustness as it  
16 has developed throughout the 1990s and into  
17 this decade has resulted in clarity directives  
18 and the like in the nuclear area, as I  
19 mentioned in my testimony, it has spilled over  
20 into kind of everything the Department was  
21 doing on the federal side and into the non-  
22 nuclear safety.



1                   Still important, I don't want to  
2                   discount non-nuclear safety. It is incredibly  
3                   important. But what we ended up doing then is  
4                   doing a couple of things in my view.

5                   We -- because of the layers and  
6                   without defining the clear separation between  
7                   who is responsible for each one of the layers,  
8                   we can create an environment, and I've seen  
9                   have created environments which create  
10                  confusion on account of who is responsible for  
11                  what at each one of these different layers.  
12                  That's problem number one.

13                  Problem number two, in my view,  
14                  and I want to say I describe it as a problem,  
15                  I think it is more of a weakness frankly,  
16                  weakness number two, in my view, is that what  
17                  we've done is we've applied the same level of  
18                  intensity in the non-nuclear area or in lower  
19                  risk activities that ultimately, as we did on  
20                  the nuclear side or the higher risk  
21                  activities, as a result we end up no  
22                  allocating our resources and resources are

1 fixed.

2 I don't know of any organization  
3 that doesn't have fixed resources. And,  
4 therefore, we are not having -- striking that  
5 right balance. So the focus of our first  
6 efforts here are to do, in the NNSA are to  
7 drive some clarity, this governance clarity,  
8 at the different layers. We have to count on  
9 all of the layers to work. But we have to  
10 drive -- make sure that there is clarity  
11 between the layers.

12 And, step two, is making sure that  
13 we apply the attention on the highest risk  
14 activities, whether it's nuclear safety or  
15 there is maybe some non-nuclear but chemical  
16 activities that are happening, that's where we  
17 want most of our oversight.

18 It doesn't mean we ignore the  
19 oversight on the non-nuclear or lower risk  
20 activities. But it's a matter of driving that  
21 balance.

22 And so that's why when we started

1 looking at this at Kansas City, we said let's  
2 take the site that has a long track record and  
3 seeing if we can implement this in a  
4 relatively low risk area and take a few years  
5 before we look at the other areas. And then  
6 take it across from there.

7 So that doesn't mean, if I could  
8 add just one last thing --

9 CHAIRMAN WINOKUR: Sure.

10 MR. D'AGOSTINO: -- on your  
11 question, sir, that doesn't mean that we don't  
12 look at nuclear safety because we want to  
13 continually improve how we do our nuclear  
14 safety performance.

15 In the end, mission shouldn't be  
16 separated from safety. Safety and mission are  
17 the exact same thing. If you can't do it  
18 safe, you're not going to get your product out  
19 the door.

20 And these things are tied at the  
21 hip. They're tied at the hip at the worker  
22 level, the line manager contractor oversight,

1 the Site Office level, and throughout the  
2 various levels as I've described within the  
3 Department.

4 CHAIRMAN WINOKUR: I appreciate  
5 your comments. I'm actually worried about the  
6 converse of what you said. I sometimes get  
7 the impression that especially at your design  
8 labs, they may have a tendency to confuse the  
9 fact that processes associated with non-  
10 nuclear and things for even like travel of  
11 scientists and the flow of information, that  
12 that's confused with the nuclear operation.  
13 And they might extend their thinking into that  
14 area.

15 CHAIRMAN WINOKUR: And that's -- I  
16 think -- I offered a few examples of where we  
17 have directives that are -- kind of touch into  
18 both types of operations, both nuclear and  
19 non-nuclear operations. You know we're  
20 clearly going to look at those because we want  
21 to drive efficiency there.

22 But at the same time, I also

1 mentioned, you know, this is a phased process.  
2 We're going to start with the stuff that we  
3 know kind of on the non-nuclear side where we  
4 know we can make improvements right off the  
5 bat.

6 We are going to do additional  
7 evaluation, particularly on these orders -- or  
8 directives, I should say, the kind of, you  
9 know, quality assurance, for example, that  
10 applies to both and say, you know, is it  
11 better just to leave what we have in place?  
12 Or is there clarity that can be driven in  
13 there?

14 And I appreciate your concern.  
15 And it is my concern as well. And, you know,  
16 the level of nuclear work that happens at  
17 Sandia is different percentage-wise to the  
18 level of total work -- well, work is different  
19 than at the Nevada Test Site where you have a  
20 significantly greater level of nuclear work.

21 So we're going to focus on the  
22 non-nuclear safety area first. Then take a

1 look at the things that cross over both areas.  
2 And then always look to improve our nuclear  
3 safety performance.

4 Because in the end, that's what we  
5 have to do. In the end, it is all about  
6 improving safety performance oversight.

7 CHAIRMAN WINOKUR: Have you shared  
8 your thoughts with the Deputy Secretary of  
9 Energy and the Secretary -- I think you know  
10 that the Deputy -- we know he wants the  
11 highest levels of standard but he has set a  
12 very aggressive goal of reducing orders and  
13 directives. That is certainly going to move  
14 into the areas that you and I are discussing  
15 here which deal with nuclear safety and safety  
16 at defense nuclear facilities.

17 Have you shared any cautions with  
18 him and the Secretary about your feelings  
19 about the need to maintain the integrity of  
20 those directives that are important to your  
21 safety at defense nuclear facilities?

22 MR. D'AGOSTINO: Yes, I have. And

1 I believe -- I know the Secretary -- the  
2 Deputy Secretary and Secretary share concerns  
3 about nuclear safety directives. In the end,  
4 directives reductions shouldn't be what this  
5 is about. This is about safety improvement.

6 And I think that what we have is a  
7 situation where, you know, I have provided an  
8 opportunity where messages can get mixed, that  
9 this is all about directives reductions. This  
10 is about safety improvement frankly. And the  
11 Deputy Secretary would agree with that.

12 CHAIRMAN WINOKUR: I want to move  
13 on to something a little different. I wasn't  
14 planning on talking to you about it today but  
15 I never miss my opportunity to do it.

16 And that is this extremely heavy  
17 reliance upon DART [Days Away Recorded Total]  
18 and TRC statistics, especially for folks who  
19 are responsible for nuclear operations or  
20 activities at defense nuclear facilities.

21 I have had an opportunity to speak  
22 to your contractors and DOE folks many times

1 about this. I don't think it is a very good  
2 measure of safety at defense nuclear  
3 facilities. And it is typically the first  
4 number they like to discuss. And I just  
5 encourage you, as I encouraged them, to make  
6 sure they have a very good set of metrics to  
7 deal with that -- give them a better measure  
8 of what you are most concerned about because  
9 we both know that we want to prevent an  
10 accident. And if an accident occurs, your  
11 mission will be compromised.

12 MR. D'AGOSTINO: Thanks, Mr.  
13 Chairman. I agree. I think this is not about  
14 a number although in the cases in the non-  
15 nuclear area, you know, we do have different -  
16 - there is a systematic look to safety. You  
17 have to look at your reportables because it is  
18 information that we collect. And there is  
19 value in information.

20 You don't want to be driving  
21 performance. You don't want to be driving  
22 people to push not report because they know



1 that the management cares about that.

2 You know Frank Russo and Don  
3 Nichols and I have talked about this a lot,  
4 that, you know, assigning dollar values and  
5 fees to these things sends the exact wrong  
6 message. That we have to look at kind of  
7 overall safety.

8 We have to look at, you know,  
9 there is a bit of subjectivity, frankly, to  
10 some of this. And it requires the details,  
11 the objective evidence and it requires the  
12 subjective evidence before you can come up  
13 with an overall picture.

14 CHAIRMAN WINOKUR: I have an  
15 additional question but I think at this time,  
16 I'll just move to Dr. Mansfield.

17 MR. D'AGOSTINO: Yes, sir.

18 VICE CHAIRMAN MANSFIELD: Thank  
19 you. I'll be quick.

20 On this last issue of reportables  
21 and what the good statistics are, we put a lot  
22 of weight on the ORPS [Occurrence Reporting

1 and Processing System] reports. Not that you  
2 can score them and count them.

3 MR. D'AGOSTINO: Right.

4 VICE CHAIRMAN MANSFIELD: The  
5 numbers are irrelevant. But it is what they  
6 reveal about changing personnel and worker  
7 practices.

8 MR. D'AGOSTINO: Right.

9 VICE CHAIRMAN MANSFIELD: And,  
10 therefore, we put -- we tend to worry a great  
11 deal if there seems to be a predilection of  
12 some organizations to make their ORPS reports  
13 as uninformative as possible, concealing, in  
14 fact, the actual possible dangers like  
15 electrocution. And reporting words like had  
16 the leads in the wrong place.

17 MR. D'AGOSTINO: Right.

18 VICE CHAIRMAN MANSFIELD: So I  
19 would say that having a constant eye on the  
20 utilities' ORPS process and training people to  
21 use it right really would help.

22 The -- one or two other things.

1 MR. D'AGOSTINO: Yes?

2 VICE CHAIRMAN MANSFIELD: Your  
3 postponement of reviews, many of the CDNS  
4 reviews were on your list of -- are they  
5 sliding forward six months?

6 MR. D'AGOSTINO: There were two,  
7 sir. Could I comment on the ORPS report?

8 VICE CHAIRMAN MANSFIELD: Oh, yes.

9 MR. D'AGOSTINO: I'd like to just  
10 reply to that because I think when I first  
11 started in the Department of Energy in the  
12 days of the SEN notices, Ms. Roberson, and I  
13 recall those vividly. In fact, many of you  
14 will remember the K reactor restart days in  
15 the early '90s and the occurrence reporting  
16 process, which was finally starting at that  
17 point.

18 And I recall in my nuclear safety  
19 and operations oversight role in Germantown  
20 and the trips I've made down to the Savannah  
21 River, we counted on the ORPS reports and we  
22 had daily phone calls frankly when we were

1 involved in this operational readiness review  
2 work and getting the reactor ready.

3 Part of what we still do is in  
4 addition to looking at the -- reading the ORPS  
5 report is the CDNS staffs, both for nuclear  
6 safety and my Senior Safety Advisor, Frank  
7 Russo, read those in great detail. I get a  
8 daily email of the summary of those reports  
9 and I always look for the electrical ones.

10 And they make the phone calls out  
11 to the field. Hey, what happened with this  
12 thing here? Tell me more about it. Not to  
13 pick on that particular things but to find do  
14 we have a systematic problem.

15 So I think that's a good approach.  
16 Obviously the level of detail or the more that  
17 you have in there, the better insight and  
18 comfort level or discomfort level but the  
19 better insight is the most important thing  
20 that you can have.

21 So I'll take your point and Mr.  
22 Nichols and Mr. Russo are here and we'll look

1 at how we can improve that.

2 I apologize. I think I forgot  
3 your second question.

4 VICE CHAIRMAN MANSFIELD: No  
5 that's fine. You got it.

6 MR. D'AGOSTINO: It was the --

7 VICE CHAIRMAN MANSFIELD: I had  
8 asked the question about the CDNSes and  
9 whether or not --

10 MR. D'AGOSTINO: Oh, yes, right.  
11 Okay. Thank you. Excuse me.

12 During the first six months, we  
13 had planned on what we would call -- what we  
14 had been doing previously were the biennial  
15 reviews at the sites. And both Pantex and  
16 Savannah River were originally scheduled  
17 during the six-month period.

18 We are going to continue to do  
19 those. We are going to push it back into the  
20 second six-month period of this year.

21 I recall distinctly talking to Don  
22 Nichols about okay, why should we be

1 comfortable with that? I reviewed the list of  
2 the 120-some-odd project reviews that we were  
3 doing from Headquarters.

4 And looked back at the previous  
5 scores and the performance of those two  
6 particular sites. And recognizing that the  
7 next review was actually going to be more  
8 focused on assisting and particularly in  
9 improving the areas where they had problems  
10 with, which were minor problems in the past.

11 So I felt -- I took that decision  
12 to say I'm comfortable with moving that back.  
13 But we will get back on track with those  
14 reviews. The Site Office managers find value  
15 in those. And in the end, you know, I think  
16 all of -- I would certainly espouse that  
17 having the right level of technical people at  
18 the Site Office where they are there day in  
19 and day out watching the contractor in the  
20 nuclear safety areas, the highest technical  
21 level folks, is our best assurance from an  
22 oversight perspective -- from the federal

1 oversight perspective.

2 Of course that doesn't mean we  
3 don't do anything. We will certainly follow  
4 up. But ours is more of taking a look at the  
5 overall system versus the day-to-day here from  
6 Washington.

7 VICE CHAIRMAN MANSFIELD: Another  
8 question about standards, consensus industrial  
9 standards and things like that.

10 Is it your opinion that proper  
11 adherence to industrial standards, not DOE  
12 safety standards, would have prevented the  
13 Zuni rocket accident at Sandia?

14 MR. D'AGOSTINO: I'll have to get  
15 back to you on that. I think I'd like to take  
16 that for the record. I haven't looked at it  
17 from that perspective. I mean that is  
18 something that I know we're going to -- I  
19 haven't received the input from the six-month  
20 group that had been looking at how do we  
21 improve our safety.

22 VICE CHAIRMAN MANSFIELD: Okay.

1 MR. D'AGOSTINO: There are a  
2 number of pieces to that particular incident  
3 at Sandia that covered the contractor level  
4 but also at the local Site Office level and  
5 our level. So I think it requires a more  
6 considered response.

7 VICE CHAIRMAN MANSFIELD: I'd just  
8 like to make one comment --

9 MR. D'AGOSTINO: And would like to  
10 put that for the record.

11 VICE CHAIRMAN MANSFIELD: -- about  
12 the standards at Sandia. Nuclear operations  
13 are not common or frequent at Sandia but they  
14 do occur. We have found a less than  
15 questioning attitude -- an insufficiently  
16 questioning attitude on the part of Sandia  
17 people as to whether their approach is  
18 sufficiently conservative.

19 And having to do, for instance,  
20 with the ventilation system for the hot cell  
21 or the proper accident analysis for the z-  
22 machine plutonium shots, things like that. I



1 worry that that lack of precision might be  
2 something that rose from not having the burden  
3 of nuclear standards. And I wonder what will  
4 happen under Kansas City standards for cases  
5 like that.

6 That's just an observation and I  
7 don't expect an answer --

8 MR. D'AGOSTINO: Okay.

9 VICE CHAIRMAN MANSFIELD: -- from  
10 that.

11 MR. D'AGOSTINO: Point taken.

12 VICE CHAIRMAN MANSFIELD: But my  
13 last question is Kansas City has an excellent  
14 occurrence record, as you pointed out. How  
15 about their quality record? Is their quality  
16 record of delivered product as good now as it  
17 was before consensus standards were applied?

18 MR. D'AGOSTINO: The Kansas City  
19 quality record is extremely high.

20 VICE CHAIRMAN MANSFIELD: Okay.

21 MR. D'AGOSTINO: It's -- I don't  
22 know to how many 99 point -- but it's very

1 high. You know we occasionally have had  
2 problems in the past. And, you know, one  
3 screw, for example, is so important.

4 But most recently, it's been -- I  
5 mean it's been very high. It's always -- you  
6 know obviously it's got to be -- in my view,  
7 it's got to be perfect, you know, because  
8 these are components that go into various  
9 devices and support a variety of national  
10 security missions.

11 But we're very satisfied. And I  
12 think that our DoD [Department of Defense]  
13 customers are very satisfied that. And the  
14 same with the other agencies.

15 VICE CHAIRMAN MANSFIELD: Thank  
16 you, Mr. Chairman.

17 CHAIRMAN WINOKUR: Thank you.

18 Mr. Bader?

19 MR. BADER: Mr. Administrator,  
20 good morning.

21 MR. D'AGOSTINO: Sir, good  
22 morning, sir.

1                   MR. BADER: Do you consider  
2 federal oversight to be an inherently  
3 governmental function on nuclear safety?

4                   MR. D'AGOSTINO: Federal  
5 oversight, yes. I mean it means -- maybe I  
6 don't -- of course, federal oversight is  
7 inherently governmental. That doesn't mean  
8 federal oversight can't be supplemented or  
9 supported by other activities.

10                   We want -- the federal oversight  
11 should involve looking at all of the data  
12 that's available. Certainly all the data that  
13 our M&O [management and operating] contractor  
14 has. As well as own independent checks.

15                   MR. BADER: But the enforcement is  
16 inherently governmentally.

17                   MR. D'AGOSTINO: Well, enforcement  
18 belongs to my colleague, Mr. Podonsky. So I  
19 think he would agree with that.

20                   MR. BADER: Let me go from that  
21 sort of philosophical question to a very  
22 specific question.

1                   If I understood one of your  
2                   earlier statements, you referred to mixed  
3                   signals being sent as a result of some of the  
4                   communications that have been made by yourself  
5                   and the Deputy Secretary. Did I understand  
6                   that correctly?

7                   MR. D'AGOSTINO: We have to watch  
8                   out for mixed signals. People have taken what  
9                   we have said in a way that, in my view, I  
10                  hadn't expected. You know when I've talked to  
11                  the Deputy Secretary, he has reiterated to me  
12                  the importance of safety, the integration of  
13                  safety with mission, safety as mission. And  
14                  try not to -- and not separating those two.

15                  And the focus ultimately in the  
16                  end for all of this activity is to enhancing  
17                  or improving or advancing safety on those  
18                  activities that should be enhanced and  
19                  relying, where we can and where appropriate,  
20                  on the appropriate level of safety oversight  
21                  on activities that don't merit the degree of  
22                  safety oversight that it has been having.

1                   And there are differences. And  
2                   there is an evolution in the Department, I  
3                   think as we've talked about, the great push to  
4                   define directives in the Department throughout  
5                   the 1990s and then not only defining them but  
6                   then implementing them and then having a  
7                   system of governance that applies to them.

8                   And it shouldn't be applied  
9                   equally to a high hazard facility -- or  
10                  activity as to a low hazard facility --  
11                  activity. There needs to be set a  
12                  proportionality. And ultimately that's  
13                  management's job.

14                 MR. BADER: Are you -- or are you  
15                 aware of any attempt to make clear what was  
16                 meant and clear up any mixed messages?

17                 MR. D'AGOSTINO: Well, this is an  
18                 attempt to do that right now, sir.

19                 (Laughter.)

20                 MR. D'AGOSTINO: But if you're --  
21                 I mean other than continued communication with  
22                 people in the organization -- I had -- the

1 answer is yes. Let me just answer your  
2 question. Yes. I had a two-day offsite with  
3 every senior executive in the NNSA about a  
4 week and a half ago.

