

**In the Matter of:**

**Defense Nuclear Facilities Safety Board**

*June 3, 2015*  
*Open Public Business Meeting*

**Condensed Transcript with Word Index**



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Open Public Business Meeting

Defense Nuclear Facilities Safety Board

6/3/2015

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3 DEFENSE NUCLEAR FACILITIES SAFETY BOARD  
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10 OPEN PUBLIC BUSINESS MEETING  
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14 JUNE 3, 2015  
15 3:00 p.m.  
16  
17 DEFENSE NUCLEAR FACILITIES SAFETY BOARD  
18 625 INDIANA AVENUE, NW  
19 ROOM 352  
20 WASHINGTON, DC 20004  
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1 PUBLIC MEETING  
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3 (9:00 a.m.)  
4 MS. ROBERSON: My name is Jessie Roberson.  
5 Good morning. I thought my voice was music.  
6 My name is Jessie Roberson, and I am the Vice  
7 Chairman of the Defense Nuclear Facilities Safety Board.  
8 I will preside over this public business meeting. I'd  
9 like to introduce my colleagues on the Safety Board.  
10 Seated directly to my right is Mr. Daniel Santos, and  
11 seated directly across from me is Mr. Sean Sullivan. We  
12 three constitute the Board.  
13 Seated next to Mr. Sullivan is Mr. John  
14 Batherson, the Board's Acting General Counsel, who will  
15 serve as the Board's Executive Secretary for the meeting.  
16 Having established a quorum of three Board  
17 members, this public business meeting will now come to  
18 order. This public business meeting was noticed in the  
19 Federal Register on May 21, 2015. The meeting is held  
20 open to the public per the provisions of the Government  
21 in the Sunshine Act, also known as the Sunshine Act, as  
22 well as the Board's regulations implementing the Sunshine  
23 Act and the Board's operating business procedures -- the  
24 Board's operating procedures for conducting a meeting.  
25 A request for Board action concerning

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1 additional procedures for the conduct of this meeting was  
2 also approved by the Board by notational vote on May 14,  
3 2015.  
4 The Board is recording this proceeding through  
5 a verbatim transcript and video recording. Individuals  
6 viewing remotely by live video streaming may submit  
7 comments via email to the Board's email address at  
8 mailbox@DNFSB.gov. Comments received via email will be  
9 read to the Board during the public comment period.  
10 The transcript, public notice, and video  
11 recording will be available for viewing on the Board's  
12 public website. In addition, an archive copy of the  
13 video recording will be available through our website for  
14 at least 60 days.  
15 In accordance with the previously approved  
16 agenda, Board members will receive presentations from  
17 each of the Board's office directors. First, the General  
18 Manager will present on the Board's performance metrics.  
19 Next, the Acting General Counsel will present to the  
20 Board on the Board's policies and their underlying legal  
21 basis. And, finally, the Technical Director will present  
22 on the technical staff organizational structure.  
23 The Board will then take a short recess, and  
24 following those presentations and reconvening, the  
25 General Manager will discuss recent organizational

5	<p>1 assessments of the Board. The Board will then entertain                  2 comments from the public. And after a lunch break, the                  3 Board will consider four previously submitted requests                  4 for Board action, engage in deliberations, and vote on                  5 whether to approve or disapprove the request. A copy of                  6 the meeting agenda is posted on the Board's public                  7 website.                  8 I'd also like to ask, if you have your phone,                  9 if you could put it on vibrate or silent or turn it off.                  10 I think it would be appreciated for everybody here.                  11 So, this concludes my opening remarks. And now                  12 I turn to the Board members for their opening remarks.                  13 Mr. Sullivan?                  14 MR. SULLIVAN: No comments.                  15 MS. ROBERSON: Thank you, Mr. Sullivan.                  16 Mr. Santos?                  17 MR. SANTOS: Thank you, Madam Vice Chairman. I                  18 just briefly want to mention as a relatively new Board                  19 member I'm very encouraged by this opportunity to have a                  20 public business meeting where we're giving opportunity to                  21 the public and other interested parties to actually see                  22 the Board conduct its business in a transparent manner.                  23 As you know, given the Sunshine Act, a lot of                  24 our Board activities are somewhat restricted and we have                  25 to do it every -- through notational votes that may be a</p>	7
6	<p>1 little bit cryptic to folks. So, having the opportunity                  2 to have public meetings is something that I fully                  3 support. And I encourage the Board to see this as a good                  4 tool in our toolkit to keep all our stakeholders                  5 informed.                  6 That concludes my opening remarks. Thank you.                  7 MS. ROBERSON: Thank you, Mr. Santos.                  8 So, this concludes the Board members' opening                  9 remarks, and at this time, I'd like to begin with the                  10 first order of business on the agenda. I'd like to                  11 recognize our first presenter, Mr. Mark Welch, the                  12 Board's General Manager.                  13 Mr. Welch, please present your report on the                  14 existing Board performance metrics.                  15 MR. WELCH: Thank you, Madam Vice Chairman, and                  16 good morning, Board members and staff.                  17 Slide 2, please. I'm going to provide a brief                  18 overview of the strategic planning and performance                  19 planning and reporting requirements of the Government                  20 Performance and Results Modernization Act of 2010, or                  21 GPRA. I will then briefly discuss the purposes of GPRA,                  22 the strategic goals and objectives included in the                  23 Board's strategic plan, and existing Board performance                  24 metrics in support of these goals and objectives.                  25 Slide 3, please. GPRA requires that agencies</p>	8
5	<p>1 produce a new strategic plan by February of the year                  2 after the President's term commences. The plan must                  3 cover a minimum of four years and contain general goals                  4 and objectives for the major functions and operations of                  5 the agency.                  6 GPRA also requires agencies to submit an annual                  7 performance plan by the first Monday in February of each                  8 year. The annual performance plan establishes                  9 performance goals to be achieved during the year in which                  10 the plan is submitted, as well as the next year. The                  11 plan must also describe how the performance goals                  12 contribute to the general goals and objectives                  13 established in the strategic plan. Goals are to be                  14 expressed in an objective, quantifiable, and measurable                  15 form, unless such an expression is not feasible, hence                  16 the need for performance metrics.                  17 Office of Management and Budget, or OMB,                  18 Circular A-11 encourages agencies to deliver the annual                  19 performance plan concurrent with the Congressional Budget                  20 Justification. Finally, GPRA requires agencies to submit                  21 an annual performance report no later than 150 days after                  22 the end of the fiscal year. The report must compare                  23 actual performance achieved with the performance goals                  24 established in the performance plan. OMB Circular A-11                  25 also encourages agencies to deliver the annual</p>	7
6	<p>1 performance plan concurrent with the annual budget                  2 justification submitted to Congress.                  3 Slide 4, please. Per OMB Circular A-11,                  4 purposes of the GPRA Modernization Act include improving                  5 public confidence in the capability of the Federal                  6 Government by holding federal agencies accountable for                  7 achieving program results; improving program performance                  8 by requiring agencies to set goals and measure                  9 performance against those goals and report publicly on                  10 progress; improving federal program effectiveness and                  11 public accountability by promoting a focus on results;                  12 helping federal managers improve service delivery by                  13 requiring that they plan for meeting program goals and                  14 providing them with information about program results;                  15 and improving congressional decision-making by providing                  16 more information on achieving statutory objectives and on                  17 the relative effectiveness and efficiency of federal                  18 programs and spending.                  19 Slide 5, please. The Board's strategic plan                  20 for Fiscal Years 2014 through 2018, which was approved by                  21 the Board in February of 2014, replaced the previous                  22 strategic plan, which covered Fiscal Years 2011 through                  23 2016. It established four strategic goals: improve                  24 safety of operations; strengthen safety standards;                  25 strengthen safety in design; and achieve excellence in</p>	8

9	<p>1 management and communication with stakeholders.</p> <p>2 The first three strategic goals relate to the</p> <p>3 technical mission of the Board, while the fourth relates</p> <p>4 to agency support provided by all offices. The detailed</p> <p>5 strategic goals are shown on slide 5.</p> <p>6 Slide 6, please. The plan further established</p> <p>7 strategic objectives for each of the four strategic</p> <p>8 goals. The first three strategic goals have two</p> <p>9 objectives each, and the fourth strategic goal has three</p> <p>10 strategic objectives. Slide 6 shows the strategic</p> <p>11 objectives for the first two strategic goals.</p> <p>12 Slide 7, please. Slide 7 shows the strategic</p> <p>13 objectives for the third and fourth strategic goals.</p> <p>14 Slide 8, please. The Board first began</p> <p>15 establishing performance goals and associated metrics in</p> <p>16 support of the current strategic goals and objectives for</p> <p>17 Fiscal Year 2014. The performance goals and metrics</p> <p>18 remained consistent in Fiscal Years 2015 and 2016, the</p> <p>19 latest year in which performance goals were established,</p> <p>20 with the exception of minor editorial changes or</p> <p>21 clarifications.</p> <p>22 Under strategic goals one through three, 19</p> <p>23 performance goals support the six strategic objectives,</p> <p>24 and the Board uses three cross-cutting metrics and three</p> <p>25 individual metrics to measure performance. The first</p>	11	<p>1 established under Strategic Objective 3.1</p> <p>2 Finally, the percentage of significant Hazard</p> <p>3 Category 2 projects achieving a critical design milestone</p> <p>4 for which the Board issues a project letter within 60</p> <p>5 days of DOE's critical decision milestone supports a</p> <p>6 performance goal established under Strategic Objective</p> <p>7 3.1</p> <p>8 Slide 10, please. Under strategic goal 4,</p> <p>9 eight performance goals support the three strategic</p> <p>10 objectives, and each goal has a unique metric to measure</p> <p>11 performance. Under Strategic Objective 4.1, improving</p> <p>12 internal management controls, each of the Board offices</p> <p>13 has a performance goal with a metric tied to development</p> <p>14 of new procedures.</p> <p>15 Under Strategic Objective 4.2, improving the</p> <p>16 alignment of human capital strategies, the Board is</p> <p>17 measuring the number of employees operating under a</p> <p>18 results-based appraisal system, and the number of</p> <p>19 unfilled critical mission functions.</p> <p>20 Slide 11, please. Under Strategic Objective</p> <p>21 4.3, improving communication, the Board has three</p> <p>22 metrics. The first is the percentage of site</p> <p>23 representative weekly reports documenting direct</p> <p>24 oversight posted to the Board's public website within 35</p> <p>25 days of the date of the report. The second is the number</p>
10	<p>1 cross-cutting metric, the number of completed reviews</p> <p>2 that comply with technical staff instructions, operating</p> <p>3 procedures, and internal controls, supports performance</p> <p>4 goals established under strategic -- Strategic Objectives</p> <p>5 1.1, 1.2, 2.1, 2.2, and 3.2</p> <p>6 The percentage of Board letters regarding</p> <p>7 potential safety deficiencies sent to DOE or NNSA that</p> <p>8 are responded to and result in positive response to</p> <p>9 assess safety issues supports performance goals</p> <p>10 established under Strategic Objectives 1.1, 1.2, 2.2 and</p> <p>11 3.2.</p> <p>12 Slide 9, please. The number of days per year a</p> <p>13 site representative or member of the technical staff</p> <p>14 conducts onsite safety oversight supports performance</p> <p>15 goals established under Strategic Objectives 1.1 and 1.2.</p> <p>16 The percentage of DOE directives entering the review</p> <p>17 comment period for which the Board provides comments on</p> <p>18 or before the review date deadline, supports a</p> <p>19 performance goal established under Strategic Objective</p> <p>20 2.1.</p> <p>21 The percentage of significant Hazard Category 2</p> <p>22 projects achieving a critical design milestone for which</p> <p>23 the Board's technical staff completes and documents in</p> <p>24 the staff report, a review of the associated safety</p> <p>25 design basis document, supports a performance goal</p>	12	<p>1 of reports to Congress on the status of significant</p> <p>2 unresolved technical differences between the Board and</p> <p>3 the Department of Energy on issues concerning the design</p> <p>4 and construction of DOE's defense nuclear facilities</p> <p>5 submitted to Congress, which the Board most recently</p> <p>6 included as an appendix in its annual report to Congress.</p> <p>7 The third is the number of public hearings conducted.</p> <p>8 This concludes my presentation summarizing</p> <p>9 existing Board performance metrics and their relationship</p> <p>10 to Board strategic goals and objectives. I'm happy to</p> <p>11 answer any questions.</p> <p>12 MS. ROBERSON: Thank you, Mr. Welch.</p> <p>13 The floor is now open for questions from Board</p> <p>14 members.</p> <p>15 Mr. Sullivan, do you have any questions at this</p> <p>16 time?</p> <p>17 MR. SULLIVAN: I don't really have any</p> <p>18 questions for Mr. Welch, but, I mean, I think there's</p> <p>19 plenty to talk about on the topic.</p> <p>20 MS. ROBERSON: Mm-hmm.</p> <p>21 MR. SULLIVAN: So, if anybody else wants to ask</p> <p>22 Mr. Welch questions while he's standing up, otherwise</p> <p>23 I'll wait until he's allowed to take a seat.</p> <p>24 MS. ROBERSON: Okay. Thank you, sir.</p> <p>25 Mr. Santos?</p>