5 The two-day offsite was to  
6 accomplish a couple of things. First get all  
7 the senior executives, all the senior leaders  
8 in the NNSA in one spot at one time. It's  
9 never been done before, okay. And that's very  
10 important for these senior managers that run  
11 these organizations and facilities and provide  
12 technical advice to know who each other are.  
13 I mean frankly, I'll admit this, I didn't know  
14 ever senior technical manager in the whole  
15 NNSA. But we had them all there, 140-or-so  
16 folks.

17 The other purpose was to talk to  
18 them about the importance of mission  
19 accomplishment. And I was very clear in that  
20 session that safety is a mission area for the  
21 NNSA. It is a mission area that doesn't get  
22 separated out. People tend to -- and same

1 with security, by the way -- people tend to  
2 say well, safety and security, those are  
3 functional actions that, you know, I've got  
4 this group of people there. They're doing  
5 that. Hey, I'm in charge of the pointy end.  
6 Let me go do my business.

7 And, you know, we made it very  
8 clear. We had a great discussion amongst the  
9 senior executives that were in that two-day  
10 session on the integration of safety and  
11 security and work on the stockpile, not  
12 proliferation work, work enable the reactors  
13 and the like.

14 And I had the opportunity also to  
15 talk about these activities -- you know, this  
16 idea of defining governance meaning sharp and  
17 layers. And we had breakout sessions on this  
18 topic.

19 And what I got out of the breakout  
20 sessions -- I'd say it didn't surprise me. I  
21 was a little disappointed that we still kind  
22 of have this understanding. So what it tells

1 me is I have to continue to communicate to the  
2 senior executives that, you know, how we are  
3 moving forward in this area.

4 I also talked about the increasing  
5 workload. You're very familiar with this.  
6 We've talked about it before. That we  
7 anticipate, depending on Congressional  
8 authorization and appropriation, additional  
9 workload across a variety of fronts.

10 I won't go into the details here  
11 but that in this increasing workload  
12 environment, I'm going to be holding them  
13 responsible for, you know, delivering not just  
14 the -- what I would call the numbers of  
15 systems per year out the door but delivering  
16 them safely and securely.

17 So it was a great session. And  
18 that was my significant attempt frankly to get  
19 that message out directly to the folks that  
20 then communicate down in their organizations  
21 because I told them I expected, you know --  
22 and frankly, it was my view, my assessment is



1 that it was very well received.

2 But -- and they asked frankly for  
3 much more communication from me on these  
4 items.

5 MR. BADER: Do you feel, given --  
6 I mean I think the verbal communication is  
7 extremely important. But given that the mixed  
8 message came from written documents, do you  
9 feel that it would be helpful to correct that  
10 or let's say not correct but make clear what  
11 the message was meant to be in the written  
12 document?

13 MR. D'AGOSTINO: At this point,  
14 since I don't have the -- I haven't -- it's  
15 probably been a couple of months since I've  
16 taken a look at that particular document, I  
17 think there is always value in clarifying  
18 things. And something that Glenn Podonsky and  
19 I can talk about as we look at it and talk to  
20 our bosses. So --

21 MR. BADER: I'd like, instead of  
22 asking another question, I would like to make

1 a comment that I did appreciate your off-the-  
2 cuff remark at the 10th anniversary on the  
3 relationship of the Board and NNSA.

4 MR. D'AGOSTINO: Thank you, sir.

5 MR. BADER: That was a nice  
6 comment.

7 MR. D'AGOSTINO: Thank you. Well,  
8 if I could respond, I do think -- I believe  
9 the Board has a -- provides me and my managers  
10 an independent -- there is an independent  
11 group of folks that are concerned, you know,  
12 what we -- and we've talked about this in a  
13 variety of discussions that we've had kind of  
14 informally, that it is good for my managers to  
15 have input.

16 Those line managers, he or she,  
17 whoever is in charge has to ultimately make a  
18 decision about how do I balance risk. But  
19 it's very hard to do that if you don't have  
20 input. So the Board provides a set of inputs  
21 that I value.

22 MR. BADER: I'd like to make one

1 other observation. Your statements on taking  
2 some of the savings from industrial safety  
3 oversight by going to a so-called Kansas City  
4 model, we have made comments that there has  
5 been a shortage of federal people in the  
6 integrated project teams in major projects  
7 like UPF [Uranium Processing Facility] and  
8 CMRR [Chemical & Metallurgy Research  
9 Replacement].

10 And I'd sure like to see some of  
11 those savings show up in strengthened  
12 integrated project teams from the federal  
13 perspective at those places and some of the  
14 other projects.

15 MR. D'AGOSTINO: Okay.

16 MR. BADER: The other thing I'd  
17 say is we have some very old and decrepit  
18 facilities like 9212 and PF-4 [Plutonium  
19 Facility] -- not PF-4, not quite so bad, but  
20 that would clearly benefit from some of the  
21 savings being directed to risk reduction in  
22 those facilities.

1 MR. D'AGOSTINO: Right.

2 MR. BADER: So unless you'd care  
3 to comment back on that --

4 MR. D'AGOSTINO: It sounded, sir,  
5 like you were in my budget meeting yesterday.  
6 We did talk about that quite a bit,  
7 particularly -- I'll call it the making sure  
8 the right -- from a project management  
9 standpoint, particularly as we embark on a  
10 pretty robust set of activities over the next  
11 ten years, that we figure out a way to have  
12 not only right number but also qualified folks  
13 looking at these projects.

14 I think it is going to require an  
15 increase in number. Again, we're evaluating  
16 different ways to figure out how many that  
17 should be. Everyone has a different way of  
18 calculating what that should be.

19 But also evaluating how to get the  
20 quality of the people that are doing the  
21 oversight as well. We do really want to  
22 learn, you know, we heard about a lot of

1 lessons learned. And we do really want to  
2 learn from the past and not repeat those  
3 mistakes.

4 And the Deputy Secretary has put a  
5 really increased focus in this project  
6 management area. And I think one of the items  
7 that will really help us is this idea of not  
8 proceeding on to critical decisions,  
9 particularly to establish performance  
10 baselines until the design work is, you know,  
11 almost significantly completed.

12 That way we can get input from  
13 the Board, we can get input from others. We  
14 can do independent checks. And then we  
15 proceed on into the baselines with sound  
16 understanding of how we move forward. I think  
17 that will help a lot.

18 MR. BADER: Well, you know my  
19 thought on that, that there is another --  
20 that's another area where, perhaps, your  
21 directive in that respect has created some,  
22 shall we say, unclarity that needs to be

1 fixed. But that's another subject for another  
2 time.

3 MR. D'AGOSTINO: Yes, sir.

4 CHAIRMAN WINOKUR: Okay. Thank  
5 you. I think we need to move on.

6 MR. BADER: Mr. Chairman.

7 CHAIRMAN WINOKUR: Mr. Brown?

8 MR. BROWN: Well, thank you, Mr.  
9 Chairman.

10 I'd like to repeat what Mr. Bader  
11 said about your comments last week at your  
12 10th anniversary.

13 MR. D'AGOSTINO: Thank you.

14 MR. BROWN: I was there. I really  
15 appreciated you pointing out to your staff,  
16 the folks there, the role that we play over  
17 here and how we try and support.

18 Let me just ask four questions if  
19 I can. You talked about redundancy, duplicity  
20 of oversight, and trying to reduce that.  
21 Could you give us some specific examples that  
22 would help understand what needs to be

1 synthesized here to improve oversight?

2 MR. D'AGOSTINO: Okay. There are  
3 a number of procurement management reviews  
4 that we do kind of from Washington and also  
5 procurement reviews that are done kind of out  
6 in the field. And then the contractor does  
7 its own procurement reviews.

8 And, you know, there is a cost to  
9 kind of multiple levels of reviews on what I  
10 would call -- I mean I'm not saying  
11 procurement reviews aren't important but at  
12 some point they begin to lose their efficacy  
13 in the overall operation.

14 You know a Headquarters team that  
15 shows up at a, you know, particular site  
16 requires support by both the Site Office group  
17 that's there as well as the contractor. And  
18 if it is reviewing something that has already  
19 been reviewed twice, then you've got to ask  
20 yourself, you know, how much better am I going  
21 to get as a result of that?

22 I can provide you more of a list -

1 - the duplicative nature of some of these  
2 reviews, I think kind of in the procurement  
3 area -- and that's one of -- in the list of,  
4 you know, dozens and dozens of what I would  
5 call Headquarters-level assessments that we  
6 did, that was one that showed up quite a bit.

7 I don't know how -- you know, I  
8 have a separate team. I'm trying not to  
9 influence the team as they go off and look at  
10 how do we improve the areas of oversight in  
11 these areas. But we'll be getting reports  
12 pretty soon I imagine or maybe not an official  
13 report but a briefing on where the group is  
14 ending up, taking a look at these non-nuclear  
15 types of activities.

16 But it's not just kind of reviews.  
17 I think the thing -- what I want to do is when  
18 I think about duplicative, it goes into  
19 governance a little bit. To make sure that we  
20 don't have the people at all the layers  
21 thinking that they are in charge of the exact  
22 same thing because what that ends up doing is,



1       you know, the old adage if everyone is  
2       responsible, no one is responsible.

3                   And that is bad for the  
4       procurement reviews. But it is even kind of  
5       worse for safety because now you're talking  
6       about, you know, wanting to make sure  
7       everybody goes home in the evening with the  
8       same number of fingers and toes that they  
9       started off the day with. I mean ultimately  
10      that's the particular goal of that.

11                   So there's two levels of things.  
12      It's the reviews -- certain reviews themselves  
13      but it's the duplicity that can kind of happen  
14      at the governance level.

15                   So our focus ultimately is to try  
16      to sharpen those lines at the different levels  
17      and to, again, I don't have the briefing yet -  
18      - and to eliminate or to refine the oversight  
19      process.

20                   MR. BROWN: Thank you.

21                   MR. D'AGOSTINO: Yes.

22                   MR. BROWN: You mentioned that

1       you've, in the non-nuclear safety area, you've  
2       adopted a set of operating principles. I'd be  
3       interested if you can elaborate a little bit  
4       on how the operating principles for non-  
5       nuclear will differ from the operating  
6       principles for nuclear.

7                   MR. D'AGOSTINO: Well, I don't  
8       break them out separately, saying well, this  
9       is what you do for nuclear and this what you  
10      do for non-nuclear. I think the operating  
11      principles focus on -- and, you know, this is  
12      a tee off from the Deputy Secretary's  
13      operating principles -- you know, that we'll  
14      pursue our mission in a manner that is safe,  
15      secure, legally and ethically sound, and  
16      fiscally and environmentally responsible.

17                   And my focus is to ensure that the  
18      mission, that safety is an element of part of  
19      the mission. You can't separate out those  
20      two.

21                   I don't call out and say well, you  
22      are going to do less oversight on low risk

1       stuff and higher oversight on high risk stuff  
2       inside the operating principles themselves.

3               I think that gets -- and when we  
4       start laying out our governance documents and  
5       the like, that should be communicated as an  
6       element of that.

7               MR. BROWN: It sounds like the  
8       principles would be pretty much the same  
9       between non-nuclear and nuclear. I mean --

10              MR. D'AGOSTINO: Yes, sir. I mean  
11       pursuing safety --

12              MR. BROWN: -- at that level.

13              MR. D'AGOSTINO: -- at that level  
14       because the principles are a high level set of  
15       words. I think it is how do you translate  
16       those high level set of words. So pursuing  
17       things in a safe, secure, legally sound, and  
18       physically responsible manner means that it is  
19       more important to things that can cause  
20       greater risk than things that can cause fewer  
21       risks.

22              And there are going to be

1 judgments that get applied to what is in what  
2 category. I think, as a general view, nuclear  
3 safety is at a different level of judgment  
4 than non-nuclear safety.

5 The danger here, again, this is  
6 part of the problem is to say non-nuclear  
7 safety is not important. Absolutely. It's  
8 very important.

9 But since we have, and I've  
10 described the multiple levels of assurance,  
11 both the workforce -- it starts with the  
12 worker but that has to be communicated and  
13 constantly reinforced.

14 Then it goes to the worker's  
15 manager. Then the contractor's corporate --  
16 you know the corporate family, that corporate  
17 reach back.

18 And then it continues to Site  
19 Office, we have facilities reps, folks that  
20 are out there on the field, Site Office  
21 manager, program line organization, which has  
22 a safety organization that's within it,

1 defense programs, an independent check by my  
2 senior safety advisor, as well as another  
3 independent check by a health, human safety  
4 organization. And those are very robust  
5 levels of that.

6 But the key is is you don't want  
7 to apply the same the level of kind of  
8 oversight press on the lower risk activities  
9 than you do on the higher risk. You want that  
10 press frankly to be even better on the higher  
11 risk activities.

12 MR. BROWN: Thank you.

13 You mentioned that federal  
14 oversight is increasingly risk informed. How  
15 do you -- what metric do you use to evaluate  
16 risk of nuclear -- high hazard nuclear  
17 activities? Hopefully it's not how many  
18 accidents you have.

19 MR. D'AGOSTINO: Right. The  
20 metric I would use is more focused on the  
21 independent assessments that come in. And the  
22 reviews that come in from the biennial reviews

1 that I receive, typically let out of the CDNS  
2 organization, from the reviews that I receive  
3 from Mr. Podonsky from HSS [Health, Safety and  
4 Security], from the -- I mean those are the  
5 two primary what I would call within DOE  
6 approaches.

7 I have been informed by the  
8 Board's letters plus the -- I know that your  
9 folks out in the field send regular updates.  
10 Don Nichols -- I don't get a chance to read  
11 those every week. I just can't to it. But I  
12 do have somebody that does that for me, Don  
13 Nichols and Frank Russo take a look at those  
14 closely and they update me periodically. And  
15 I get quarterly safety reviews on those  
16 particular items.

17 The final thing I get is about  
18 every two to four weeks, depending on how we  
19 can get it into my schedule, I sit down with  
20 Frank Russo and Don Nichols and we go over a -  
21 - we have a matrix list of activities that,  
22 you know, whether it is responses to the

1 Board, whether it is what's happening out in  
2 the field, whether it is hey, Defense Programs  
3 is looking at doing the following thing, this  
4 is going to come up to the CTA for action.

5 How do we look at this particular activity?

6 Do we look to, you know, make sure that we're  
7 watching the Defense Programs organization,  
8 the Nonproliferation organization as  
9 appropriate and the like.

10 So -- and it is independent. And  
11 I'm very comfortable with that approach.  
12 That's kind of how I judge it. It's not a  
13 TRC/ -- it's not a number that -- well, my  
14 number is -- falls in the band, therefore I  
15 can feel good.

16 MR. BROWN: Right, right. So you  
17 don't have a number like DART or those other -  
18 -

19 MR. D'AGOSTINO: No, sir.

20 MR. BROWN: I guess the last  
21 question that I will ask, in the beginning of  
22 the CTA function, you had a deputy and in NNSA

1 he became the CTA on the other side of the  
2 fence -- was retained by the Under Secretary  
3 and I guess that's still true today.

4 You haven't got a Deputy. You're  
5 a very busy guy. How do you effectively  
6 function as CTA in NNSA?

7 MR. D'AGOSTINO: I won't kid you,  
8 you know, I miss Bill Ostendorff. It was good  
9 to have somebody with his experience doing it  
10 then. And he and I consulted quite a bit.

11 The way -- the approach I use is I  
12 rely -- and this is one of the reasons why we  
13 had to put a single focus on restaffing the  
14 CDNS office, which had dipped down in staff  
15 numbers to a point that I was very  
16 uncomfortable, particularly without Mr.  
17 Ostendorff there helping me, so Don and I made  
18 a very concerted effort to get the staff  
19 levels up.

20 And this kind of regular reporting  
21 to on this kind of two to three, two to four  
22 week basis -- in fact I think we have one



1 scheduled this week -- to go over the matrix  
2 of all the CTA -- all of the CDNS activities,  
3 which ones are going to have CTA implications  
4 and all the open ones. And obviously there  
5 are more open ones than I'd like but we're  
6 working down that particular list.

7 So I rely on the CDNS and the CDNS  
8 staff for that primarily as my direct report.  
9 And then we dip down to the Defense programs  
10 where we think we need to.

11 MR. BROWN: Thank you very much.

12 Mr. Chairman.

13 CHAIRMAN WINOKUR: Ms. Roberson?

14 MS. ROBERSON: Thank you, Mr.

15 Chairman.

16 CHAIRMAN WINOKUR: Thank you.

17 MS. ROBERSON: And thank you, Mr.

18 Administrator, for your testimony today.

19 MR. D'AGOSTINO: Thank you.

20 MS. ROBERSON: In your testimony,  
21 you emphasize that the Kansas City contractor  
22 had a strong safety culture and safety

1 performance history when you began  
2 implementation of this new model.

3 What is your assessment of the  
4 state of safety culture and performance at  
5 your other facilities? You know clearly  
6 Nevada and Sandia, as you are piloting those,  
7 are in one state. And then you have  
8 everything else.

9 And combined with that, what do  
10 you need to see that makes you comfortable as  
11 the owner that they can sustain -- obviously  
12 anybody can implement but they can sustain the  
13 level of safety you desire as they implement  
14 these new models?

15 MR. D'AGOSTINO: Okay. We started  
16 off with Kansas City a few years ago because  
17 they had a strong track record.  
18 Interestingly, and Mr. Podonsky and I will  
19 remember this, when we looked at an approach  
20 to improving the efficacy of our overall  
21 safety, you know, we thought well, best in  
22 class. But we said no, we want the Honeywell

1 corporate sponsor to come in and independently  
2 check, which they do periodically before we  
3 kind of say -- I don't to use the word turn  
4 over the reins but before we started  
5 proceeding down the path we rely more on the  
6 management approach and corporate reach back.

7 And what Honeywell corporate said  
8 is they're not quite ready just yet. We need  
9 to see some improvements in some areas. So we  
10 waited because that was -- and Honeywell has  
11 a very strong reputation. And I believe  
12 deservedly so.

13 The -- what we end up with is a --  
14 what we ended up with is kind of stepping at  
15 it -- going back to your second question, what  
16 do I need to see, and I need to see the kind  
17 of commitment from a corporate reach back  
18 standpoint that there has been an independent  
19 verification that the contractor assurance  
20 system, not done by the Site Office or not  
21 done by the local contractor -- independent,  
22 outside verification that there is a

1 contractor assurance system that is sound,  
2 that's integrated, that's independently  
3 checked, that has people in place, that has  
4 training, and that can be -- and sustainment  
5 is important. You're absolutely -- this is  
6 not just a one-time okay, now you can go,  
7 that's maintained over time.

8 You know I can't tell you whether  
9 or not these two sites have that but I need to  
10 see that. We need to see that.

11 We, the Department, needs to see  
12 that before anything happens on the non-  
13 nuclear side on moving down this path,  
14 particular, Mr. Chairman, as it relates to  
15 your all's concerns, I think, about how this,  
16 you know, kind of the bleeding over question,  
17 making sure that we actually do this  
18 appropriate shift, focus on high hazard  
19 activities, and nuclear activities, without --  
20 don't let what some might term as downgrading,  
21 because it's not downgrading, it's kind of --  
22 it's a more efficient approach impacting the

1 other activities.

2 So I think the answer -- the  
3 straight answer to your question is this  
4 independent group of folks that come in and  
5 say whether they are ready or not. Then we  
6 will review that as well. That is what Patty  
7 Wagner would like to see. That's what I would  
8 like to see. That's what we'd like to see.

9 MS. ROBERSON: Okay.

10 Mr. Chairman, I don't have any  
11 other questions at this time.

12 CHAIRMAN WINOKUR: A couple of  
13 things stand up. I think we would benefit as  
14 a Board to understand a little bit more about  
15 the Kansas City initiative. We've spoken to  
16 your contractors and at times there seems to  
17 be a little bit of confusion about the  
18 application of it and what it really is or is  
19 not.

20 And then, of course, we always  
21 have the challenges associated with defense  
22 nuclear facilities that have nuclear and non-

1 nuclear work in them. So at least from our  
2 perspective, we see a certain amount of  
3 uncertainty about this model and its  
4 application. And I think we'd benefit from a  
5 little bit more feedback.

6 MR. D'AGOSTINO: Yes, sir.

7 CHAIRMAN WINOKUR: And the other  
8 thing that I'll take the opportunity to do --  
9 and let me say at the start that I understand  
10 your personal commitment to safety and I think  
11 it is extremely important, we talked today  
12 about communication with your direct reports,  
13 communication with the workforce.

14 And I've always personally felt  
15 that your statement getting the job done is  
16 something that could create some confusion  
17 about the important role of safety because,  
18 you know, you and I both know the workers are  
19 out there, they're making split second  
20 decisions all the time.

21 We know how exciting it is to get  
22 the work done and how important it is.

1 MR. D'AGOSTINO: Right.

2 CHAIRMAN WINOKUR: And I'm just  
3 asking you, I guess, to, as much as you can,  
4 balance that thought as frequently as you can.  
5 I'd like you to add the word, you know,  
6 getting the job done safely. I don't know if  
7 you'll go there with me but at least balance  
8 that thought when you get occasion to do that.

9 MR. D'AGOSTINO: I'll do that, Mr.  
10 Chairman. And I'll note, at least in Defense  
11 -- we had a banner on the bottom on safety.  
12 But we have to make sure that that isn't just  
13 written there but it's communicated verbally  
14 as well.

15 CHAIRMAN WINOKUR: Great.

16 MR. D'AGOSTINO: So I'll have to  
17 figure out -- making sure we get that message  
18 out.

19 CHAIRMAN WINOKUR: Okay. All  
20 right.

21 Well, I think we want to thank you  
22 very much for your testimony.

1 MR. D'AGOSTINO: Okay. Thank you,  
2 sir.

3 CHAIRMAN WINOKUR: And the answers  
4 to the Board questions. We know you are  
5 extremely busy and we appreciate your time.

6 MR. D'AGOSTINO: Thank you, sir.

7 CHAIRMAN WINOKUR: And thank you  
8 for being with us this morning.

9 MR. D'AGOSTINO: I certainly  
10 appreciate that. And unfortunately I'm going  
11 to have to leave if that's okay.

12 CHAIRMAN WINOKUR: I think we  
13 understand that. Thank you.

14 MR. D'AGOSTINO: Thank you.

15 CHAIRMAN WINOKUR: Well, the Board  
16 notes for the record that the Under Secretary  
17 of Energy Johnson was unable to attend today's  
18 meeting and delegated her responsibilities to  
19 Mr. Richard Chip Lagdon, who is the Chief of  
20 Nuclear Safety.

21 And I'd like to suggest -- I hope  
22 you're prepared that you could perhaps keep



1 your oral comments to about five minutes to  
2 leave us a little more time for questions.  
3 And we want to welcome you here this morning  
4 to present your testimony.

5 MR. LAGDON: Okay. Thank you, Mr.  
6 Chairman, members of the Board. It's a  
7 pleasure to be here and certainly an honor to  
8 represent the Under Secretary as the central  
9 technical authority and in my capacity as the  
10 Chief of Nuclear Safety.

11 Since I was assigned as the Chief  
12 of Nuclear Safety in 2006, my focus has been  
13 on strengthening internally, working within  
14 the organizations I'm responsible for,  
15 strengthening the safety culture and  
16 strengthening safety oversight.

17 I'd like to talk a few minutes  
18 about how we did that, keeping my remarks to  
19 five minutes or so. First let me state that  
20 there's about 130 nuclear facilities under my  
21 purview. And these range in level of  
22 complexity from Hazard Category 1 to Hazard

1 Category 3.

2 First and foremost, my staff of  
3 eight individuals are each assigned sites.  
4 They are liaised with the field offices.  
5 And they provide technical support to those  
6 line organizations responsible for conducting  
7 oversight both at the field level and at the  
8 Headquarters level.

9 Coupled with my charter as the  
10 Chief of Nuclear Safety and my original  
11 tasking from my predecessor that has continued  
12 with the current Under Secretary is  
13 strengthening project performance. So we are  
14 also deeply involved in resolving technical  
15 issues involving major projects, leading and  
16 conducting construction project reviews.

17 One of my primary concerns in  
18 nuclear safety is criticality safety  
19 oversight. We worked with EM [Environmental  
20 Management] to establish the Criticality  
21 Safety Oversight Program and have executed  
22 that over the past three years to ensure that

1       criticality safety is maintained throughout  
2       the complex.

3                   Areas subject to review with  
4       regard to criticality safety include safety  
5       evaluations, recent incidents, nonconformance  
6       reports, controls implementation, corrective  
7       actions, and management processes.

8                   We've also been engaged in a  
9       number of nuclear facility startups,  
10      particularly the DUF6 [Depleted Uranium  
11      Hexafluoride] facilities at Portsmouth and  
12      Paducah, operational readiness reviews at  
13      Hanford K West Basin, Remote-Handled  
14      Transuranic Waste Processing and other DOE  
15      facilities.

16                  We provided extensive oversights  
17      to waste treatment and resolving issues with  
18      respect to black cell piping and quality  
19      assurance, assigning more QA [quality  
20      assurance] resources to integrated project  
21      team and working other areas such as  
22      deposition velocity and other technical

1 issues.

2           Along with those functional  
3 oversight programs, we've also been  
4 responsible, my staff is responsible for  
5 programs with regard to improving the way the  
6 Department does business. One thing that  
7 remains a goal is technical authority. Right  
8 now it has manifested itself in our support of  
9 the Technical Advisory Board being held by EM.

10           We've also sponsored training to  
11 increase and improve technical capability.  
12 The first training session was general safety  
13 basis. We followed that up with a three-day  
14 course on environmental restoration,  
15 deactivation, and decommissioning, safety  
16 basis training.

17           And later this year, we'll be  
18 conducting design of nuclear facility  
19 components and seismic design courses, which  
20 your staff has also been invited to attend.

21           One of the major initiatives under  
22 Secretary Chu has been construction project

1 reviews. We started last year with the first  
2 round of reviews. This is under the direction  
3 of Secretary Chu to improve oversight of these  
4 projects.

5 And I believe you are going to see  
6 great improvement in the construction project  
7 performance to rapid resolution of technical  
8 issues and bringing the right technical  
9 capability to bear on the projects.

10 Another program responsibility we  
11 took responsibility for was the code of record  
12 for EM facilities. A code of record is a body  
13 of requirements, including federal and state  
14 laws as defined in contracts and the standards  
15 and requirements identification documents or  
16 their equivalent, that are in effect at the  
17 time that a facility or item or equipment was  
18 designed and accepted by DOE.

19 The code of record includes those  
20 requirements invoked during the design phase  
21 and later used to initiate operations to  
22 ensure they are available to all responsible

1 parties during each phase of the life cycle of  
2 the facility.

3 As part of our lessons learned  
4 process in studying the issues, the technical  
5 issues primarily with the construction  
6 projects, we embarked on an ambitious plan to  
7 develop a standard review plan for EM,  
8 capital, and major operating projects.

9 This was started about two-and-a-  
10 half, three years ago. We recently issued  
11 rev. 2 and are using that to strengthen the  
12 degree of rigor in our construction project  
13 reviews.

14 The third area we focused on was  
15 sponsoring crosscutting nuclear safety  
16 initiatives involving -- the first one is  
17 natural phenomenon hazard assessment and  
18 design. I've established a lessons learned  
19 panel. We met yesterday for the sixth time to  
20 provide feedback and comments on our  
21 performance and seismic design of our nuclear  
22 facilities and strengthen our approaches to

1 future facilities.

2 We've also been involved in  
3 strengthening the seismic hazard  
4 characterization at Paducah, Hanford  
5 probabilistic seismic hazard assessment, and  
6 supporting the central and eastern United  
7 States Seismic Source Characterization  
8 Project.

9 We have conducted quality  
10 assurance and software quality assurance  
11 training to over 150 federal and contractor  
12 staff over the last two years. We've  
13 established an energy and science software  
14 quality assurance work group that is supported  
15 by the Offices of Science, Nuclear Energy, and  
16 Science.

17 I participate on the Director's  
18 Review Board for the Under Secretary in  
19 maintaining awareness of directives  
20 activities. And as you know, I am the  
21 responsible manager for the Defense Board  
22 Recommendation 2007-1, Safety-Related In Situ

1 Nondestructive Assay Radioactive Materials.

2 Our plate is full. We continue to  
3 work and continue to learn and try to apply  
4 process improvements where we can and  
5 improving our safety oversight of our nuclear  
6 facilities.

7 With that, I'd like to address  
8 your specific questions in the testimony if  
9 that's appropriate. The first question  
10 involves provide your assessment of the  
11 effectiveness of your oversight programs.

12 The oversight programs have been  
13 established at three organizational levels for  
14 the Under Secretary for Energy, including Site  
15 Offices, Headquarters, program secretarial  
16 offices, and the central technical authority  
17 or the Chief of Nuclear Safety and my small  
18 staff.

19 For the purposes of this meeting,  
20 I'm focusing my comments on oversight at  
21 defense nuclear facilities under the control  
22 of the Under Secretary's Office of



1 Environmental Management.

2 The oversight program is  
3 established, maturing, and effective as  
4 evidenced by the contributions described  
5 above. The first and most important level of  
6 our oversight program is our Site Offices.

7 Site Offices provide comprehensive  
8 and direct oversight of the contractor  
9 activities affecting safety and mission. The  
10 Site Office manager and federal project  
11 directors evaluate contractors' current and  
12 near-term activities and associated hazards,  
13 complexity, recent DOE contractor assessments,  
14 past performance, and external events issues  
15 affecting other nuclear facilities.

16 Using that information, a plan is  
17 prepared which identifies targeted activities  
18 to be assessed and the relative priority of  
19 each assessment. A schedule is developed from  
20 the planning phase that details assessment  
21 topics, dates, duration, and responsible  
22 staff.

1                   Planning and scheduling efforts  
2           also identify resources needed to accomplish  
3           the assessments. While each Site Office has  
4           dedicated staff to manage and implement  
5           assessments, they also supplement their  
6           assessment teams with federal staff from other  
7           Site Offices and Headquarters, including my  
8           staff, consultants, national labs, and  
9           occasionally from external organizations such  
10          as the U.S. Army Corps of Engineers.

11                   In addition, these field offices  
12          are also supported, as we discussed earlier,  
13          the Fac Reps [Facility Representatives] and  
14          the safety system oversight personnel. I  
15          should mention that it is the responsibility  
16          of each of my site liaisons to walk down their  
17          safety system oversight responsibilities with  
18          the associated representatives and participate  
19          in Fac Rep walk-downs.

20                   The next level of our oversight  
21          program is at EM Headquarters. Headquarters  
22          oversight includes the evaluation of the

1 implementation of programmatic initiatives,  
2 including quality assurance, project  
3 management, and operations. For these  
4 initiatives, EM Headquarters, through the  
5 efforts of the Safety and Security Program and  
6 their offices of safety operations assurance  
7 and standards and quality assurance, take an  
8 approach similar to the sites in planning,  
9 scheduling, and execution of their  
10 programmatic and site-specific assessments.

11 In these instances, the schedule  
12 and scope are tailored to the needs as  
13 determined by a variety of means. These  
14 include daily site safety performance, as  
15 reported through existing Departmental  
16 mechanisms, period Headquarters project  
17 reviews, corrective actions, and corrective  
18 action effectiveness reviews from prior  
19 assessments, and most recently the increase in  
20 activity associated with the American Recovery  
21 and Reinvestment Act being undertaken at EM  
22 sites.

1                   Second question involves identify  
2 what you believe to be the strengths and  
3 weaknesses of oversight processes in your area  
4 of responsibility.

5                   The CTA's program's greatest  
6 strength is maintaining the focus on site  
7 oversight programs where they have the daily  
8 pulse of activities. By overseeing the  
9 activities of the site programs and assisting  
10 where necessary on a priority basis, we are  
11 able to keep the onus for day-to-day oversight  
12 on the field. The expertise of my staff has  
13 proved to be a valuable resource in this  
14 regard.

15                   Strengths of the oversight program  
16 also include the variety of assessment types  
17 we perform, the assessment protocols,  
18 qualified assessment staff, and the  
19 improvements that have been yielded.

20                   We need to improve the technical  
21 performance on some of our major construction  
22 projects. The Secretary and Deputy Secretary

1 of Energy are committed to the process of  
2 these projects, the success of these projects,  
3 and resources are being aligned to provide  
4 more support.

5 As the construction process review  
6 process matures, better technical support will  
7 be provided. The Secretary was personally  
8 briefed on the outcome of last week's review  
9 at the Waste Treatment Plant. So he remains  
10 very proactively engaged.

11 Third question for proposed  
12 changes to current oversight programs,  
13 identify the specific issues driving the  
14 perceived need for change. The only changes  
15 to nuclear safety-related oversight under my  
16 purview pertain to minimizing redundancy and  
17 maximizes the effectiveness of the oversight.

18 As Technical Advisor, I am  
19 responsible to be aware of any significant  
20 weaknesses in oversight of our nuclear  
21 facilities and provide assistance to Site and  
22 other Headquarters activities under a priority

1 basis.

2 Quite frankly, I think the  
3 Secretary is asking us to intelligently apply  
4 what we have in place and do it with prudence  
5 and what I would call intelligence -- he's  
6 looking for intelligent execution.

7 Priorities are based on a life  
8 cycle status. With regard to the fourth  
9 question, excuse me, describe what metrics are  
10 applied as a tool for balancing priorities  
11 between mission and safety. Fundamentally I  
12 do not look at metrics. Priorities are set  
13 based on a life cycle status of the facility  
14 and the critical functional areas necessary  
15 for maintaining proper nuclear safety such as  
16 quality assurance, design engineering,  
17 construction, procurement, testing, and  
18 operations.

19 When it comes to safety, I and the  
20 Under Secretary are in complete agreement.  
21 Safety is not compromised. As you know, the  
22 body of regulations and directives has been

1 developed over the years, which codify  
2 expectations for safety.

3           Unfortunately, many were developed  
4 through lessons learned the hard way, through  
5 sometime interpretations of this body may  
6 differ, my standing rule is to ensure adequate  
7 safety which is reasonably conservative to the  
8 public and the workers at all times.

9           Question number five, provide your  
10 assessment on the adequacy of the CTA support  
11 staffing to ensure a robust execution of the  
12 CTA function. My support staffing is  
13 appropriate for the current scope of  
14 activities under my purview.

15           I believe we are performing  
16 effectively and maintain high standards. If  
17 additional resources are needed, they belong  
18 with the project teams, as previously  
19 identified.

20           Provide your assessment of the  
21 differences of oversight approach for nuclear  
22 and non-nuclear activities. In my view, the

1 same overall integrated and graded approach is  
2 applied to nuclear and non-nuclear activities.  
3 Again, we're looking for what I would call  
4 intelligent execution.

5 Differences can be found in the  
6 areas of assessment, frequency, depth,  
7 planning, significance of the impacts,  
8 formality of reporting, and improvement  
9 processes and assessor training and  
10 qualifications. This integrated and graded  
11 approach is driven by the Department's primary  
12 requirements related to oversight and  
13 assessment.

14 DOE Order 414.1C, Quality  
15 Assurance, DOE Order 226.1A, Implementation of  
16 Department of Energy Oversight Policy, and DOE  
17 Manual 450.4-1, Integrated Safety Management  
18 System Manual, and associated guidance  
19 describe the types of assessments and  
20 responsibilities for them.

21 Topics to be assessed: planning  
22 and conduct, reporting and follow up of



1 results, and qualification.

2 The CTA's focus, however, and mind  
3 remains on apply rigorous oversight on a  
4 frequency to ensure that Headquarters and  
5 field offices are conducting their oversight  
6 duties and that nuclear safety is preserved.

7 I'm now ready to entertain  
8 questions, Mr. Chairman.

9 CHAIRMAN WINOKUR: Well, thank you  
10 very much for your testimony. It's very  
11 appreciated.

12 Let me see if I understand what  
13 you're saying. It appears to me, and I could  
14 get this wrong, but the Under Secretary of  
15 Energy doesn't really see any need for a  
16 significant safety reform in the Department of  
17 Energy because there are a lot of major safety  
18 reform initiatives taking place right now in  
19 terms of directives, oversight models, more  
20 heavy reliance on contractor assurance  
21 systems. Did I get that right?

22 MR. LAGDON: They are looking for

1 execution, okay, execution in all facets of  
2 our operation. They're looking for  
3 improvement in our project performance.  
4 They're looking for improved safety.

5 And they have set the bar a notch  
6 higher, in my view, with regard to improving  
7 our operations.

8 CHAIRMAN WINOKUR: Does the Under  
9 Secretary see a need for a major revision of  
10 the directives dealing with operations at  
11 defense nuclear facilities?

12 MR. LAGDON: I do not believe so.

13 CHAIRMAN WINOKUR: Thank you.

14 We have new oversight models that  
15 are being proposed. In the past, for example,  
16 Mr. Podonsky's organization held safety and  
17 security, has done transactional oversight.  
18 There's now an option to deal with assist type  
19 of oversight. And that is sometimes initiated  
20 by a program secretarial office inviting  
21 somebody in. Is that an initiative that the  
22 Under Secretary of Energy welcomes or finds

1       beneficial?