13

1 MR. SANTOS: Yeah, one quick question for the  
 2 benefit of the public and other stakeholders. Where can  
 3 the public, other than the Congressional Budget  
 4 Justification, access how we're doing, the metrics, all  
 5 these links as you described in detail? If you can  
 6 explain that.  
 7 MR. WELCH: Right. So, the Congressional  
 8 Budget Justification each year has both the performance  
 9 plans for that year and the budget year, but it also has  
 10 the results for the previous five years. So, that's the  
 11 best place for the specific performance metrics, the best  
 12 place to go is the Congressional Budget Justification.  
 13 And then the Board does have its annual report, which  
 14 discusses in more detail, in the more narrative format,  
 15 its successes each calendar year.  
 16 MR. SANTOS: And those are available on our  
 17 public website?  
 18 MR. WELCH: Those are available on our public  
 19 website, yes.  
 20 MR. SANTOS: Thank you.  
 21 MS. ROBERSON: Well, I have a couple questions  
 22 while you're standing. So, we started using these  
 23 metrics 2014 after we updated our strategic plan.  
 24 MR. WELCH: Right.  
 25 MS. ROBERSON: Do we have a mechanism for

14

1 accumulating information so we know where we need to make  
 2 adjustments in the metrics? I recognize we've had one  
 3 run year. How does that work?  
 4 MR. WELCH: Well, we do have a mechanism in --  
 5 in the sense that each year when we update the budget we  
 6 have to report on performance. We also have office  
 7 directors report to the Board quarterly on how we're  
 8 doing against both work plans and -- and the performance  
 9 metrics. And the technical staff has a specific  
 10 organizational structure to do that.  
 11 MS. ROBERSON: But we're not constrained by OMB  
 12 or Congress if the Board determines there needs to be  
 13 adjustment in the metrics, are we?  
 14 MR. WELCH: Not in the adjustment of the  
 15 metrics, no.  
 16 MS. ROBERSON: Okay.  
 17 MR. WELCH: We are constrained if we wanted to  
 18 do an adjustment to the strategic plan mid-cycle.  
 19 MS. ROBERSON: Okay.  
 20 MR. WELCH: If it's considered a significant  
 21 adjustment, then it has to be reviewed by OMB and  
 22 Congress has to be consulted.  
 23 MS. ROBERSON: Okay. And in strategic goal 4,  
 24 excellence in management, do you think there may be  
 25 opportunities for improving those metrics based on some

15

1 other views that we've had, the climate of the  
 2 organization? Have you had a chance to think about that,  
 3 Mark?  
 4 MR. WELCH: I've thought about it a little bit.  
 5 So, for the next couple of months, we'll be embarking on  
 6 the project to develop the '17 Congressional Budget  
 7 Justification. That will be the opportunity to look at  
 8 our '17 goals and adjust our '16 goals, so I'm  
 9 envisioning that that will be part of that process.  
 10 MS. ROBERSON: Okay.  
 11 MR. SANTOS: A quick followup?  
 12 MS. ROBERSON: Mr. Santos?  
 13 MR. SANTOS: Have we received any outside  
 14 feedback, whether it's JO, IG, or any other, OMB, on --  
 15 on our goals, metrics, process, overall? Has anybody  
 16 else looked at this?  
 17 MR. WELCH: Well, OMB looks at it since it's  
 18 part of the Congressional Budget Justification. And  
 19 obviously the congressional committees see it when we  
 20 submit the budget. We haven't gotten any specific  
 21 feedback on the metrics themselves.  
 22 MR. SANTOS: Thank you.  
 23 MS. ROBERSON: Thank you, Mr. Welch.  
 24 I'd like to now recognize our next presenter,  
 25 Mr. --

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1 MR. SULLIVAN: Excuse me --  
 2 MS. ROBERSON: Yes, Mr. Sullivan.  
 3 MR. SULLIVAN: I had some comments or maybe  
 4 some things I'd throw out --  
 5 MS. ROBERSON: Please. The floor is yours.  
 6 MR. SULLIVAN: -- that other Board members can  
 7 -- can talk about. I just -- they're the sort of  
 8 questions that I didn't expect Mr. Welch to be able to  
 9 answer.  
 10 I just want to say I -- yeah, I've struggled  
 11 with the whole concept of trying to find good metrics for  
 12 this agency, because the purpose of the agency is to  
 13 advise the Secretary to -- on the adequate protection of  
 14 public health and safety. So, I suppose the real metric  
 15 would be do we get good advice and is -- is the public  
 16 protected.  
 17 So, it's kind of like when I was on a submarine  
 18 -- a ballistic missile submarine. I mean, the purpose of  
 19 the ship was to deter nuclear war. And, so, there was  
 20 really only one metric that mattered in terms of the  
 21 ship's mission. So, the -- it's like -- so, here, how do  
 22 we actually figure that out? And we have a bunch of  
 23 metrics which measure things that can be measured. The  
 24 real question is the stuff that can't be measured or is  
 25 difficult to measure. I mean, what is -- how is our

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1 advice really received over in the Forestall Building?  
2 It's difficult for us to measure, and I think maybe we  
3 can pick up on some of those things anecdotally, but I'm  
4 not sure we'll ever have metrics.

5 I mean, we have a metric that talks about  
6 positive responses, but if you want a positive response  
7 to a letter, we could just start sending letters over  
8 there that say, gosh, Mr. Secretary, you're doing a great  
9 job; please tell us why you're doing such a great job.  
10 We'll get back a positive response.

11 So, it's really hard to figure out, other than  
12 the anecdotal, which means you're trying to figure out  
13 based on what the water cooler talk is over in the  
14 Forestall Building or talking to the senior people over  
15 there. And I don't know how we put that in metrics. You  
16 know, the same goes true with how our advice is viewed on  
17 Capitol Hill. One metric is they keep funding our  
18 budget, and -- and keep giving us what the President's  
19 budget asks for, if not more. I mean, so, that's --  
20 that's pretty positive.

21 On the other hand, for three years in a row  
22 there's been an attempt to change our enabling  
23 legislation, and at least one of those was successful and  
24 one's still in progress. So, Congress doesn't generally  
25 try to change the law unless they think there's a problem

18

1 that they're trying to fix. So, I'm not sure what  
2 message that sends.

3 So, we just have metrics to me, the real-world  
4 metrics that are confusing, and I'm trying to sort my way  
5 through it. I'm trying to figure out -- I understand we  
6 have to do this under the law. I'm just trying to figure  
7 out if there's a better way or other things we can be  
8 measuring. I haven't -- I haven't quite gotten there.

9 MS. ROBERSON: Mr. Santos, do you want to say  
10 anything?

11 MR. SANTOS: That's good feedback.

12 MS. ROBERSON: No, I think it is good feedback.  
13 I struggle with this, as well, too, even in organizations  
14 other than the Board, but it's especially challenging for  
15 the Board because the goal of the Board is to help the  
16 Department prevent something from happening, so it's kind  
17 of hard to measure. But I think we have the opportunity  
18 as we think through it to see if there -- if we can as a  
19 group develop better metrics. I don't know that -- I  
20 don't -- I certainly don't know that there's anything  
21 specific, so I appreciate your comment.

22 MR. SULLIVAN: Well, I would -- thank you. And  
23 I would like to introduce something specific that may  
24 become somewhat of a theme of mine this morning, but I  
25 think our internal procedures, when I first got here, we

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1 didn't have any. We now have a lot. And I think they're  
2 pretty cumbersome. I think they're viewed as pretty  
3 cumbersome, and maybe we need to try to pare them back.

4 So, I look through some of the -- some of the  
5 history of the Board by looking at the -- at what the  
6 Board did years ago and how they did it. And, so, just  
7 for a comparison, I looked at a staff issue report sent  
8 over to the Department of Energy and how long it took.  
9 So, back -- an early version in the early '90s, the staff  
10 did a review in -- let me see, I have that. I wrote the  
11 dates down here, so if you just bear with me for a  
12 second.

13 MS. ROBERSON: Okay.

14 MR. SULLIVAN: It was 1992, they did a review  
15 in June, from June 22nd to 24th at a site. They wrote a  
16 report on June 29th, and assigned it out, sent it over to  
17 the Department of Energy on July 7th. So, even dealing  
18 with the July 4th holiday, that's less -- that's about  
19 two weeks. 2002, and I looked at another one. I just  
20 picked these out at random. This is not a scientific  
21 survey.

22 So, the review was done in November 5th to 7th;  
23 the report was signed by the staff on the 3rd of December  
24 and signed and sent over by the Board of 12th -- on the  
25 27th of December. So, that was about seven weeks, start

20

1 to finish, and it was -- even dealing with Thanksgiving  
2 and Christmas holidays.

3 And I looked at the last five staff issue  
4 reports that we've sent over, and we've sent them all  
5 over this calendar year. And the time between when the  
6 staff does the review and when we send something over is  
7 -- is measured in months, in some cases greater than six.  
8 Now, we've added -- due to one of those changes to our  
9 statute, we've added at least three, sometimes longer  
10 weeks of voting procedures that we do, and I fully  
11 understand that.

12 Nevertheless, in these five cases, the time  
13 between the date that the staff member completed the  
14 report and the date something even came to us with what  
15 was generally a two-paragraph or less cover letter, was  
16 eight weeks. And in one case, it was 16 weeks.

17 So, I'm not sure what our staff procedures are  
18 doing, but it's just taking a very long time between the  
19 time our staff goes out and sees something that they say  
20 is a problem or they believe is a problem and the time to  
21 when we -- we feel that we are ready to say something to  
22 the Department of Energy. We're just -- we appear to be  
23 a lot less nimble.