2                   MR. LAGDON: We have not, on our  
3 side, under the Under Secretary of Energy,  
4 taken on any of those initiatives particular  
5 to any of the EM sites at this time.

6                   CHAIRMAN WINOKUR: Thank you. And  
7 there's a desire also, I think, to rely a  
8 little more heavily on the contractor  
9 assurance systems and do you have any thought  
10 on that? Any thought basically in terms of  
11 how you well these contractor assurance  
12 systems are performing and whether you want to  
13 reply upon them more heavily?

14                   MR. LAGDON: I think it is  
15 fundamentally our responsibility to look at  
16 contractor assurance systems and continuously  
17 try to improve them. I base that on my  
18 knowledge of the Institute of Nuclear Power  
19 Operations.

20                   When they look at nuclear plants  
21 across the complex, they developed a set of  
22 six criteria relating to nuclear performance.

1 And effective plants exhibit six  
2 characteristics involving excellence in  
3 operations, maintenance, focus on mission,  
4 using assessments, and the final one is using  
5 assessments in contractor assurance systems to  
6 continuously learn and improve operations.

7 So I think it is a fundamental  
8 responsibility we have to put the emphasis and  
9 pressure on contractor assurance systems to  
10 improve.

11 CHAIRMAN WINOKUR: And finally,  
12 the Administrator talked about wanting to kind  
13 of redirect his resources to provide more  
14 focus on the high-hazard nuclear types of  
15 operations and a little bit emphasis on the  
16 lower-value non-nuclear perhaps related work.  
17 Not that it wasn't important.

18 But there was a need to kind of  
19 shift resources. And is that something that  
20 you -- you think the Under Secretary supports,  
21 that generic need to ship resources under her  
22 purview to do that?

1 MR. LAGDON: Again, we're looking  
2 at some intelligent execution. Ensuring  
3 safety with regard to high consequence, low  
4 probability is an utmost priority for all  
5 involved.

6 At the same time, doing  
7 unnecessary oversight in the lower risk  
8 activities is not necessarily productive  
9 either and can have a negative or what I would  
10 be concerned about in terms of ambivalent  
11 compliance with nuclear safety requirements  
12 and directives.

13 CHAIRMAN WINOKUR: Well, I guess I  
14 do have one final question. Has the Under  
15 Secretary of Energy communicated her beliefs  
16 about these safety reform issues to the  
17 Secretary and the Deputy Secretary of Energy?  
18 Because basically what I'm hearing you say is  
19 that you are pretty confident in the systems  
20 you have right now, that you are able to use  
21 those if you execute them effectively to  
22 provide the safety and perform your mission.

1 MR. LAGDON: I can't answer that  
2 question at this time. I cannot speak -- if  
3 she's had private conversations, I'm not aware  
4 of them.

5 CHAIRMAN WINOKUR: Okay. That's  
6 all I have.

7 Dr. Mansfield?

8 VICE CHAIRMAN MANSFIELD: Thank  
9 you. Thank you, Mr. Chairman.

10 That was a useful presentation.  
11 And I thank you for it.

12 I just wish to note that more than  
13 the many briefers or speakers that we've  
14 talked to, you've continually relied on the  
15 orders and standards, 413.3, 425.1, 422.X, the  
16 whole list of them.

17 I sincerely hope that none of  
18 these are on the shopping block since you've  
19 indicated how important they were to you  
20 carrying out your responsibilities.

21 That's all I have, Mr. Chairman.

22 CHAIRMAN WINOKUR: Mr. Bader?

1 MR. BADER: Thank you, Mr.  
2 Chairman.

3 Mr. Lagdon, a specific question on  
4 directives. My understanding is that EM is  
5 the office of primary interest on 15  
6 directives. And three of those directives  
7 were the subject of suggestions by HSS that  
8 they should be reviewed and EM has said that  
9 they didn't see any reason to review them,  
10 leaving all 15 to stand.

11 MR. LAGDON: Yes.

12 MR. BADER: Given that situation,  
13 do you see either the Under Secretary or  
14 yourself having any further involvement in the  
15 directives review process?

16 MR. LAGDON: Yes. I sit on the  
17 Directives Review Board so I see all the  
18 reviews that are going on and the proposed  
19 changes to directives. And that Board meets  
20 every two weeks.

21 But with respect to those 15, I  
22 don't see any future changes to those in

1 particular.

2 MR. BADER: In terms of other  
3 reviews, and I'm thinking primarily now of the  
4 HSS directives, are you, as a member of that  
5 Board, are you looking for implications of  
6 other directives that might be reviewed  
7 impacting your commitments to the Board under  
8 various requirements or letters?

9 MR. LAGDON: No, absolutely. I  
10 have members of my staff participating in the  
11 reviews of each of those directives that are  
12 designated by 410 -- DOE Order 410 as  
13 important to nuclear safety. And if they do  
14 impact, I will provide that feedback to the  
15 Directives Review Board.

16 MR. BADER: Do you have any other  
17 thoughts on the process of the directives  
18 review that you would like to share with us?

19 MR. LAGDON: I think with respect  
20 to nuclear right now, it's still in the  
21 defining stages. Not everything has been  
22 defined in terms of what outcomes we are



1       trying to achieve by some of the reviews. And  
2       it will materialize over the next few months.

3               MR. BADER: Do you feel that the  
4       process is clear, precise, and unambiguous?

5               MR. LAGDON: No. But we'll get  
6       there.

7               MR. BADER: I have one other --  
8       no, I think I'll pass.

9               Mr. Chairman, thank you.

10              CHAIRMAN WINOKUR: Mr. Brown?

11              MR. BROWN: Thank you, Mr.  
12       Chairman.

13              Thank you, Mr. Lagdon, for your  
14       testimony this morning.

15              You mentioned the importance of  
16       minimizing redundancy and maximizing  
17       effectiveness of oversight. Do you have any  
18       specific proposals or suggestions on how you  
19       do that? So give me an idea of what direction  
20       or what we would see out of that initiative.

21              MR. LAGDON: What are your risks?  
22       What are your consequences? And how do you

1 apply resources to mitigate those risks?

2 And it is built on various layers  
3 between the facility reps, the safety system  
4 oversight representatives, the field offices,  
5 and then, again, Headquarters. And we have  
6 tried to take a systematic approach to doing  
7 that within the EM organization in supporting  
8 their oversight activities and rather than  
9 adding layers.

10 There is some overlap there. And  
11 sometimes the overlap is sufficient to ensure  
12 safety. And it's part of the strength that we  
13 do have. So any further initiatives regarding  
14 that would take a careful look at that  
15 hierarchy of priorities and be smartly  
16 applied.

17 VICE CHAIRMAN MANSFIELD: Thank  
18 you.

19 You also mentioned an absolute  
20 metric, safety is not compromised and to  
21 ensure adequate safety, it must be reasonably  
22 conservative. What guides you in defining

1 reasonably? Where is that -- how do you  
2 define that bright line when you cross over  
3 it, it's no longer reasonable?

4 MR. LAGDON: That's a good  
5 question. And it's one we have debated over  
6 the last few months in terms of some other  
7 particular technical details.

8 Reasonably conservative means you  
9 do not bound the outliers. But then you have  
10 sufficient defense in depth so that you are  
11 not relying on single parameters to protect  
12 the health and safety of the public.

13 MR. BROWN: Okay. Thank you.

14 The Administrator talked about  
15 safety -- nuclear safety being risk informed.  
16 The Board issued a recommendation last year on  
17 Risk Assessment 2009-1. What role do you see  
18 today for quantitative risk assessment in your  
19 work? And what role do you think it might  
20 have in the future?

21 MR. LAGDON: I think it can help  
22 us further define the levels and degree of

1 rigor necessary within the hazard category 2  
2 realm. My experience with probabilistic risk  
3 assessment at commercial nuclear plants is  
4 quite different than how we apply risk  
5 approaches to Departmental nuclear facilities.

6 There's a wide range of facilities  
7 within the hazard category 2 realm. And I  
8 think the more significant consequence types  
9 of hazard category nuclear 2 facilities, it  
10 can help us better define approaches to  
11 oversight and safety analysis.

12 MR. BROWN: I mean it sounds like  
13 from what the Administrator said and what  
14 you've said that this is about risk informed  
15 is a subjective assessment as opposed to an  
16 objective assessment that gives you some feel  
17 that you are comfortable. Whatever that  
18 means.

19 And I'm wondering if there isn't  
20 some better metric, that some more rigorous  
21 assessment that couldn't help you define risk  
22 informed to give you -- maybe not a bright

1 line but at least a pencil line that would  
2 support, you know, decisions.

3 MR. LAGDON: Well, there's the  
4 process of expert elicitation in which you  
5 take the judgment and you try to assign risk  
6 profiles to that expert elicitation to develop  
7 quantitative methods based on subjective  
8 expert opinion. And I think we can use some  
9 of that to help us better define risk informed  
10 decisions.

11 MR. BROWN: Thank you. One final  
12 question. The Administrator went to some  
13 length to talk about how he, as CTA, interacts  
14 with the CDNS.

15 I wonder if you could just balance  
16 that by giving a description assessment of  
17 your relationship with the CTA, the Under  
18 Secretary of Energy.

19 MR. LAGDON: The Under Secretary  
20 and I work very closely together. I have  
21 daily meetings with her, 8:30 staff meetings.  
22 Her door is open to me. Any time I have an

1 issue, I can bring it to her. I can get on  
2 her calendar almost any time to talk about  
3 issues and exchange information with her  
4 almost daily.

5 MR. BROWN: Thank you very much,  
6 Mr. Chairman.

7 CHAIRMAN WINOKUR: Ms. Roberson?

8 MS. ROBERSON: Thank you, Mr.  
9 Chairman.

10 And thank you, Mr. Lagdon, for  
11 your testimony.

12 Accepting the approach that the  
13 Under Secretary is taking and implementing  
14 that's reform, oversight reform, nonetheless  
15 there is a reform in progress. What guidance  
16 or direction has the Under Secretary provided  
17 to frame this effort for the programs under  
18 her purview?

19 MR. LAGDON: We're using the  
20 Deputy Secretary's guidance.

21 MS. ROBERSON: Okay. And then one  
22 question I had -- I'm probably the only one in

1 the room that doesn't understand -- there is  
2 some difference, and I understand independent  
3 oversight from line oversight. In some cases  
4 we talk about category one and two nuclear  
5 facilities. In some cases we talk about  
6 nuclear facilities or nuclear activities.

7 MR. LAGDON: Yes.

8 MS. ROBERSON: Of the 130 nuclear  
9 facilities, is there any categorization of how  
10 the Under Secretary is looking at reform in  
11 oversight?

12 MR. LAGDON: We haven't gotten to  
13 that level of detail yet.

14 MS. ROBERSON: Okay. Then the  
15 next question I had is the Administrator went  
16 through great detail in explaining why reform  
17 is necessary, i.e., oversight activities to  
18 some degree have been normalized between high  
19 hazard facilities and lower hazard, non-  
20 nuclear facilities.

21 Has the Under Secretary not  
22 detected that as a problem? Why or why not

1 within these operations?

2 MR. LAGDON: I don't think it is  
3 as significant a problem with the EM side  
4 simply because of the way their oversight  
5 programs are structured.

6 MS. ROBERSON: Okay. Do you want  
7 to elaborate a little bit more? Simply in  
8 what way is it structured so that it avoids --

9 MR. LAGDON: It's the way they  
10 have approached the Headquarters oversight in  
11 terms of trying to focus on what are the  
12 critical issues and what are the priorities  
13 with the EM clean-up mission.

14 They're more aligned, I think,  
15 with the mission and trying to resolve some of  
16 the issues that confronted EM with respect to  
17 quality assurance and balancing that with  
18 routine conduct of operations type of reviews  
19 that are periodically done at some of the  
20 other sites.

21 MS. ROBERSON: Okay. So let me  
22 just see if I can restate. What I thought you



1       said is in the formulation of your oversight  
2       plan, you take into consideration that issue  
3       and the way you apply it is appropriate.

4               MR. LAGDON:   Yes.

5               MS. ROBERSON:   So you don't --  
6       it's not -- it wouldn't be normalized  
7       necessarily?

8               MR. LAGDON:   Not necessarily.

9               MS. ROBERSON:   Okay.  And then the  
10       last question I had is just to provide the  
11       opportunity for a clarification.

12               In your testimony you talked --  
13       you really talked about the CTA's role and  
14       relevance in operational awareness.

15               MR. LAGDON:   Yes.

16               MS. ROBERSON:   But then you talk  
17       about the different levels of oversight.  And  
18       what I was going to say is the CTA, your  
19       office CTA, Under Secretary's operation,  
20       appears really to be integrated with the line.  
21       And is really not an independent oversight  
22       function.

1                   And I wanted to give you the  
2                   opportunity if I misunderstood that to clarify  
3                   and to identify what makes it distinct in the  
4                   layers of oversight.

5                   MR. LAGDON:   The way I set up the  
6                   office when it was established was to  
7                   integrate with the line organizations because  
8                   the line organizations all have organizations  
9                   within themselves responsible for oversight of  
10                  their activities.

11                  MS. ROBERSON:   Yes.

12                  MR. LAGDON:   So we weren't looking  
13                  at another layer.   But I do reserve the right  
14                  to conduct independent oversight if I deem  
15                  necessary.   And this is modeled after NUREG-  
16                  0660 [Nuclear Regulation] and the lessons  
17                  learned from Three Mile Island when the  
18                  commercial utility established independent  
19                  safety engineering groups, which is where I  
20                  got my start in commercial power, at their  
21                  respect plants to conduct the independent  
22                  safety engineering function.

1                   And there's oversight  
2           responsibilities. But there's also technical  
3           support and root cause analysis and evaluation  
4           of programs that goes on within those  
5           functions to continuously improve operations.

6                   MS. ROBERSON: Okay. Thank you.

7                   MR. LAGDON: So it's a --

8                   MS. ROBERSON: I got it. Thank  
9           you.

10                   CHAIRMAN WINOKUR: At this time,  
11           Mr. Bader has an additional question. And Dr.  
12           Mansfield will have a comment.

13                   MR. BADER: Mr. Lagdon, there was  
14           a comment by the Administrator that there were  
15           mixed messages being communicated with the  
16           Deputy Secretary's reform plan letter and some  
17           of the Administrator's communications.

18                   Do you have that same concern?

19                   MR. LAGDON: No. And the simple  
20           fact is our contractors, their requirements  
21           are established in their contracts. And those  
22           contracts have not been changed. So their

1 expectations are that they continue to carry  
2 out their mission in accordance with the  
3 requirements as they are laid out.

4 Now while the Department evaluates  
5 some of those activities and some of those  
6 directives, they do not have the license to  
7 change whatever it is that they are doing at  
8 that present time.

9 MR. BROWN: Thank you.

10 CHAIRMAN WINOKUR: Dr. Mansfield?

11 VICE CHAIRMAN MANSFIELD: Mr.

12 Chairman, I ask permission to include in the  
13 record copies of the New York Times articles  
14 to which I referred during my questioning of  
15 Mr. D'Agostino.

16 CHAIRMAN WINOKUR: Agreed.

17 (Whereupon, the above-referred to  
18 document was marked as Exhibit A  
19 for identification.)

20 CHAIRMAN WINOKUR: We're going to  
21 take a -- thank you. First of all, thank you  
22 very much for your testimony, Mr. Lagdon.

1 MR. DWYER: Mr. Chairman, before  
2 you --

3 CHAIRMAN WINOKUR: Yes, do you  
4 have a question?

5 MR. DWYER: Yes.

6 CHAIRMAN WINOKUR: Okay.

7 MR. DWYER: Just to follow up on  
8 what Ms. Roberson said, so the oversight model  
9 you've described is -- you are actually  
10 integrated with the line but reserve the right  
11 to conduct oversight at need?

12 MR. LAGDON: Yes.

13 MR. DWYER: So have you ever?

14 MR. LAGDON: Yes, on several  
15 occasions.

16 MR. DWYER: Can you give us one or  
17 two?

18 MR. LAGDON: Deposition velocity,  
19 for example, conducted independent review.  
20 The measurements of the plutonium facility  
21 down at Savannah River Site, that was an  
22 independent look by the technical support

1 group.

2 MR. DWYER: Is that oversight or  
3 is that invoking your technical authority  
4 side?

5 MR. LAGDON: Well, you're  
6 splitting hairs, I think, but it is part of  
7 the same function.

8 MR. DWYER: Okay. So oversight as  
9 in checking on the effectiveness of a Site  
10 Office. I'm thinking along the lines of, for  
11 example, the biennial reviews that the CDNS  
12 conducts.

13 MR. LAGDON: We have done  
14 quarterly site visits to oversee the process  
15 which the field officers are using to do  
16 oversight. So those, in effect, are  
17 independent oversight activities.

18 MR. DWYER: Okay. So you are  
19 currently conducting a schedule of quarterly  
20 site visits?

21 MR. LAGDON: It's not really -- we  
22 try to get there quarterly. We don't always

1 make it because of other demands.

2 MR. DWYER: Okay. So to go back  
3 then to the picture. So you are integrated  
4 with the line.

5 MR. LAGDON: Yes.

6 MR. DWYER: Reserve the right to  
7 conduct oversight at need. And as a part of  
8 that oversight, you are conducting quarterly  
9 site visits, nominally quarterly site visits.

10 MR. LAGDON: Right. And what  
11 happens -- for example, if something happens,  
12 if an event happens, we will follow up with  
13 the site and the Headquarters. And if they  
14 don't look into it, we will.

15 And typically if it is severe  
16 enough, and if do our homework and they will  
17 follow up. And we will participate with their  
18 reviews. So the need for redundant or  
19 duplicative oversight is not necessary.

20 MR. DWYER: Okay. And also if I  
21 can offer a slight correction in your -- the  
22 written testimony, which will go on the

1 record, when you discussed the seismic lessons  
2 learned panel, the written testimony says that  
3 Defense Nuclear Safety Board staff are members  
4 of the panel. Actually, I need to correct  
5 that. They observe the panel meetings but are  
6 not members of the panel. We are oversight.

7 MR. LAGDON: Okay. They  
8 participate quite heavily so I'll make that  
9 correction.

10 CHAIRMAN WINOKUR: Okay. Once  
11 again, thank you very much for your testimony  
12 and answering our questions.

13 We're going to need to take a ten-  
14 minute break before our final witness of the  
15 day. So we're going to reconvene this public  
16 meeting and hearing at approximately 11:30.

17 (Whereupon, the foregoing matter  
18 went off the record at 11:18 a.m.  
19 and went back on the record at  
20 11:27 a.m.)