24 Those aren't -- you know, that's an  
25 unscientific survey. We want to speed things up. We

21

1 could -- we could have unintended consequences. I mean,  
2 something goes beyond, you know, some deadline that we  
3 set, well, then, they just won't do it, because then  
4 we'll have no metric, as opposed to a bad metric. I'm  
5 not sure what the fix is; I'm just trying to look at how  
6 do we be more effective as an agency, and I see this as  
7 one area -- one area where perhaps we need to put some  
8 thought in it and do some work. I think we'll have some  
9 other presenters who might be able to speak on that topic  
10 later this morning. Thank you.

11 MS. ROBERSON: Thank you, Mr. Sullivan.

12 Mr. Santos, did you want to add anything?

13 MR. SANTOS: I did not want at length like you  
14 did, but in some of the letters, I have similar  
15 observations in terms of the time I've seen that it takes  
16 to -- to get any product in front of the Board. Also,  
17 it's not clear to me all that is happening in the process  
18 before we get the work product in terms of the  
19 interactions between the staff or the staff at the  
20 Department.

21 So, I'm fairly new, but that's something that  
22 is still kind of -- even six months after being with you  
23 is kind of a mystery to me, all that is happening to --  
24 to come up with a -- with a work product. So, that's  
25 something I would like to continue to -- to get a better

22

1 understanding as an individual Board member.

2 MS. ROBERSON: Thank you, Mr. Santos.

3 I think it's a -- it's a fair issue. I  
4 probably won't comment further. I'll let the others do  
5 it, since I was actually on the Board during those times,  
6 I tend to also have views, as well, to -- as to what the  
7 difference is between then and now. But I think we can  
8 have that discussion as we proceed during the day.

9 So, unless there's more comments at this time,  
10 then I'd like to recognize our next presenter, Mr. John  
11 Batherson, the Board's Acting General Counsel.

12 MR. BATHERSON: Good morning and thank you,  
13 Vice Chairman Roberson and Board Members Mr. Sullivan and  
14 Mr. Santos, for the opportunity to provide this  
15 statement. My name is John Batherson. I'm the Acting  
16 General Counsel for the Defense Nuclear Facilities Safety  
17 Board. As described in the meeting agenda, today I will  
18 speak to the Board's existing policy statements and their  
19 underlying legal basis.

20 Slide 2, please. The Board currently has four  
21 distinct policy statements. Policy Statement 1, or PS-1,  
22 establishes the criteria by which the Board judges the  
23 adequacy of Department of Energy responses to and  
24 implementation plans for Board recommendations. Policy  
25 Statement 2 describes the Board's policy on transmittal

23

1 of trip reports and other safety information to the  
2 Secretary of Energy.

3 Policy Statement 3 lays out Board oversight of  
4 Department of Energy decommissioning activities at  
5 defense nuclear facilities. And, finally, Policy  
6 Statement 5 establishes the approach the Board will take  
7 to assess risk when making recommendations to the  
8 Secretary of Energy.

9 And you may have noticed that I skipped Policy  
10 Statement 4. As you may recall, the Board repealed PS-4  
11 in January of 2013 when the Board first stood up its new  
12 operating procedures for the Board members. I'd like to  
13 now address each of the four -- each of the four policy  
14 statements individually.

15 Slide 3, please. The first and likely most  
16 significant of the Board's policy statements was  
17 established near the end of the Board's first full year  
18 of operation. Issued on October 19, 1990, Policy  
19 Statement 1 was intended as a guide for the Board and its  
20 staff in evaluating the adequacy of Department of Energy  
21 initial responses to recommendations and subsequent  
22 implementation plans, as well as to assist the Board in  
23 structuring appropriate followup actions in the event a  
24 recommendation is not fully or adequately addressed.

25 Furthermore, the statement formally identifies

24

1 for the benefit of the Department and the public the  
2 Board's expectations regarding the elements the Board  
3 believes are necessary for adequate responses and  
4 implementation plans. By way of background, the Board's  
5 authorizing statute requires the Secretary of Energy to  
6 respond to each Board recommendation by accepting or  
7 rejecting in whole or in part the recommendation. The  
8 Secretary must subsequently prepare an implementation  
9 plan of accepted recommendations. The Board's statute  
10 contemplates that the Board members, as recognized  
11 experts in the field of nuclear safety, shall use their  
12 discretion and judgment in assessing the adequacy of the  
13 Department's responses to recommendations and its  
14 implementation plans.

15 Policy Statement 1 does several things to  
16 assist the Board in accomplishing this function. First,  
17 it provides Board members detailed guidance in evaluating  
18 the various types of initial responses that may be  
19 encountered in a departmental reply to a recommendation.  
20 As described in the Board's first annual report to  
21 Congress in 1991, the Board learned early on from its  
22 first six recommendations that there existed a whole  
23 range of possible written responses that the Board must  
24 be prepared to deal with in future recommendations. For  
25 example, a response could look like an acceptance but

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1 contain language or terms that could be construed as  
2 rejecting part of the recommendation. Conversely, the  
3 Secretary may transmit an unconditional acceptance of the  
4 entire recommendation consistent with the terms set by  
5 the Board, as has been the case in almost every response  
6 transmitted to the Board since the inception of the  
7 policy statement.

8 Policy Statement 1 also serves a second  
9 purpose. It establishes specific substantive criteria by  
10 which Board members can apply their discretion to assess  
11 the adequacy of a DOE implementation plan. These  
12 substantive criteria are set out in the policy in the  
13 form of questions with detailed answers, describing how  
14 individual criteria are satisfied.

15 Policy Statement 1 also provides guidance on  
16 compliance with procedural requirements. For example,  
17 has the Department submitted the implementation plan in  
18 accordance with statutory deadlines; does the plan  
19 establish a realistic and achievable schedule; does the  
20 plan provide for adequate reporting to assure the Board  
21 remains informed of the status of the progress in any new  
22 or related issues that may subsequently appear.

23 In a period of operations spanning almost 25  
24 years, the Board has consistently employed Policy  
25 Statement 1 as a means to assess the Department's

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1 responses and implementation plans for over 50 Board  
2 recommendations transmitted to the Secretary. The intent  
3 and guidance contained in Policy Statement 1 appear to  
4 have the same validity and applicability today as  
5 compared to 25 years ago and should continue to serve the  
6 Board as an invaluable guide in evaluating departmental  
7 responses to future Board recommendations.

8 Slide 4. I would now like to turn Policy  
9 Statement 2, issued on December 31, 1992, which  
10 establishes procedures for Board transmittal of trip  
11 reports and other safety information to the Secretary of  
12 Energy in cases where information will be of assistance  
13 to the Secretary and the information does not warrant  
14 issuance of a recommendation.

15 The Board's third annual report to Congress in  
16 1993 describes the genesis of Policy Statement 2, "As a  
17 result of its ongoing activities, the Board, at times,  
18 develops information which warrants being brought to  
19 DOE's attention promptly while it is being assessed  
20 further by the Board. In such cases, the Board  
21 communicates to DOE through letters which are placed in  
22 the Board's public document room."

23 Parts of Policy Statement 2 appear to have  
24 become outdated. The advent of email and the Internet  
25 has made transmission of relevant safety information to

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1 the Department relatively quick and efficient as opposed  
2 to reliance on the Board's public reading room process.  
3 At the time of its issuance 23 years ago, Policy  
4 Statement 2 established that site visits to Department of  
5 Energy defense nuclear facilities were a major fact-  
6 gathering activity of the Board and its staff. The  
7 policy goes on to state that during such visits briefing  
8 materials were frequently provided by departmental and  
9 contractor personnel; facilities were toured and facility  
10 operations observed.

11 The same is true of site visits today. The  
12 Board and staff observe and gather information and, in  
13 the Board's discretion, transmit information that  
14 contains safety information which might assist the  
15 Secretary of Energy, federal employees, and site  
16 contractor personnel in their pursuit of safer conditions  
17 and practices at defense nuclear facilities.

18 Site reviews today often result in transmission  
19 of Board letters with accompanying issue reports. This  
20 Board action is consistent with the intent of the  
21 original policy that while reports of the Board staff  
22 serve principally as internal working papers and a  
23 vehicle for facilitating Board staff communications, the  
24 Board recognizes that information gathered pursuant to  
25 Board interest could at times prove useful to the

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1 Department of Energy.

2 Moreover, the practice of transmitting  
3 technical information to the Secretary for further  
4 distribution is fully consistent with the congressional  
5 intention that the Board provide assistance to the  
6 Secretary and DOE's health and safety activities as  
7 described in the legislative history of the Board's  
8 enabling statute.

9 While the intent of Policy Statement 2 is still  
10 applicable today, certain nomenclature in the policy,  
11 coupled with advances in the technology of information  
12 sharing, may have rendered parts of the policy obsolete.  
13 I would recommend a further review of Policy Statement 2  
14 to determine what parts remain applicable, what parts may  
15 need to be replaced, and what parts, if any, may need  
16 supplementation.

17 Slide 5. Now I'll spend just a few minutes on  
18 Policy Statement 3, entitled Board Oversight of  
19 Department of Energy Decommissioning Activities at  
20 Defense Nuclear Facilities. Issued in August of 1996,  
21 the policy more specifically describes the  
22 decommissioning phase of a DOE defense nuclear facility  
23 and identifies the Board's safety oversight  
24 responsibilities for decommissioning -- decommissioning  
25 activities.

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1 This policy statement is designed to provide  
2 guidance pertaining to the Board's interpretation of its  
3 statutory role in decommissioning activities. The  
4 Board's oversight mission covers all phases in the life  
5 of a defense nuclear facility, including decommissioning.  
6 During the Board's more than two decades of work, some  
7 major sites have been successfully decommissioned and  
8 closed, such as the Rocky Flats site in Colorado.

9 As described in the Board's seventh annual  
10 report to Congress, the Board states that it has focused  
11 its attention with regard to deactivation and  
12 decommissioning primarily on Rocky Flats, the Hanford  
13 site, and the Savannah River site, three locations DOE  
14 has selected for early cleanup. This is in addition to  
15 the oversight of decommissioning activities at the Mound  
16 facility in Ohio.

17 Notably, the Board's oversight of DOE  
18 decommissioning activities today has decreased  
19 substantially since issuance of Policy Statement 3.  
20 Presently, the Board staff remains primarily focused on  
21 deactivation and decommissioning of the plutonium  
22 finishing plant at Hanford.

23 Nonetheless, Policy Statement 3 remains an  
24 important guide for the Board to accomplish its objective  
25 to facilitate a smooth transition of Board oversight to

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1 state regulation as a defense nuclear facility passes  
2 through operational and decommissioning phases to state  
3 and EPA-regulated final complete, demolition, and  
4 environmental restoration activities.

5 Slide 6. I will now address the Board's final  
6 and most recent policy, Policy Statement 5, issued in  
7 August of 2013, which establishes the approach the Board  
8 will take to assess risk when making recommendations to  
9 the Secretary of Energy. The National Defense  
10 Authorization Act for Fiscal Year 2013 made several  
11 modifications to the Board's enabling legislation.

12 One modification required the Board to  
13 specifically assess risk whenever sufficient data exists  
14 when making its recommendations. In response to this  
15 direction, the Board developed the necessary guidance to  
16 implement this new statutory mandate which is reflected  
17 in Policy Statement 5.