21 CHAIRMAN WINOKUR: Okay. I can  
22 still say good morning. I'd like to welcome



1 our final witness of the day, Mr. Glenn  
2 Podonsky, DOE's Chief Health, Safety and  
3 Security Officer.

4 I'd like to make the same request  
5 that you keep your comments to five to seven  
6 minutes if possible. The Board will accept  
7 your written testimony for the record.

8 Welcome, Mr. Podonsky.

9 MR. PODONSKY: Thank you, Mr.  
10 Chairman. And I would have a special request  
11 of the Board that recognizing that my  
12 colleagues spoke for 25 minutes and 15 minutes  
13 respectfully, the brevity of my comments are  
14 not to be reflected in the same way that the  
15 50 percent reduction in directives was taken.

16 (Laughter.)

17 CHAIRMAN WINOKUR: We'll agree to  
18 ask you more questions.

19 MR. PODONSKY: I look forward to  
20 that.

21 Again, I appreciate being able to  
22 provide my views in the role of the Office of

1 Health, Safety and Security as a key player in  
2 the DOE overall efforts to safety accomplish  
3 its missions.

4 I've submitted the written  
5 testimony, Mr. Chairman, as you mentioned,  
6 which provides details about our approach to  
7 implement independent oversight of defense  
8 nuclear facilities.

9 Your express concerns about how  
10 the evolving approach towards oversight might  
11 affect DOE's efforts to ensure that our  
12 contractors operate defense nuclear facilities  
13 with the highest regard for safety has our  
14 attention.

15 From the HSS perspective,  
16 enforcement and oversight of nuclear safety  
17 remains robust and will continue to improve.  
18 And that the changes in process do not  
19 represent a step back from our commitment to  
20 nuclear safety.

21 These changes are being driven by  
22 three factors. First, DOE's implementing

1 management reforms initiated by the Secretary  
2 to fundamentally change how DOE prioritizes  
3 its efforts. The Secretary's safety and  
4 security reforms are necessary to enhance  
5 productivity and achieve the DOE's vital and  
6 urgent mission goals while maintaining the  
7 highest standards of safe and secure  
8 operations.

9           The reforms recognize that certain  
10 activities, such as nuclear facilities safety,  
11 must be subject to a rigorous oversight and  
12 enforcement program. The outcome of this  
13 reform initiative is the safety and security  
14 directives reform effort.

15           Although directives from reform is  
16 not a specific part of this public meeting, it  
17 is the subject of your May 5th letter to the  
18 Secretary. So I think it would be important  
19 to describe HSS' ongoing effort in this area.

20           First, we understand and recognize  
21 the cautions you have warned us about, and,  
22 therefore, I think it is appropriate to

1       reaffirm that HSS will perform disciplined  
2       reviews that carefully examine the content and  
3       value of each directive, regulation, or  
4       requirement and the potential consequences of  
5       any change, with particular focus on the  
6       impacts to nuclear safety.

7                The reduction in quantity or  
8       volume of directives was and is intended  
9       solely to improve the clarity and the  
10      usability of requirements, not to reduce  
11      requirements or the DOE's expectations for  
12      high standards of safety and security.

13               The process we will use includes  
14      multiple points of consideration of expert and  
15      stakeholder input as well as review by an  
16      executive steering committee.

17               Decisions will be guided by  
18      criteria that will be considered, such as  
19      whether changes to a directive add an  
20      unintended or indirect impact on protection of  
21      the environment, public, or the workers that  
22      needs to be evaluated. And, most importantly,

1 whether changes impact a previous DOE  
2 commitment to an external organization such as  
3 the Board that needs to be considered and  
4 discussed with that external organization.

5 In accordance with your charter,  
6 these reviews will seek your input at multiple  
7 points in the process, more aligned with our  
8 2007 plan.

9 Second, the GAO [Government  
10 Accountability Office] issued reports in 2008  
11 and 2010 that recommended that the independent  
12 oversight program be given additional  
13 resources and authority to improve oversight  
14 of nuclear safety through a review, a safety  
15 basis, and more frequent onsite inspections.

16 DOE committed to strengthening  
17 independent oversight through better  
18 integration of enforcement and independent  
19 oversight functions and to provide for more  
20 frequent onsite independent inspection reviews  
21 for nuclear safety.

22 Third, DOE has made commitments

1 based on recommendations and other input from  
2 the Board that have driven many of the past  
3 reforms of DOE and the independent oversight  
4 program.

5 HSS does not plan to back away  
6 from these commitments but will maintain an  
7 independent oversight program that is  
8 effective and meets critical needs of safety  
9 and security. We have received substantial  
10 input from many other sources, including DOE  
11 line management, DOE contractors through the  
12 EFCOG [Energy Facilities Contractor Group] and  
13 other organizations like labor unions and  
14 advocacy groups as the project on government  
15 oversight.

16 Some of these groups think that we  
17 are doing too much oversight. Some thing  
18 we're doing too little. Our job is not to  
19 measure how much but to measure efficacy.

20 We firmly believe that DOE  
21 management, the Board, GAO, and all the other  
22 organizations I just mentioned share the

1 common goal of safe nuclear operations.

2 It's clear, however, that they all  
3 have different perspectives on how best to  
4 achieve that goal. And much like the charter  
5 of the DNFSB that marries many different  
6 constructs of safety oversight, so much DOE to  
7 achieve an effective model with enduring  
8 results.

9 Starting with the management  
10 reforms, particularly the DOE end state vision  
11 for safety reform and in order to ensure that  
12 our design for future independent oversight of  
13 nuclear safety is sufficiently rigorous and  
14 comprehensive, we carefully considered  
15 everything we have learned from the Board's  
16 recommendations over 22 years, GAO reviews,  
17 and our stakeholders, as well as operating  
18 data and extensive experience we have gained  
19 in over 25 years of oversight activities, to  
20 develop an improved program that will optimize  
21 nuclear safety oversight with a priority on  
22 higher hazard activities.

1                   We have developed a draft program  
2 plan for enhancing independent oversight of  
3 nuclear safety that identifies three elements  
4 that will guide our efforts.

5                   First, we will establish a site  
6 lead program that will provide a mechanism for  
7 improving operational awareness, increasing  
8 the frequency of communication, and partnering  
9 with Program Officers, Site Officers, and  
10 sites, and better targeting and focusing  
11 independent oversight activities. And this  
12 will be married with the ongoing Fac Rec  
13 program.

14                   Second, we will effectively  
15 implement refined oversight processes intended  
16 to be more efficient, better coordinated,  
17 better targeted on higher risk facilities and  
18 activities and DOE priorities. These  
19 processes typically involve smaller teams,  
20 shorter visits, allowing us to perform more  
21 reviews that in the past.

22                   Independent oversight will still



1 perform inspections. But will also perform  
2 other onsite reviews through a wider variety  
3 of mechanisms than we have in the past.

4 Additionally, enhanced  
5 coordination between the HSS enforcement  
6 functions and the HSS oversight functions will  
7 be implemented through closer organizational  
8 or management linkages.

9 Third, we will perform targeted  
10 reviews based on risk and other priorities  
11 determined by analysis of trends and other  
12 performance data. Areas of emphasis will  
13 include reviews of corrective actions, their  
14 effectiveness, design activities, and  
15 implementation of new requirements.

16 We have begun to implement the  
17 above steps, including conducting a  
18 significant number of site assistance visits.  
19 We will continue to refine our methods as we  
20 gain experience.

21 We believe this approach, when  
22 fully developed and implemented, will provide

1 an overall benefit to DOE by continuing to  
2 perform the critical role of regulatory  
3 oversight and enforcement of nuclear safety  
4 requirements at high hazard nuclear  
5 facilities.

6 In the interest of time, I will  
7 skip the questions that you asked for because  
8 I'm sure you'll have some more. But I would  
9 like to summarize by saying that we are  
10 looking to improve independent oversight with  
11 a particular emphasis on nuclear safety.

12 We believe that the proposed  
13 changes will result in an independent  
14 oversight program that is more effective and  
15 more focused on nuclear safety than it has  
16 been in the past.

17 We understand and accept our  
18 responsibility to be an advocate for rigorous  
19 nuclear safety programs and requirements and  
20 effective DOE oversight. As the Department's  
21 office responsible for independent oversight,  
22 we will continue to monitor ongoing changes

1 and evaluate their impact on safety.

2 We will continuously seriously  
3 consider inputs from all of our stakeholders  
4 and will plan to work closely with Board on  
5 issues of concern. We look forward to  
6 providing you more information on our  
7 directives reform approach in the report and  
8 briefing requested in your May 5th letter.

9 We passionately believe that an  
10 open constructive dialogue among all  
11 interested parties will assist us in  
12 implementing our oversight processes.

13 In closing, I would like to show  
14 the Board the change in our directives process  
15 as a result of your express concerns. The  
16 process that we were --

17 MR. AZZARO: Excuse me, Mr.  
18 Chairman, could we have that for the record  
19 marked as Exhibit A -- or B rather. We  
20 already have A. So B so that we can include  
21 this in the record and it can be referred to  
22 as he describes it so that people following

1 the record can understand what it is that we  
2 are referring to.

3 CHAIRMAN WINOKUR: Approved.

4 Fine.

5 (Whereupon, the above-referred to  
6 document was marked as Exhibit B  
7 for identification.)

8 MR. PODONSKY: And may we ask that  
9 the next one would be Exhibit C.

10 MR. AZZARO: I didn't know there  
11 was a next one. So that's great. We didn't  
12 practice this either.

13 MR. PODONSKY: What we have  
14 displayed here is the basic current process  
15 that reflects the latest plan that the Board  
16 received from the independent Office of HSS.  
17 And if you notice, this plan does not reflect  
18 the level of checks and balances that we  
19 previously had in our '07 operation.

20 We listened to your comments. We  
21 heard your statements to the Deputy Secretary.  
22 And we have decided that it is prudent advice

1 and counsel that you have given to the  
2 Department in accordance with your charter of  
3 providing recommendations in the decision-  
4 making process for the Secretary and the  
5 Deputy Secretary.

6 So I will show you our revised  
7 process, which takes into consideration all of  
8 your comments. And this is going to --

9 MR. AZZARO: This is B?

10 MR. PODONSKY: This is Exhibit B.

11 CHAIRMAN WINOKUR: This will be  
12 Exhibit C.

13 MR. PODONSKY: Exhibit C. Thank  
14 you.

15 (Whereupon, the above-referred to  
16 document was marked as Exhibit C  
17 for identification.)

18 MR. PODONSKY: and what you will  
19 see here is a number of points at which both  
20 external and internal reviewers will examine  
21 the process. In the process, they will  
22 examine the documents so that we make sure,

1 unlike the first 24 that we put into the  
2 process, where we found after your express  
3 concerns and the express concerns of your  
4 staff, we found errors that were made that  
5 were principally due to expediency as opposed  
6 to quality.

7           So I realize that you all have  
8 questions. But if you'll indulge me on this  
9 just for one moment, I think this is very  
10 important because the other part of it is that  
11 in the beginning, we have discussed what kind  
12 of specific criteria that we have.

13           And in exploring -- and I have to  
14 do a mea culpa here, Mr. Chairman, because  
15 when we started down this process, I made the  
16 assumption as the head of HSS, that we  
17 following many of the successes that we had  
18 with the `07/`08 processes with, like we did  
19 with conduct of ops, maintenance management,  
20 contractor training, ORR [Operational  
21 Readiness Review] order, unbeknownst to me is  
22 that because, as the head of the organization,

1 I encourage them to meet a deadline of the end  
2 of this calendar year, the expediency dropped  
3 out very vital checks and balances. Those are  
4 back into the process.

5 The other part that is into the  
6 process that even my immediate staff are  
7 unaware of is we have a checklist of  
8 directives reform, Exhibit D, that I would  
9 like to submit so that you can see what the  
10 reviewers will be going through, all of them.

11 (Whereupon, the above-referred to  
12 document was marked as Exhibit D  
13 for identification.)

14 MR. PODONSKY: It's a 12 list  
15 check that we make sure that we have  
16 consistency in the reviews. And that if any  
17 point in the checklist for the directives  
18 there becomes a question, then it doesn't go  
19 into the full process. And this is to make up  
20 for the lack of rigor that you called to our  
21 attention that we recognize now -- I  
22 recognize.

1                   It was not my staff's fault. We  
2                   were running to a time clock because every  
3                   administration I've served under, and I've  
4                   been under nine, everyone has realized in  
5                   their four years, it goes very quickly. Their  
6                   first year is they are figuring out what they  
7                   need to do. Their second year, they're doing  
8                   it. Their third year, they are worried about  
9                   their fourth year going away.

10                   And as a result, there is a sense  
11                   of urgency. And we're slowing that down.

12                   And to answer the question you  
13                   didn't ask yet is have I discussed this with  
14                   the Deputy? Yes, I have. And I've informed  
15                   the Deputy that we are not going to make the  
16                   deadlines that I put into the letter that you  
17                   saw on March 16th.

18                   We are going to go according to  
19                   making sure that the purpose of the exercise  
20                   is like we do every four years, which was the  
21                   previous witness talked about and answered  
22                   Board Member Bader's question about the 15



1 directives that EM was looking at. We did not  
2 ask them to look at that. That is MA. That's  
3 part of their normal four-year cycle to have  
4 the Department look at all of its directives.

5 In this case, the directives that  
6 we're responsible for, 107 of them, we are  
7 going to be very focused on making sure that  
8 we do not create a vulnerability unintendedly.  
9 We are looking at to do consolidation where it  
10 makes sense, clarification where it makes  
11 sense so that we don't have this tremendous  
12 kaleidoscope of directives, policies, orders,  
13 manuals, guides. Our focus is to consolidate,  
14 clarify, or make no change.

15 Thank you.

16 CHAIRMAN WINOKUR: Let me say that  
17 Exhibit D will be accepted into the record.  
18 Thank you very much for your comments.

19 And I think the Board's concerns  
20 about criteria you have touched on here is  
21 that we knew what a rigorous process it took  
22 to go through each directive. We had worked

1 with your organization successfully in the  
2 past to put together some outstanding,  
3 improved, strengthened directives.

4 And so I think when the Board saw  
5 the Deputy Secretary's memorandum, which  
6 suggested that in an eight-month period a  
7 great deal would be accomplished, we became  
8 concerned that we couldn't apply the same type  
9 of formality and rigor we had in the past.

10 So I appreciate your input on  
11 that. I think it is valuable.

12 MR. PODONSKY: May I comment on  
13 your statement?

14 CHAIRMAN WINOKUR: Please.

15 MR. PODONSKY: Okay. I want to  
16 take full responsible for the Deputy  
17 Secretary's March 16th memo. As we were going  
18 through the reform process, I asked my subject  
19 matter experts in policy, when you take a  
20 cursory review of the directives that we are  
21 responsible for, how many of those do you  
22 think might be changed, revised, eliminated,

1 consolidated? And they told me 50 percent.

2 And that's what I put into the  
3 letter. It was never intended to be a  
4 demonstration of less safety, less rigorous  
5 focus on nuclear safety oversight. It was  
6 intended for a reduction of confusion if there  
7 was confusion that we were hearing.

8 And as I mentioned, I've worked  
9 for nine Secretaries -- under nine Secretaries  
10 of Energy. This is not the first Secretary of  
11 Energy that brings the stack of requirements  
12 to the table that the contractors have  
13 complained about. What do you want us to do?  
14 What are the requirements you want us to  
15 follow?

16 CHAIRMAN WINOKUR: And I think  
17 you'll understand that the Board's involvement  
18 in this is that of the orders of interest are  
19 that you are the primary purview of that of  
20 those 107, 73 orders of interest to the Board,  
21 and I think we've heard in testimony this  
22 morning pretty uniform agreement that those

1 types of orders that deal with safety at  
2 defense nuclear facilities are those that we  
3 really want to pay the most attention to,  
4 strengthen, and improve. But that decision  
5 will have to be made very carefully whether or  
6 not they should be cancelled or consolidated  
7 or in any way weakened to not support those  
8 activities.

9 And I think I've heard that  
10 consistent message this morning. Would you  
11 agree with that?

12 MR. PODONSKY: Yes. I not only  
13 agree with that but I'll point again to  
14 Exhibit B that the new process that we are  
15 putting in place not only mirrors the '07  
16 process that we had but it amplifies it  
17 greatly.

18 CHAIRMAN WINOKUR: Thank you very  
19 much.

20 MR. AZZARO: Did you mean Exhibit  
21 C, Mr. Podonsky?

22 MR. PODONSKY: Yes, Counselor.

1 MR. AZZARO: Okay. Just for the  
2 record so that everybody follows -- when  
3 they're reading it, they can follow it.

4 CHAIRMAN WINOKUR: I have a couple  
5 of questions to begin with and then perhaps a  
6 few later. But there was a March 11th letter  
7 that Tom D'Agostino, the NNSA Administrator,  
8 wrote to Senator Russell Feingold.

9 And it states that your  
10 organization, HSS, will refocus its efforts to  
11 provide greater oversight of higher risk  
12 operations like nuclear safety while reducing  
13 resources committed to lower risk operations.  
14 We've heard that theme this morning several  
15 times.

16 And the letter also states that  
17 Health, Safety and Security will conduct ten  
18 nuclear safety inspections, which is twice the  
19 number of inspections traditionally conducted  
20 this year.

21 So I guess my first question is at  
22 this point in the year, how many of these --

1 and I assume they would be independent  
2 transactional oversight types of inspections  
3 as opposed to assist inspections, have you  
4 performed so far this year?

5 MR. PODONSKY: We have six that  
6 have been ongoing. And in the spirit of  
7 openness, the GAO had recommended and the  
8 Department accepted that we would do ten of  
9 these type of inspections.

10 And so what we have done is we,  
11 along with the reform, while my Deputy was  
12 responsible for collating the reform for the  
13 Department on safety and security, we were  
14 examining how can we do this number of  
15 inspections with the number of resources we  
16 have.

17 And when you look back over time,  
18 all the inspections that we have done over the  
19 25 years that we have been doing this, and we  
20 decided that the best thing to do is do  
21 focused inspections on critical areas at the  
22 defense sites.

1                   And so my Office of Oversight has  
2                   laid out a plan in which -- and we've already  
3                   started -- for example, we've already been --  
4                   we've been to Los Alamos on five different  
5                   occasions now this year alone. And when I say  
6                   in complete candor how we count those, we're  
7                   not going to say well, that's five of them.

8                   We're not exactly sure how the GAO  
9                   or Congress or anybody else is going to accept  
10                  the counting of them, but what we are doing  
11                  instead of dispatching teams of 40 or 50  
12                  people at a time, we're not dispatching teams  
13                  of five to seven, much more focused on the  
14                  issues.

15                  And it was through our analysis of  
16                  our past activities that we saw the reform  
17                  that was needed, which also complies with what  
18                  Senator Feingold's letter has stated or the  
19                  Administrator's to Feingold and what our  
20                  testimony on the Capitol Hill was that we have  
21                  gone out and completed inspections where we  
22                  determined the number of topics to be looked

1 at.

2 And sometimes that didn't always  
3 match with what the Site Managers or the  
4 contractors really needed help in. We were  
5 going down this path of making a determination  
6 on what we've done previously.

7 Now we're much more focused and  
8 analytical about it, looking at what are the  
9 high hazards. We're looking at the reports  
10 that the Board has come out with. We're  
11 looking at the reports that are coming in from  
12 self-assessments. And we're making a much  
13 more focused determination, utilizing our  
14 finite resources in a much more focused way.

15 The other thing that the GAO has  
16 talked about is that we didn't have enough  
17 resources. So we are in the process of hiring  
18 five new nuclear safety engineers.

19 CHAIRMAN WINOKUR: Well, I'll get  
20 to that a little later. But these are what  
21 you would refer to as the small team  
22 inspections, is that true?



1 MR. PODONSKY: Yes, sir. That is  
2 correct.

3 CHAIRMAN WINOKUR: And how would  
4 you compare the inspections you are doing this  
5 calendar year, for example, to what you might  
6 have been doing two years ago before we had  
7 any reform initiatives?

8 MR. PODONSKY: We are doing three  
9 times as much safety reviews and inspections  
10 in the field and twice as many security  
11 inspections and reviews than we have in  
12 previous years because we're actually  
13 utilizing our resources in a much smarter way.

14 One of the things, even before  
15 Secretary Chu came, we were asking ourselves  
16 the number of times we've gone to different  
17 sites to do our inspections, the reports we've  
18 issued, the findings that we've left, often  
19 times we waited for corrective action plans.  
20 Often times we saw what I would call sometimes  
21 malicious compliance. People were compliant  
22 and we were not sustaining the changes.

1                   What we're finding now both with  
2                   our approach to oversight, be it assistance  
3                   and oversight, we're finding that we are  
4                   sustaining changes, which we had not seen  
5                   before. And so we're very excited about the  
6                   reforms that we're doing in terms of  
7                   oversight.

8                   CHAIRMAN WINOKUR: I want to ask  
9                   you one more question now and then a couple  
10                  later after the other Board members ask their  
11                  questions but I want to start getting into a  
12                  few of the things the Secretary of Energy has  
13                  been saying.

14                 I understand the Secretary's deep  
15                 commitment to safety as well as the Deputy  
16                 Secretary's. And I'm asking you this because  
17                 you are the Chief Safety Officer of the  
18                 Department of Energy. So obviously you have  
19                 a role in advising them.

20                 And here is a quote from the  
21                 Secretary of Energy. The veterans at the  
22                 laboratory tell me that 20 to 30 years ago,

1       there used to be a different relationship  
2       between DOE and its contractors. It was a  
3       healthier relationship and I want to go back  
4       to that relationship.

5                   Now my concern about that as the  
6       Chairman of the Board is that that was a  
7       period of time in which there were a fair  
8       number of safety-related concerns in the  
9       Department. We had serious accidents,  
10      problems. Things at Savannah River got so bad  
11      at one point that they couldn't reliably  
12      perform their mission.

13                   And I think if you go back to the  
14      period of time that the Secretary is talking  
15      about, 20 to 30 years ago, you begin to see  
16      the events that led to the creation of this  
17      Board, which basically arose because there  
18      wasn't public confidence that the Department  
19      could perform its mission in a reliable and  
20      safe manner.

21                   So my first question to you, I  
22      guess, is have you advised the Secretary of

1 Energy on the safety record of the Department  
2 during the Cold War? And provided any  
3 insights or focused him on this statement  
4 because as I said, it does give me a little  
5 bit of concern about the message.

6 And he is the Secretary of Energy  
7 so what he says is, of course, terribly  
8 important.

9 MR. PODONSKY: The short answer is  
10 no, I have not advised him on the safety  
11 posture of the Department during the Cold War.

12 What I have advised the Secretary  
13 on as recently as two weeks ago is the  
14 importance of clearly defining the roles and  
15 responsibilities that exist in the Department,  
16 all the way back to 1983 was the last time we  
17 had clear, defined roles and responsibilities  
18 emanating out of the Secretary's office.

19 The Secretary told me that he was  
20 going to personally take that on as an  
21 assignment because he saw that that was  
22 important to do.

1           I have also talked to him about  
2           some of the statements that have been made in  
3           speeches about the impact that that has. I  
4           believe that the spirit of what the Secretary  
5           was talking about was a spirit of  
6           collaboration and cooperation.

7           In no way do I believe that the  
8           Secretary was implying to denigrate safety to  
9           go back to time that we were expert-based  
10          safety instead of following requirements.

11          I further believe that what the  
12          Secretary has learned from his previous life  
13          as a lab director is that often times we in  
14          the Department have a Byzantine approach that  
15          we sometimes drive the wrong behavior. I  
16          believe that independent oversight is part of  
17          that, both good and bad.

18          Often times -- and one of you  
19          Board members might recall this -- we would go  
20          out to do an inspection and often times the  
21          site contractor would want to get ready for  
22          that inspection, whether it be safety or

1 security -- get ready for that inspection.

2 The Site Office would want to make  
3 sure that they are ready. The Program Office  
4 would want to make sure that they're ready all  
5 because inspectors were coming.

6 That drives the wrong behavior.  
7 It doesn't drive what I call the sustainable  
8 model where people do safety because it is the  
9 right thing to do. As we've heard the  
10 Administrator and I think Mr. Lagdon talked  
11 about it, you know, safety has to be a core  
12 part of the mission in order for the operation  
13 to function.

14 I believe that independent  
15 oversight, and the advice that I've given the  
16 Secretary and the Deputy Secretary, I think  
17 we're moving towards a much more robust model  
18 in where the sites are actually utilizing our  
19 expertise and not just being maliciously  
20 compliant.

21 And so at the end, just as I've  
22 told Congress and I tell this Board, at the

1 end, isn't it so that we want to fix the  
2 problems so that they are sustained and not  
3 just waiting for the next inspection.

4 CHAIRMAN WINOKUR: Well, will you  
5 take the opportunity to speak to the Secretary  
6 about this and some other quotes I want to  
7 talk to you about because I know his  
8 commitment is to safety and I do get concerned  
9 that the workforce and elements of the  
10 contractor workforce might misinterpret some  
11 of the things he's saying.

12 And he is the leader of the  
13 Department. And I think we would all benefit  
14 if that opportunity arose if you would take  
15 that opportunity to do that.

16 MR. PODONSKY: Sure.

17 CHAIRMAN WINOKUR: I'll pass to  
18 Dr. Mansfield now.

19 VICE CHAIRMAN MANSFIELD: Thanks.  
20 Mr. Chairman, I have eight questions, but I'll  
21 split them into two groups of four.

22 I'll start with an observation

1 that just for the record, I'd like to clarify  
2 the nomenclature. By directives, we do not  
3 mean anything in the Code of Federal  
4 Regulations. That is not subject to DOE's  
5 revision. There is another process for that.

6 What we do mean are the policies,  
7 orders, manuals, guides, and standards. Is  
8 that list inclusive?

9 MR. PODONSKY: Yes.

10 VICE CHAIRMAN MANSFIELD: Okay.

11 Fine. And it could be directives, or orders,  
12 or manuals, et cetera, it can refer to all of  
13 those.

14 MR. PODONSKY: Correct.

15 VICE CHAIRMAN MANSFIELD: Okay.

16 My first question is Chairman Winokur related  
17 some of the horror stories from the 1990s  
18 where public confidence was lost at Savannah  
19 River. And those are included in the New York  
20 Times articles that I have put into the  
21 record.

22 Has the Secretary ever seen those?



1 MR. PODONSKY: I know I gave  
2 copies to the Deputy Secretary.

3 VICE CHAIRMAN MANSFIELD: Has he  
4 read them?

5 MR. PODONSKY: He has.

6 VICE CHAIRMAN MANSFIELD: Okay.

7 MR. PODONSKY: He has, I can  
8 confirm that because he discussed it with me  
9 on a Saturday afternoon.

10 VICE CHAIRMAN MANSFIELD: Okay.  
11 Good. Well, that's progress.

12 My second question is that I'm  
13 puzzled that -- I don't see the multiplication  
14 factor. I'm puzzled that duplicative  
15 directives necessarily cause inefficiency.

16 For instance we have four records  
17 -- four directives that I can think of off the  
18 top of my head that are involved with training  
19 and qualification. And it doesn't mean that  
20 you have to do training or qualification four  
21 times. It just means you have to look at four  
22 directives to make sure you've got it all.

1                   So I'm not sure there is a lot of  
2 savings in taking those away or reducing them  
3 to one. And certainly not if you don't  
4 include all the good stuff from all four of  
5 them.

6                   MR. PODONSKY: On that point, and  
7 I think some of stakeholders are going to be  
8 somewhat disappointed and they've already  
9 expressed that, especially the contract lab  
10 directors have expressed the disappointment  
11 that they don't see a lot of savings coming  
12 out of our exercise, we're not looking -- our  
13 goal is not primarily for the savings. If  
14 there are savings, that would be great for all  
15 of us as taxpayers.

16                   Our goal is for clarify. We see a  
17 lot -- and my staff especially with boots on  
18 the ground -- they see a lot of confusion in  
19 terms of what to follow in various operations.  
20 That's where we think that this is an  
21 important exercise.

22                   As I might -- if you will allow me

1 to go on, I mentioned in my quasi opening  
2 statement, you know, as the Board knows, we  
3 put 24 directives into the process for  
4 cancellation.

5 We know that there are 11 of those  
6 24 that the Defense Board and we need to come  
7 to grips with as to whether they should stay  
8 or not, whether we pull those back. Of those,  
9 five are due principally because of a process  
10 issue and six of them are technical.

11 And one in particular, and I want  
12 to call this to Board Member Bader because he  
13 said in our April 12th meeting, the concern  
14 about any de facto going away from a Board  
15 recommendation, and we actually -- the Board  
16 staff actually found one that we put into the  
17 system that actually was linked back to a  
18 recommendation. And we're pulling that back.  
19 We're going to reset the clock on what we're  
20 doing. I figuratively say that. We're not on  
21 a clock.

22 But we're going back to take a

1 look clearly as to make sure that we're not  
2 rushing this process because we think you all  
3 were correct with the concern about the  
4 expediency in which we were moving.

5 VICE CHAIRMAN MANSFIELD: Okay.

6 On page four of your written testimony, which  
7 I thank you for getting over here early  
8 yesterday so that unlike some other witnesses  
9 who delivered theirs this morning and  
10 therefore required 25 minutes, the -- on page  
11 four, and I quote, "takes a strong position  
12 that nuclear safety is a special case and that  
13 even though significant reductions in  
14 directives for non-nuclear activities may be  
15 acceptable, the Department's nuclear safety  
16 requirements need to remain rigorous in  
17 detail."

18 That's your strong position. Are  
19 there any other positions?

20 MR. PODONSKY: Within the  
21 Department?

22 VICE CHAIRMAN MANSFIELD: Yes.

1 Well, on that.

2 MR. PODONSKY: On that? I can say  
3 as of the day before yesterday, the Deputy  
4 Secretary has that same view.

5 VICE CHAIRMAN MANSFIELD: Okay.  
6 Good.

7 MR. PODONSKY: And understanding  
8 principally because he also read those  
9 articles.

10 MR. AZZARO: Those articles being  
11 which articles?

12 MR. PODONSKY: Thank you,  
13 Counselor, the article is the 1988 New York  
14 Times.

15 MR. AZZARO: The one in Exhibit A.  
16 Please proceed. Thank you, sir.

17 MR. PODONSKY: Thank you,  
18 Counselor.

19 VICE CHAIRMAN MANSFIELD: My  
20 fourth question has to do with your written  
21 testimony on page six, in the future, line  
22 management will continue to develop,

1 improvement, implement, and track corrective  
2 actions but will not have to routinely provide  
3 those for independent oversight. Does that  
4 include providing them to the Board?

5 MR. PODONSKY: No. We are  
6 referring to ourselves.

7 VICE CHAIRMAN MANSFIELD: Okay.

8 MR. PODONSKY: Because --

9 VICE CHAIRMAN MANSFIELD:  
10 Independent oversight within DOE?

11 MR. PODONSKY: For within the  
12 Department.

13 VICE CHAIRMAN MANSFIELD: Okay,  
14 fine. All right.

15 MR. PODONSKY: If I can elaborate  
16 -- because the one thing that the Secretary is  
17 doing, which we applaud, he's doing many  
18 things we applaud but this, in particular, is  
19 pushing the responsibility to the line, to the  
20 Under Secretaries.

21 VICE CHAIRMAN MANSFIELD: That's  
22 my fourth question. Mr. Chairman?

1 CHAIRMAN WINOKUR: Mr. Bader?

2 MR. BADER: Mr. Podonsky.

3 MR. PODONSKY: Yes, sir.

4 MR. BADER: Good morning.

5 MR. PODONSKY: Good morning.

6 MR. BADER: With half a minute to  
7 spare, the first thing that I wanted to do and  
8 I think our good general counselor has given  
9 me the appropriate designation is to enter  
10 your review of the HSS Safety Directives  
11 Project Plan, December 20th, 2007 version into  
12 the record as Exhibit --

13 MR. AZZARO: Exhibit E.

14 MR. BADER: E.

15 MR. AZZARO: Right.

16 (Whereupon, the above-referred to  
17 document was marked as Exhibit E  
18 identification.)

19 MR. BADER: And that leads me to  
20 my first question which is, I believe, the  
21 statement you said -- too many notes at this  
22 point -- was that the process you are going to

1 use is more aligned with the 2007 plan.

2 MR. PODONSKY: Yes, sir, that's  
3 correct.

4 MR. BADER: Would you send us, for  
5 the record, a crosswalk between what you are  
6 planning to do and the 2007 plan? And the  
7 implication of your statement was that it  
8 would be more precise, more clear, more  
9 definitive. Is that --

10 MR. PODONSKY: That is correct.

11 MR. BADER: Could you indicate in  
12 that crosswalk where you think the  
13 improvements are please?

14 MR. PODONSKY: Yes. We will do  
15 that.

16 MR. BADER: Okay.

17 MR. PODONSKY: It's also depicted  
18 on the Chart Exhibit C.

19 MR. BADER: I'd rather see a  
20 crosswalk of the document please.

21 MR. PODONSKY: Counselor, would  
22 that be Exhibit F.



1 MR. AZZARO: We can so designate  
2 that. You've described it adequately. And we  
3 can mark it and everyone will know what we are  
4 referring to.

5 (Whereupon, the above-referred to  
6 document was marked as Exhibit F  
7 identification.)

8 MR. BADER: A couple of specific  
9 questions. There were a number of directives  
10 that were described variously as quick wins or  
11 low-hanging fruit. Does this new process mean  
12 that that sort of approach to do something in  
13 a hurry is now gone?

14 MR. PODONSKY: It was -- the short  
15 answer is we're not going to rush to make  
16 judgments. The more detailed answer is the  
17 quick wins, 12, for example, 12 of the 24  
18 directives were things like safeguard and  
19 security nomenclature. And what those  
20 cancellations are is to take them out of the  
21 Director's piece and put them on to our  
22 website so the security community, for

1 example, still has access to the information  
2 but it is not in directive space.

3 So our process is not going to  
4 result in quick wins any longer. Our process  
5 is going to be much more precise and much more  
6 exact. What we want to make sure is that we  
7 don't have unintended consequences that we  
8 didn't see.

9 Now of those 12, we have  
10 concurrences from the entire Department. The  
11 Board has also had no issues with those 12.  
12 But we're past the easy piece. Now we're  
13 going to the much more exacting piece that the  
14 process will make sure that there are not more  
15 errors that were made like in the one that I  
16 quoted about the guide that was related back  
17 to a previous Board recommendation.

18 MR. BADER: Yes. My information  
19 from the staff was that there were four of  
20 those, not just one.

21 The other thing I wanted to ask in  
22 terms of a specific question is under the

1 prior -- prior being the 2010 plan -- you were  
2 looking at, I believe, a cancellation review  
3 of 21 days. Are you going to take that back  
4 to the original 30 days?

5 MR. PODONSKY: Thirty days or  
6 longer. And you mentioned it in one of the  
7 statements to the previous witnesses.

8 We need to put the appropriate  
9 amount of resources on this.

10 MR. BADER: Yes.

11 MR. PODONSKY: And that has not  
12 happened. We need to make sure that the  
13 reviews are, in fact, complete. And, again,  
14 I did my mea culpa, I'll do it again.

15 My staff was being very diligent  
16 in following the deadlines that I set. That  
17 was based on conversations with Departmental  
18 leadership. And those deadlines that we set,  
19 as the Board noted, were clearly unrealistic  
20 to be able to do a thorough job. Our intent  
21 is to do a thorough job.

22 MR. BADER: The last question I

1 have is if I looked at the 2007 versus the  
2 2010 documents, the 2007 plan gave us seven  
3 clear criteria.

4 There was an eighth criteria that  
5 was missing but which my understanding from  
6 our staff was honored basically even though it  
7 wasn't written down, which was a specific  
8 review against Board commitments.

9 And I was told that was  
10 accomplished even though it wasn't in the  
11 written criteria. Will you specifically write  
12 that down as one of your criteria this time?

13 MR. PODONSKY: That's criteria  
14 number ten in the new criteria.

15 MR. BADER: Okay. All right.

16 MR. PODONSKY: Very specific.

17 MR. BADER: I have no further  
18 questions, Mr. Chairman. Thank you.

19 CHAIRMAN WINOKUR: Mr. Brown?

20 MR. BROWN: Thank you, Mr.

21 Chairman.

22 And good morning, Mr. Podonsky.

1 MR. PODONSKY: Good morning.

2 MR. BROWN: Let me just ask two  
3 questions and then I'll pass it on to my  
4 colleague, Ms. Roberson.

5 We've talked a bit this morning  
6 about the process that was in place in 2007  
7 and how detailed that was and methodical. And  
8 in my opening statement, I talked about  
9 continuous improvement. And I was speaking  
10 for myself.

11 But I would expect many of the  
12 other Board members would agree that  
13 continuous improvement in the directive system  
14 is a good thing. And a regular rigorous  
15 review of those directives is not only  
16 appropriate but an effective process for  
17 continuous improvement.