18 Simply put, the policy defines how the Board  
19 will assess risk. As a corollary effect, the Board staff  
20 developed supporting internal operating procedures that  
21 further define the methods to be used in implementing the  
22 policy statement. To comply with the revised statute,  
23 the Board will, in cases where sufficient data exists,  
24 explicitly document its assessment of risk when drafting  
25 recommendations.

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1 Moreover, the Board will transmit its risk  
2 assessments to the Secretary pursuant to the procedure  
3 outlined in the Board's statute. This process has been  
4 formalized into Board internal operating procedures. For  
5 recommendations that address specific safety hazards and  
6 for which adequate quantitative data exist, the risk  
7 assessment will apply certain risk factors to  
8 specifically answer three categories of questions.

9 The Board has issued only one recommendation  
10 since issuing Policy Statement 5, and that's  
11 Recommendation 2014-1, entitled "Emergency Preparedness  
12 and Response." Pursuant to Policy Statement 5, a  
13 quantitative risk assessment on the effectiveness of the  
14 emergency preparedness and response programs outlined in  
15 Recommendation 2014-1 requires data on probability and  
16 consequences.

17 The Board determined that data did not exist on  
18 the probability of failure of elements of the emergency  
19 preparedness and response programs. Therefore, it was  
20 not possible to do a quantitative assessment of the risk  
21 of these elements to provide adequate protection of the  
22 workers and the public in this particular recommendation.

23 The Board anticipates, however, that Policy  
24 Statement 5 will play a significant role in the  
25 evaluation of risk assessment for future Board

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1 recommendations. No further changes or updates are  
2 recommended for Policy Statement 5.

3 This concludes my presentation this morning. I  
4 would be happy to answer any questions the Board may  
5 have.

6 MS. ROBERSON: Thank you, Mr. Batherson.  
7 Mr. Sullivan?

8 MR. SULLIVAN: Thank you. The Policy Statement  
9 2, which says, in a nutshell, that if we have information  
10 that we think is useful to the Secretary we'll send it  
11 over there, and it doesn't really say much more, I don't  
12 think. And, so, I'm -- you know, under our statute, I  
13 would think we can do that. So, I don't know if this is  
14 a question you want to answer or maybe it's just a  
15 question for the Board members to think about, but do we  
16 really need it? Does it add anything? Anybody have a  
17 comment?

18 MS. ROBERSON: Mr. -- I have a comment, but I  
19 wanted to -- well, I think it doesn't say more than that.  
20 I think the operating parameters of that do require more  
21 discussion. I mean, I don't -- I think the statute  
22 envisions the Board operating a certain way, and I think  
23 it depends on if it's staff interaction or Board  
24 interaction, since we don't operate individually. So, I  
25 don't know that the policy needs to say any more, but how

1 we actually implement the policy, in my view, does  
2 require more.

3 MR. SULLIVAN: Okay, so, again, looking back in  
4 history, there appears to have been quite a variation  
5 over time with -- with the whole process of sending  
6 information over to the Department of Energy which was  
7 somewhat short of a recommendation. So, for example,  
8 this policy statement was 1992, is that correct?

9 MR. BATHERSON: Yes.

10 MR. SULLIVAN: That's in -- okay. So, and I  
11 look back, and in those early days, I saw numerous trip  
12 reports sent over, and then somewhere around the 1996-97  
13 time frame, that just seemed to stop. And thereafter,  
14 everything that went over was generally in the form of an  
15 issue report. There were some issue reports before '96-  
16 97, but issue reports were longer papers that said --  
17 that basically summarized. I mean, a trip report just  
18 said, well, we went out there and we saw this; whereas an  
19 issue report did some analysis of what was -- what was  
20 seen and reached some conclusions. And then, generally,  
21 based on those conclusions, sometimes the Board has asked  
22 the Department to report back, and sometimes it hasn't.

23 In the -- in the years when Chairman Conway was  
24 here, it seemed like -- just, again, this is an  
25 unscientific review, but about 90 percent of the issue

1 reports that went over were for information only. There  
2 were some that said please give us a report back, but not  
3 many. And then we had the next Chairman, Mr.  
4 Eggenberger, and during the years where he was chairman,  
5 it seemed to be about fifty/fifty for information only or  
6 please give us a report.

7 And then since about 10, Chairman Winokur and  
8 in times since Chairman Winokur has retired, it seems  
9 like almost every time we sent something over we were  
10 asking for a report, and we -- we do not often send  
11 things over, ask -- you know, just for the information.  
12 So, there seems to have been this -- you know, we have a  
13 policy statement. It's been there since 1992. It  
14 doesn't say a whole lot. Yet, the historical way the  
15 agency has operated has seemed to go through many  
16 different changes.

17 So, I guess I'm wondering what really we think  
18 the policy should be. Should we try to send stuff over  
19 quickly and without a whole lot of analysis, and then  
20 later provide analysis? Should we make sure that we do  
21 analysis before we say anything? Should we say things  
22 frequently, not frequently? You know, we don't want to  
23 overload them, I would assume. Maybe that's why they  
24 stopped back in the mid '90s, sending trip reports.

25 So, I guess it really goes to the thought of,

1 well, what should be doing to be effective. Any thoughts  
2 I would welcome.

3 MS. ROBERSON: Mr. Santos?

4 MR. SANTOS: Mr. Sullivan, do you envision --  
5 I'm just thinking out loud here -- creating some sort of  
6 formal criteria for -- that we can standardize how we  
7 classify which should go to information, which should go  
8 for action, and then maybe write that down and  
9 institutionalize in procedures so it's more clear to  
10 everybody and the staff and the Board?