18 But in your testimony, you talk  
19 about the drivers for change and improvement.  
20 And fortunately you gave it to us in advance  
21 and I went through it and I'm looking for the  
22 smoking gun, if you will, that says we're

1 going to accelerate an effective process and  
2 more this quickly to conclusion.

3 And while I understand the GAO and  
4 the Board are part of that process that are  
5 mentioned in your testimony, I don't think we  
6 were driving for quicker, more rapid  
7 directives review. And then I read that  
8 missions, requirements, organizational  
9 structures, situations, facilities,  
10 technology, tools, and our knowledge of the  
11 directives but I don't see any of those as  
12 having changed so much that they would require  
13 this accelerated review.

14 So I'm wondering what it is that  
15 drove us to jump through these hoops so  
16 quickly and frankly what it is we can do to  
17 avoid this in the future.

18 MR. PODONSKY: As you know, Board  
19 Member Brown, with each Administration, as I  
20 mentioned, there is a sense of urgency as the  
21 second year passes and the third year is  
22 coming up.

1                   And that sense of urgency is to  
2                   get things done. And we recognize that that  
3                   sense of urgency has to be tempered by those  
4                   of us who are career.

5                   We looked at it -- I looked at it  
6                   and I made the commitment to the Deputy that  
7                   with 2010 being a very important year for the  
8                   Administration to achieve some of things they  
9                   want to achieve for science and for global  
10                  warming and other larger-ticket items for all  
11                  of us, I looked at it and I said to my staff  
12                  if we put enough resources on it, can we do  
13                  this effectively?

14                  What I said in my opening  
15                  statement is that I take full responsibility  
16                  for the rapidity in which we were moving  
17                  because I made the assumption, as the head of  
18                  the organization, that the same rigor was  
19                  being applied, just at a faster pace.

20                  And when I got thorough briefings  
21                  since our April 12th meeting with the Board  
22                  and when you expressed your concerns about

1       this rapidity, I discovered that I made a  
2       judgment error in the process by expecting my  
3       folks to produce in eight months what will  
4       probably take perhaps twice as long to do it  
5       right.

6                   And so you are looking at the  
7       cause of the expedited review. And it was my  
8       judgment, as the head of the organization, to  
9       help deliver for the Department a smarter way,  
10      a more efficient way, and a clearer way in  
11      which we are following requirements.

12                   MR. BROWN: Well, as I look at the  
13      new Administration and when they came in, they  
14      had a lot on their plate, you mentioned all  
15      the new initiatives in energy from nuclear to  
16      renewables, for them to take on a wholesale  
17      directives review process suggests to me that  
18      they had some reason for taking that on, for  
19      finding the system was not effectively being  
20      renewed, reviewed rigorously.

21                   And you mentioned in your spoken  
22      testimony, and this will be my second



1 question, you mentioned in your spoken  
2 testimony that some groups think there is too  
3 much oversight. You said that again in the  
4 written testimony.

5 Can you -- I'm trying to figure  
6 out why people feel that the directives are a  
7 soft target. I mean I really believe that  
8 maybe there is something here that we need to  
9 be addressing. And I'm searching for it.

10 MR. PODONSKY: I wouldn't say that  
11 people thought -- this is my assumption --  
12 that people thought the directives were a soft  
13 target. I believe that what the Secretary saw  
14 when he came in as the Secretary as an  
15 opportunity to improve what he thought of as  
16 a lab director and that is how do you have  
17 more efficient yet safe operations with a  
18 streamlined directive system and perhaps a  
19 more focused, less cumbersome oversight.

20 I would tell you -- I mentioned,  
21 Board Member Brown, that all the way back to  
22 Paul Hodel, who was my first Secretary that I

1 worked under, every Secretary has looked at  
2 the Byzantine structure that we have had in  
3 the Department and always looked to see  
4 whether or not there was a way to improve the  
5 management of the Department.

6 And what the Secretary asked for  
7 is is there a better way to do oversight? And  
8 is there a better way of looking at the  
9 directives?

10 And so we took that on as a  
11 challenge while they have been focused on  
12 Recovery Act and grants and loans and global  
13 warming and new battery technology, et cetera.  
14 We took that on because we feel, as part of  
15 the main infrastructure, Safety, Security and  
16 Health of the Department, that we wanted to  
17 look hard at that and make our recommendations  
18 as opposed to having somebody else do it who  
19 doesn't have to live with the results after  
20 this Administration leaves.

21 MR. BROWN: I think my time is up  
22 so I'll pass on to Ms. Roberson.

1 MS. ROBERSON: Thank you, Mr.  
2 Brown.

3 Thank you, Mr. Podonsky.

4 A couple questions. One general,  
5 one fairly specific.

6 A couple of times in your  
7 testimony, you -- and I'm not going to quote  
8 it but basically say these reforms, this  
9 reform initiative, one of the goals is to  
10 subject certain nuclear activities to a  
11 regulatory oversight and enforcement program  
12 comparable to that of the Nuclear Regulatory  
13 Commission.

14 And while it is truly a worthy  
15 goal and it's not a new goal, it has been one  
16 of the objects of the way the Department is  
17 structured is regulatory oversight and  
18 enforcement program.

19 The commercial nuclear model is  
20 quite different. One, it involves an array of  
21 truly independent oversight elements. The  
22 owner is not the operator -- I mean the owner

1 is the operator. The owner motivation cannot  
2 be mimicked in DOE. And the NRC [Nuclear  
3 Regulatory Commission] is truly independent  
4 and does not represent the owners' interest.

5 But with that in mind, what  
6 specific elements of NRC's regulatory regime  
7 does DOE seek to replicate in this reform  
8 initiative?

9 MR. PODONSKY: I'll -- there's  
10 more specific data that I would want to  
11 provide you from my nuclear safety experts but  
12 I will tell you this. We want to make sure  
13 that we have the same rigor that the NRC does  
14 when they go out to inspect a licensee.

15 And I would offer to you that in  
16 the past, our comprehensive ES&H inspections  
17 had a great deal of that rigor. The problem  
18 is, however, we were only going on once every  
19 three years or two years to some of these  
20 sites. NRC is out there, with their regional  
21 offices, on a much more frequent basis.

22 That's one of the things we're

1 moving towards, a more constant vigilance out  
2 there and not just waiting for the reports to  
3 come in.

4 And I mentioned earlier an example  
5 in Los Alamos. We've been there five times  
6 this year alone on different topical areas.  
7 So we want to make sure that the one thing  
8 that we'll replicate with the NRC is the  
9 constant presence that we haven't currently  
10 had.

11 The other partner to that is  
12 having a site lead. That's very important for  
13 both communication with the sites, the  
14 contractors, and for our understanding, on a  
15 regular basis, on what is going on out there.

16 We once had a Site Resident  
17 Program, you may recall in one of your  
18 previous incarnations, and that worked partly.  
19 It wasn't fully integrated with the oversight.  
20 And this now will emanate from the oversight.

21 The sites that we already have on  
22 site leads, we have identified overseers that

1 will have specific responsibilities at  
2 specific sites. And that, too, is beginning  
3 to replicate some of what the NRC has learned  
4 over the years.

5 MS. ROBERSON: Well, you hit  
6 exactly where I was going with the second  
7 question.

8 In your testimony, you stated that  
9 you have draft protocols for those site leads.

10 MR. PODONSKY: Yes.

11 MS. ROBERSON: And I was going to  
12 ask you to elaborate a little bit more on  
13 that. Or if you want to respond in writing  
14 sometime, that would be great.

15 MR. PODONSKY: Well, we'll respond  
16 in writing but I'll just -- rather than just  
17 leave it open, I would also say again, what  
18 we've determined is we have site leads now for  
19 Los Alamos and Livermore, for Nevada and  
20 Pantex, for Savannah River and I'm missing  
21 Idaho and River Protection in Hanford.

22 And our site leads, they are going

1 to be in contact on a regular basis with the  
2 site to understand what the operations are.

3 They will go out and visit  
4 whenever they deem it is appropriate to see  
5 what the operations are. If the Board goes  
6 out there, they'll be out there to make sure  
7 that we hear the same things that you are  
8 hearing.

9 So it is a constant presence,  
10 which I believe personally and professionally,  
11 will be actually more effective than the site  
12 resident program.

13 But it will also, I think, will  
14 complement the knowledge that is gained from  
15 the Fac Rep program. And put that back into  
16 the oversight piece so that we understand more  
17 of what is going on at the site on a real-time  
18 basis.

19 And we'll give you a more direct  
20 answer --

21 MS. ROBERSON: In writing?

22 MR. PODONSKY: Yes.

1 MS. ROBERSON: Okay.

2 CHAIRMAN WINOKUR: Yes?

3 MR. DWYER: So is it your vision  
4 that this lead is resident at the site?

5 MR. PODONSKY: No.

6 MR. DWYER: Or is it resident at  
7 Headquarters?

8 MR. PODONSKY: No, it will be  
9 resident here at Headquarters. The reason --  
10 well, first of all, our experience with the  
11 site resident program is that unlike the Fac  
12 Rep program, which has been very successful,  
13 the site resident program had some shaky  
14 starts. And we don't have the resource  
15 capability to move people out there at the  
16 different sites.

17 We believe that doing it based out  
18 of our oversight, there is more of a linkage  
19 directly to the oversight folks. And we'll  
20 use the existing systems to include the Fac  
21 Rep as supplement.

22 MR. DWYER: Okay. And in your



1 testimony, you said marry this up with the Fac  
2 Rep program. The Fac Rep program is a very  
3 successful program and the Fac Reps are under  
4 the Site Office manager. They are his eyes  
5 and ears.

6 MR. PODONSKY: Correct.

7 MR. DWYER: It would be a travesty  
8 to disrupt that link. When you say marry up,  
9 can you elaborate?

10 MR. PODONSKY: Just make sure that  
11 we're communicating on a regular basis to find  
12 out --

13 MR. DWYER: Okay. So there is no  
14 intent to disrupt it?

15 MR. PODONSKY: No, no.

16 MR. DWYER: I just wanted to be  
17 clear about that.

18 MR. PODONSKY: Marriage means  
19 different things to different people.

20 (Laughter.)

21 MS. ROBERSON: Clearly.

22 MR. DWYER: I was curious. You

1 said that you had 12 low-hanging fruit that  
2 were cut from the directive system.

3 MR. PODONSKY: Right.

4 MR. DWYER: And that the Board's  
5 staff had no comments on them. Could I get a  
6 copy of that list because I know we sent you  
7 at least three that we distinctly objected to  
8 cancellation. And at least eight others that  
9 we did not believe the justification was  
10 adequate. So I can't make the math add up.

11 MR. PODONSKY: I'll be happy to  
12 provide that to you.

13 MR. DWYER: Thank you.

14 MR. AZZARO: Define -- it's the  
15 Chairman's direction how he wants it. Do you  
16 want to make it an exhibit to this proceeding,  
17 Mr. Chairman? Or just have them send it over  
18 and then we can -- the record is going to be  
19 kept open, as I understand it, for a while  
20 anyway. And it can be added to the record.

21 CHAIRMAN WINOKUR: We can  
22 certainly add it to the record, that's fine.

1                   And let me, for the record, state  
2                   that the last three questions have been asked  
3                   by the Board's Technical Director, Tim Dwyer.

4                   MR. DWYER: In the program plan  
5                   for enhancing independent oversight of nuclear  
6                   safety, is that complete? It says -- in your  
7                   testimony, it says it is a draft.

8                   MR. PODONSKY: It is a draft. I  
9                   have not read it yet. But I understand it is  
10                  very close to final. And that's coming out of  
11                  my Office of Oversight and Enforcement. And  
12                  we will be happy to provide that draft so you  
13                  can review it and comment.

14                 MR. DWYER: Thank you. That was  
15                  my next question.

16                 And the GAO reviews that were done  
17                  and the recommendations they provided you, one  
18                  of the things that you highlighted in your  
19                  testimony was that you needed to focus more  
20                  sources on the safety bases. How has that  
21                  been accomplished?

22                 MR. PODONSKY: We haven't done

1 that yet.

2 MR. DWYER: Okay. Thank you.

3 Thank you, Mr. Chairman.

4 CHAIRMAN WINOKUR: Thank you, Mr.  
5 Dwyer.

6 A few pieces of bookkeeping. Then  
7 I do have some very general questions for you.

8 Did you say -- I wanted to get  
9 this clear for the record -- that the Deputy  
10 Secretary is aware of the reform changes we  
11 have been talking about today? Your -- I'm  
12 sorry, the process that we are going to be  
13 using to evaluate the directives?

14 MR. PODONSKY: Yes. He -- the  
15 Deputy does not have all the fine detail. But  
16 what he has is the understanding, based on our  
17 discussions with him, based on your  
18 discussions with him, the understanding first  
19 of all that his guidance that he put out, in  
20 terms of the 50 percent, he never intended for  
21 that 50 percent to be an indicator of the  
22 driver or reducing safety. But clarifying the

1 directive system.

2 The other thing that he is aware  
3 of is that the time frame that I committed to  
4 is not going to be met because, as I said in  
5 our April meeting with you, we are not going  
6 to sacrifice quality for time.

7 CHAIRMAN WINOKUR: Thank you.

8 I have just a few general things  
9 which I'm going to go through fairly quickly.  
10 I just want your help on these things. I  
11 don't think we can have a detailed dialogue  
12 right now.

13 But the Secretary of Energy once  
14 again has made some very specific comments  
15 about the oversight process. And this is a  
16 hearing today about oversight.

17 And I think we would all agree  
18 that we want to strengthen these processes, we  
19 want to strengthen the directives.

20 But let me just give you two  
21 quotes from the Secretary in the hope that you  
22 can perhaps, as the Chief Safety Office, at

1 least provide some guidance and insight if you  
2 think it is necessary.

3 One of the quotes from the  
4 Secretary says, "In terms of safety, if you  
5 look at companies that are extremely safe,  
6 they have a very skeleton crew of health and  
7 safety experts, a company like DuPont."

8 But I really haven't heard  
9 anything here today that makes me think that  
10 the NNSA Administrator or the Chief of Nuclear  
11 Safety or yourself believe that we are heading  
12 towards skeleton crews of health and safety  
13 experts.

14 And I don't know if you want to  
15 briefly comment on that and my sense of it is  
16 that it might not be sending the right  
17 message. But what would your quick sense of  
18 it be?

19 MR. PODONSKY: More than my sense,  
20 my actual discussion with the Secretary was  
21 that he had a view that corporate safety at  
22 DuPont was a skeletal crew, 15 people. We

1 actually had DuPont, the head of their safety  
2 organization come and meet with us, Mari Jo  
3 Campagnone, who you all know, made the  
4 arrangements. And we had the Chief of Staff  
5 for the Deputy Secretary there. We had the  
6 NNSA representative from their safety office  
7 there. We had Dr. Brinkman from Science  
8 there.

9 And what we learned from DuPont is  
10 that yes, at headquarters they day 15. But  
11 they had another 1,500 out in the field. So  
12 we were getting the information back to the  
13 Secretary that what was the perception was not  
14 the reality.

15 CHAIRMAN WINOKUR: And you've  
16 communicated that to him?

17 MR. PODONSKY: I've communicated  
18 that to his Chief of Staff, not to the  
19 Secretary yet. But I intend to.

20 CHAIRMAN WINOKUR: Thank you.

21 Well, here is another quote. And  
22 it says, from the Secretary, "Reduced federal

1 oversight doesn't necessarily reduce safety.  
2 Quite the opposite. So another suggestion to  
3 the complex that we should reduce oversight.

4 You know my strong feelings about  
5 it are we should, you know, trust but verify.  
6 And the day may come when the contractor  
7 assurance programs are so strong that we  
8 convince ourselves that less oversight might  
9 be necessary.

10 But until that point occurs, and I  
11 don't think we're there yet, that we probably  
12 need to maintain a pretty strong focused,  
13 dedicated safety staff, or oversight function.

14 MR. PODONSKY: I'll just comment,  
15 I fully -- we fully agree that we need to have  
16 a strong safety oversight as well as security,  
17 for that matter, which is also part of the HSS  
18 responsibilities.

19 But I am reminded of the culture  
20 in the Department, all the way back to 1994  
21 with the Bob Galvin report that was written  
22 for Secretary O'Leary that talked about



1 checkers checking the checkers.

2 One of the issues that has to be  
3 dealt with with the Department, as I said  
4 earlier, and I mentioned to the Secretary, is  
5 roles and responsibilities. What are the  
6 expectations? What is the Site Office? What  
7 is the contractor? What is the Program  
8 Office? What are the different staff offices?

9 Because it comes to a point in  
10 time that I think the Administrator said this  
11 or implied this, you can go so far that you  
12 have too many checkers and not enough doers.  
13 And so I don't disagree with the spirit of  
14 what you're saying, Mr. Chairman, but I also  
15 think that the Department has gone sometimes  
16 in the wrong direction.

17 CHAIRMAN WINOKUR: And the final  
18 thing I would say is that we have had a very  
19 good dialogue here today. One of the things  
20 that I was concerned about when you and I met  
21 with the Deputy Secretary of Energy is always  
22 the message that the contractors are

1 receiving.

2           And I did want to share with you  
3 that I think the contractors have gotten the  
4 message from the initiatives and safety  
5 reforms that their requirements are going to  
6 be significantly reduced. And I do want to  
7 tell you that the Board staff that has been  
8 out to attend certain meetings with the  
9 contractors, you know, sense that the Board is  
10 being viewed as an impediment to the  
11 Department doing what it needs to do so the  
12 contractors can get their job done.

13           But I think we've agreed here  
14 today that safety is an enabler, not a barrier  
15 to that mission. And we can certainly use  
16 your help in making sure that the contractors  
17 get the better message in terms of what we're  
18 all trying to do here to strengthen and  
19 improve these directives.

20           MR. PODONSKY: I fully agree. And  
21 once again, I had to admit that I added to the  
22 confusion of the messaging because at one

1 meeting in particular at EFCOG, I talked about  
2 the Hill having interest in what we were doing  
3 in reform.

4 And when I mentioned the Defense  
5 Board, I said that you all had your hands  
6 around my throat. My intention was not that  
7 you were strangling me but my intention was  
8 that you had my attention. And so obviously  
9 we have to clear those messages.

10 CHAIRMAN WINOKUR: Thank you.

11 Dr. Mansfield?

12 VICE CHAIRMAN MANSFIELD: Thank  
13 you, Mr. Chairman.

14 One of my remaining questions has  
15 already been answered so but my fifth  
16 question, this has to do with the site lead  
17 program. I can see that this will be an  
18 important mechanism, especially for  
19 operational awareness.

20 Do you intend to have a formal  
21 qualification process with the functional area  
22 qualification program for these people?

1 MR. PODONSKY: Yes.

2 VICE CHAIRMAN MANSFIELD: Okay.

3 MR. PODONSKY: And we also -- we  
4 have done oversight, as I mentioned, for 25  
5 years. We have brought in some of the best  
6 safety experts that we can get to join the  
7 federal government.

8 But we have never had a regimented  
9 process for follow-on training because they  
10 come to us so qualified. But we need to do  
11 that as well.

12 VICE CHAIRMAN MANSFIELD: Okay.  
13 Great.

14 My next question has to do with --  
15 I want to thank you for your words on page six  
16 about the historical, fruitful working  
17 relationship between DOE and the Board. I  
18 certainly think that that's a fact. And it  
19 has been important.

20 I do have to raise a question  
21 about the term stakeholder. Recent  
22 communications have mentioned that there is a

1 list of stakeholders, including the Board.

2 I just want to make a distinction  
3 that I think is firmly founded in our statute.  
4 Stakeholders are interested individuals who  
5 have a right, a Constitutional right to be  
6 heard and be consulted with respect. However,  
7 they don't have a right to dictate what DOE  
8 does. And they may -- their views may have to  
9 be in the last instance, not followed.

10 But the Board has a problem, a  
11 different problem. We have a statute that  
12 demands that we be action-forcing. In other  
13 words, we bother you to give up. And that  
14 doesn't make us ordinary stakeholders. Do you  
15 recognize that distinction?

16 MR. PODONSKY: Absolutely.

17 VICE CHAIRMAN MANSFIELD: Okay.  
18 Good.

19 And my last question, on the  
20 directives revision process, which is -- or  
21 the approval process for it, which is a  
22 question I also have for the approval process

1 for getting correspondence out, about  
2 recommendations and things like that, but some  
3 of these directives reply just to defense  
4 nuclear facilities. And were written that  
5 way.

6 So why does, for instance, the  
7 Office of Energy and the Office of Science  
8 have a say in changes of those directives?

9 MR. PODONSKY: Because the  
10 structure in which the management of the  
11 Department operates is that the three Under  
12 Secretaries have a responsibility to the  
13 Deputy and to the Secretary for concurring on  
14 all the requirements. Some of them may be  
15 applicable, some of them may not.

16 In the same way that they also,  
17 the General Counsel, Congressional --

18 VICE CHAIRMAN MANSFIELD: So does  
19 the, for instance, Director of NNSA weigh in  
20 on the peer review process for DOE grants in  
21 science?

22 MR. PODONSKY: That's a good

1 question. I don't know. But I did describe  
2 the process as somewhat Byzantine.

3 VICE CHAIRMAN MANSFIELD: Yes.  
4 And it's also been obstructive. I mean I call  
5 to mind Recommendation 2009-1 where there was  
6 useless waiting because of, I believe, a  
7 pointless objection.

8 Mr. Chairman, that's my questions.

9 CHAIRMAN WINOKUR: Mr. Bader?

10 MR. BADER: I have no further  
11 questions. Thank you, Mr. Chairman.

12 CHAIRMAN WINOKUR: Mr. Brown?

13 MR. BROWN: In your testimony, Mr.  
14 Podonsky, we talk about greater emphasis on  
15 this or that. And I'm wondering about your  
16 resources to do your job at the Department of  
17 Energy, the safety section of your job.

18 Are they increasing, decreasing,  
19 staying the same? I'm talking about dollars.  
20 Can you tell me something about that and your  
21 ability to fulfill your role as the  
22 Departmental safety rep.

1                   MR. PODONSKY: We are being very  
2                   creative with the use of our limited  
3                   resources. The budget for HSS is a matter of  
4                   public record. It has been on a decline.

5                   MR. BROWN: Can you describe how  
6                   much of a decline? Characterize it some way?

7                   MR. PODONSKY: Well, it has had me  
8                   and my managers become creative in terms of  
9                   our prioritization. We will not sacrifice  
10                  safety for the less budget.

11                  But, for example, I have used  
12                  moneys that we had originally planned for  
13                  security technology deployment, so I'm using  
14                  money for -- instead of deploying  
15                  technologies, which by all rights should be  
16                  the responsibilities of the Under Secretaries  
17                  to pay for, I'm no longer paying for that.  
18                  I'm using that money for the safety aspects  
19                  where I need them.

20                  MR. BROWN: You mentioned you are  
21                  hiring five more --

22                  MR. PODONSKY: Five more nuclear



1 engineers.

2 MR. BROWN: How is your cadre of  
3 safety personnel? How has that tracked over  
4 the last couple of years in numbers?

5 MR. PODONSKY: We've been able to  
6 keep a pretty substantial cadre of safety  
7 folks both between oversight and policy. But  
8 it is taxing my people. We actually need to  
9 make some changes.

10 And I intend to, as the reform  
11 goes through to a more mature state, I want to  
12 go back to the Deputy Secretary to restructure  
13 the organization so I can make a more focused  
14 effort on our resource base on safety as well  
15 as security.

16 MR. BROWN: Do you have any  
17 programs for renewing, restoring the -- your  
18 personnel as -- I mean, you know, in most  
19 organizations around the government, there are  
20 a lot of retirements coming up. What are you  
21 doing to reinvigorate the youth of your  
22 organization?

1 MR. PODONSKY: We are having a  
2 special Medicare program for our folk -- I'm  
3 being facetious. We do have an aging  
4 workforce. And what we really need to do, and  
5 we've started looking at a younger cadre.

6 Part of our problem also is we  
7 have some technically competent, very, you  
8 know, junior folks that are being recruited  
9 away from us to do work within the line. And,  
10 of course, we don't stand in their way because  
11 we want people to have as much experience as  
12 possible.

13 It is, Board Member Brown, we do  
14 have a problem there. And we are trying to  
15 work it within the finite resources, financial  
16 resources that we have.

17 MR. BROWN: You mentioned in your  
18 written testimony that you are putting a  
19 greater emphasis on the full range of  
20 enforcement options to ensure compliance with  
21 safety requirements. Can you describe what  
22 enforcement options HSS will be emphasizing

1 that you haven't emphasized in the past? I  
2 mean that implies a change. And what is this  
3 change?

4 MR. PODONSKY: Well, the change is  
5 the enforcement process, since its inception  
6 in 1993 with the former EH [Environmental  
7 Safety & Health] organization, has always be  
8 driven out of Headquarters.

9 The federal line folks have not  
10 seen this as their tool. And we're pushing  
11 back to have the Under Secretaries and the  
12 Assistant Secretaries recognize -- and the  
13 Site Managers -- that enforcement is a tool  
14 for the feds to hold the contractors  
15 accountable and responsible.

16 It's not just Headquarters. What  
17 we had found -- and in that process, there was  
18 a long delay, eight, nine, ten months after an  
19 event when you see an enforcement action. So  
20 on two fronts, we're trying to streamline the  
21 process so that we shorten the amount of time,  
22 number one.

1                   Number two, we're getting the  
2 sites' federal folks to recognize that this is  
3 their tool, not just HSS's. Those are the two  
4 major areas.

5                   MR. BROWN: Now when you say  
6 enforcement actions, you're talking Price-  
7 Anderson?

8                   MR. PODONSKY: We're talking about  
9 Price-Anderson. We're talking about 824 and  
10 Worker Health & Safety -- 824 was the security  
11 classification. We had three enforcement  
12 responsibilities: Price-Anderson for nuclear  
13 safety, classification for security, for  
14 documents, and then Worker Health & Safety.

15                  MR. BROWN: Okay. Thank you, Mr.  
16 Chairman.

17                  CHAIRMAN WINOKUR: Ms. Roberson?

18                  MS. ROBERSON: Actually, I just  
19 have one topic I wanted to follow up on,  
20 Glenn, and that was the mission support  
21 function that you described in your testimony.

22                  My recollection is some part of

1 the organization has been available for  
2 assistance to the line anyway. What is new  
3 and different? And based on what is new and  
4 different, how are you protecting your  
5 enforcement function from the mission support?

6 MR. PODONSKY: Mission support in  
7 the old days, like the Maytag repairman  
8 waiting for somebody to call us, or sometimes  
9 like at Rocky Flats, I'll always remember Mark  
10 Silverman having an EH fire safety assistance  
11 at the same time we had an inspection. And I  
12 remember Mark never requested that fire  
13 safety.

14 We're talking about mission  
15 support where we're actually working with the  
16 line to fix some of the problems that they  
17 don't have the resources to fix, they don't  
18 have the expertise. And we are finding -- in  
19 fact my oversight folks will tell you, we have  
20 more requests now than we have people to do  
21 all the work.

22 It's the same -- it is across the

1 Board. It's in safety. It's in cyber. It's  
2 in physical security. For example, we are at  
3 science facilities right now, SLAC [Stanford  
4 Linear Accelerator] out at the Stanford  
5 facility. It's run like a university and they  
6 need help with their security.

7 They've had a number of vandalism  
8 inside issues. And so we've had people go out  
9 to help them.

10 Now if we ever have to inspect  
11 them, we won't use the same people, okay. Now  
12 -- and then you might say well how do you  
13 manage so few resources?

14 I mean eventually if we don't  
15 bring on more folks to support us, we  
16 eventually will run out where we can't do any  
17 more inspections. So that is a problem.

18 But what we look at and say  
19 figuratively and literally, if the objective  
20 of oversight is to improve the process of the  
21 way the facilities are operating, then  
22 shouldn't we use that expertise in a way that

1 is helpful, not just providing a report?

2 MS. ROBERSON: And I understand  
3 what you're saying, I guess. And maybe one of  
4 the questions I was going to ask you, you  
5 already answered is are you looking at  
6 structural changes in your organization.

7 Because one of the concerns I  
8 would have in this vein is we talked about --  
9 we have these multiple operational, you know,  
10 awareness or oversight, we have the Under  
11 Secretaries or Administrator's organization.

12 The entry points for your assist,  
13 is it at the contractor, field, line, Under  
14 Secretary, how is all of this stuff intended  
15 to work and have meaning in the total scheme  
16 of oversight?

17 MR. PODONSKY: The entry is where  
18 the work is getting done. That's most  
19 important.

20 We have found that we can go and  
21 talk to the Unders and talk to the Assistant  
22 Secretaries, some of the -- I need to correct

1 one of the witnesses.

2 Chip Lagdon says to the Chairman's  
3 question no, we're not using that organization  
4 for assistance. And to the contrary, we're  
5 actually out at Hanford, which originally  
6 started as an assist visit to look at  
7 beryllium turned into an inspection. So we  
8 are doing that.

9 But we're find that where the real  
10 work is being done, where the problems exist,  
11 is at the sites. So John Bolden and his staff  
12 have made the circuit to the site managers.  
13 And they understand what's available because  
14 like I said, we're pretty much running out of  
15 resources to go out and provide the assistance  
16 that have been requested, which, for the  
17 record, we find that very refreshing in the  
18 fact that people are now sharing with us  
19 instead of hiding from us.

20 And I'm anxiously awaiting to see  
21 what is going to happen at those same sites  
22 when we go out and inspect them and see if the



1 attitude will change or whether we will have  
2 a respectful relationship.

3 MS. ROBERSON: Okay. Thank you.

4 I don't have any further  
5 questions, Mr. Chairman.

6 CHAIRMAN WINOKUR: Well, thank you  
7 very much for your testimony today and  
8 answering the Board's questions. Thank you  
9 for your patience. You are the third witness  
10 of the morning.

11 We did give you limited time to  
12 provide oral testimony but that happened  
13 because you were kind enough to share your  
14 written testimony with us promptly the day  
15 before, which gave us a fairly good  
16 opportunity to go through it.

17 So once again, thank you.

18 In accordance with the Board's  
19 practice and as stated in the Federal Register  
20 notice, we welcome comments from interested  
21 members of the public.

22 We ask presenters to limit their

1 original statements to five minutes. The  
2 Chair will give consideration to additional  
3 comments should time permit.

4 Presentations should be limited to  
5 comments, technical information, or data  
6 concerning the subjects of this meeting.

7 The Board members may question  
8 anyone making presentations to the extent  
9 deemed appropriate.

10 I do have a list here. And we  
11 have a name on it, Jennifer Nordstrom from  
12 Think Outside the Bomb. Would you come  
13 forward please? And please restate your name  
14 and affiliation for the record.

15 MS. NORDSTROM: I'm Jennifer  
16 Nordstrom. I'm from Think Outside the Bomb.

17 Thank you for the opportunity to  
18 testify today at this hearing for the DOE's  
19 implementation of Recommendation 2004-1,  
20 Oversight of Complex, High-Hazard Nuclear  
21 Operations.

22 Think Outside the Bomb is the

1 largest youth-led network for nuclear  
2 abolition in the United States and is  
3 organized by youth activists, experts, and  
4 organizers in nuclear weapons and nuclear  
5 energy issues from academic and non-profit  
6 fields.

7           Since 2005, we have organized  
8 national and regional conferences focusing on  
9 education, community organizing, and creative  
10 expression. In August of 2009, we held our  
11 conference in Albuquerque, New Mexico, and  
12 learned first hand about the effects of the  
13 nuclear weapons complex on the health of the  
14 people and the natural resources in the area.

15           At the request of multiple groups  
16 and community leaders in Espanola, Chimayo,  
17 and other parts of New Mexico, TOTB [Think  
18 Outside the Bomb] is now focused on supporting  
19 efforts in the areas surrounding Los Alamos  
20 National Labs. And in assisting on clean ups  
21 of the lab's toxic legacy. And working to  
22 prevent any further contamination and risk to

1 public health and safety in this area.

2 In March of this year, two of our  
3 members met with this Board to discuss issues  
4 regarding the proposed Chemical & Metallurgy  
5 Research Replacement Facility at LANL [Los  
6 Alamos National Laboratory]. Our testimony  
7 today is intended to follow up on some of the  
8 issues we raised at that meeting as well as to  
9 make a specific recommendation regarding  
10 necessary DOE oversight of this proposed  
11 project.

12 So with regards to the proposed  
13 CMR facility at LANL, we have two main  
14 concerns, the first of which is public safety  
15 and health. As this Board has acknowledged in  
16 depth and in detail, seismic issues at LANL  
17 have made the current CMR facility a grave  
18 safety hazard in the event of an earthquake or  
19 resultant fire.

20 The building of a new plutonium  
21 laboratory in an equally seismically unstable  
22 area will not reduce this catastrophic risk.

1 These concerns cannot be adequately resolved  
2 and this building is unnecessary.

3 The best way to avoid these safety  
4 problems is to end plutonium pit production at  
5 LANL. Since the DNFSB is operating under a  
6 new Congressional mandate to certify this  
7 CMRR, might the Board further interpret its  
8 mandate to not certify the entire project  
9 based on the fact that it cannot be made safe  
10 and should not proceed?

11 Is this Board willing to accept  
12 the risk of catastrophic consequences for the  
13 population surrounding LANL?

14 Please tell Congress and LANL that  
15 it is not responsible to throw millions of  
16 dollars at seismic safety measures that will  
17 not work when the risk is easily prevented by  
18 curtailing plutonium activities.

19 The second issue that we're  
20 focused on is public input. And while this  
21 Board has clearly made an attempt to accept  
22 public input on this proposal and others, we

1 remain concerned that marginalized populations  
2 in these areas are being excluded from this  
3 regulatory dialogue.

4           So far it appears as though the  
5 Board has made little effort to hear from  
6 Chicano and indigenous groups in New Mexico  
7 such as the Multi-Cultural Alliance for a Safe  
8 Environment, Tribal Environmental Watch  
9 Alliance, TEWA Women United, the New Mexico  
10 Alliance, or the Products of Aztlan Youth  
11 Group.

12           Such omissions of public  
13 participation should be repaired expeditiously  
14 by holding public hearings on certification in  
15 the effected communities, including the  
16 Espanola and Chimayo area, Santa Fe, and  
17 Albuquerque. For many of these communities,  
18 this is their sacred land.

19           And it is important to make an  
20 effort to hold a series of meetings with an  
21 open and well-noticed comment period to assure  
22 adequate representation of their perspectives.

1                   Finally, and most relevant to your  
2                   focus at today's hearing, we respectfully  
3                   request that this Board direct the Department  
4                   of Energy to conduct a supplemental analysis  
5                   for the environmental impact statement they  
6                   issued in February of 2004, the Record of  
7                   Decision 6967, regarding the proposed CMRR at  
8                   LANL.

9                   In light of the seismic and safety  
10                  issues this Board made public in the fall of  
11                  2009, we feel that this additional analysis is  
12                  an obvious necessity. We also feel that the  
13                  initial EIS [Environmental Impact Statement]  
14                  should have included a fifth alternative,  
15                  which would have been to cease plutonium pit  
16                  production at LANL.

17                  We dispute the decision to advance  
18                  Alternative 1, which was to build a new CMRR  
19                  at Technical Area 55. This choice overlooks  
20                  the many risks this Board has acknowledged as  
21                  being associated with TA-55 [Technical Area  
22                  55] and thus warrants a reexamination of the

1 initial EIS and the incorporation of an option  
2 which would further prohibit plutonium work at  
3 TA-55.

4 Thank you for your time and  
5 consideration of these points. We look  
6 forward to recommendations from this Board  
7 that will put the health and safety of New  
8 Mexicans in front of unjustified need for  
9 further expansion of dangerous and wasteful  
10 plutonium pit production at LANL.

11 We sincerely hope this Board will  
12 also make a concerted effort to hear from the  
13 residents that are most directly effected by  
14 the hazards created at LANL.

15 Thank you.

16 CHAIRMAN WINOKUR: Thank you. Ms.  
17 Nordstrom, thank you for your testimony.

18 Is there anybody in the room who  
19 would also wish to address the Board?

20 (No response.)

21 CHAIRMAN WINOKUR: Seeing no other  
22 hands, I'm going to move to the closing



1 statement for this public meeting and hearing.

2 The record of this proceeding will  
3 remain open until June 12th, 2010. I would  
4 like to reiterate that the Board reserves its  
5 right to further schedule and otherwise  
6 regulate the course of this meeting to recess,  
7 reconvene, postpone, or adjourn this meeting,  
8 and exercise its authority under the Atomic  
9 Energy Act of 1954, as amended.

10 This concludes this meeting and  
11 hearing of the Defense Nuclear Facilities  
12 Safety Board. We will recess and take up at  
13 the call of the Chair when that time is  
14 necessary.

15 Thank you.

16 (Whereupon, the above-entitled  
17 meeting of the Defense Nuclear Facilities  
18 Safety Board was concluded at 12:48 p.m.)  
19  
20  
21  
22

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