11 MR. SULLIVAN: Not really.

12 MR. SANTOS: Okay.

13 MR. SULLIVAN: And kind of think we have a lot  
14 of procedures.

15 MR. SANTOS: I'm just -- I'm just trying to see  
16 where we were going.

17 MR. SULLIVAN: I would prefer we move in the  
18 other direction.

19 MR. SANTOS: Okay.

20 MR. SULLIVAN: I'm really trying to stimulate a  
21 discussion here because I'm just not sure that -- I mean,  
22 since we don't have meetings, so now we've got us, we're  
23 having a meeting, what should we be doing? I mean, based  
24 on the numbers that I gave you earlier, just as very  
25 small data sample, because it was only five from this

1 calendar year, but based on the issue reports that I  
2 recall during my almost three years now that I've been  
3 here, it seems to me to be the case. It takes a while.  
4 As an agency, we're not very nimble, including us as a  
5 board. I'm not pointing fingers at the staff.

6 And, so, it -- so, it is not unusual for us to  
7 have observations that I know the staff talks to staff at  
8 a site when they leave. Nevertheless, it may be months  
9 before the leadership of the Department of Energy gets a  
10 piece of paper, which may be attached to a eight-page  
11 report that sort of says, hey, this -- this is a real  
12 issue and you ought to be taking a look at it. The  
13 alternative would be to try to speed thing up, you know,  
14 but speeding things up has its other -- other faults.

15 So, I'm just -- the real question is are we  
16 effective in what we're doing now? If not, can we do it  
17 better?

18 MR. SANTOS: Go first, Madam.

19 MS. ROBERSON: Okay. Well, I think it's --  
20 it's a good question. Obviously, we've had -- we've been  
21 each individually giving a lot of thought to this, and  
22 hopefully we'll have good discussion about it later in  
23 the day. You know, my personal opinion, having been on  
24 the receiving end of much of what the Board did and then  
25 in the Board and then back on the receiving end and in

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1 the Board, my personal knowledge is that the Board, in  
2 its early decades, provided -- formally provided the  
3 Department a view of much of what its staff saw. In some  
4 cases, the staff, the Board, wanted the staff to provide  
5 that directly; in other cases, the Board put its own  
6 letter on top of it.

7 And my recollection is at some point it was  
8 hard to distinguish what the Board -- it's kind of like  
9 the Board used a tier of thinking. It's like information  
10 you can use, information the Board may be considering  
11 further action on, information the Board really thinks  
12 you need to act on, and then recommendation. So, I think  
13 we need to think about how we want to communicate with  
14 the Department based upon all the information our staff  
15 gathers. I think it's open to -- this is a different  
16 board than that board, than the previous board, and I  
17 think it's a fair question.

18 Mr. Santos?

19 MR. SANTOS: Thank you. I like structure and  
20 being clear to everybody, but I also recognize your point  
21 on the timeliness, especially if it could be useful  
22 information. So, I think we can -- we can have more  
23 discussions on work, but I'd just look for a structure  
24 that is very clear to everybody, even if we decide as a  
25 Board to provide early FYI-type information then follow

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1 on with our request for action. I think -- I think  
2 clarifying that and writing it down so it's very clear to  
3 all stakeholders and the public, is -- it's important to  
4 me. That's all I say. But I understand your concern and  
5 I have witnessed some of the -- some of the items you do  
6 describe. So, I think it's a worthwhile endeavor to try  
7 to see if we can come up with something that may work,  
8 and then, you know, make a decision as a Board.

9 So, I do not know whether it's something we'll  
10 probably revisit this afternoon or how you want to  
11 proceed with that, Madam. So, I'm open to suggestions.

12 MS. ROBERSON: Well, this is a Board public  
13 meeting.

14 MR. SANTOS: Right.

15 MS. ROBERSON: So, I'm only moderating. It's  
16 up to the Board members to decide how they want to spend  
17 their time, as long as it's within the agenda.

18 Mr. Sullivan?

19 MR. SULLIVAN: Question for you, Ms. Roberson.  
20 You said in the -- in days of old, the --

21 MS. ROBERSON: Not that old, Sean.

22 MR. SULLIVAN: So, the Board -- Board staff, at  
23 one point, sent stuff over to the Department -- written  
24 stuff, written communications?

25 MS. ROBERSON: That's my recollection, and we

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1 can -- we can ask Mr. Stokes when he comes up, but that's  
2 my recollection.

3 MR. SULLIVAN: Okay. And, I mean, that  
4 stimulates in my mind a question for the General Counsel,  
5 which I actually don't want to ask here because it's a  
6 legal type question, and we don't want to ask the General  
7 Counsel to be giving us legal advice, but it gets into  
8 FOIA and what's an agency action and, you know, what can  
9 we do, what can't we do. And I'm not sure that that's  
10 clear in my mind.

11 You know, I mean, I could see -- I could see  
12 clearly we could try to do everything through staff  
13 communications, that the Board never officially does  
14 anything, and that clearly defeats a lot of purpose of  
15 some of the laws that do apply to us so that we -- you  
16 know, there is some transparency for the taxpayer. So,  
17 perhaps that's something that we could ask the General  
18 Counsel to opine on and provide us in some reasonable  
19 time, within the next few weeks.

20 MS. ROBERSON: Thank you.

21 Mr. Batherson, did you want to comment? I  
22 mean, not on the specifics now, but that would be a  
23 tasking from the Board.

24 MR. BATHERSON: Thank you for the Board member  
25 comments, and I think that Policy Statement 2 is one

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1 which we need to take a closer look at. That's all I  
2 have.

3 MS. ROBERSON: Mr. Sullivan, do you want to add  
4 something else?

5 MR. SULLIVAN: Sure. I think we also probably  
6 ought to think about other policy statements that we may  
7 need or should have. So, we have other major areas of  
8 our enabling statute where we do things and we have no  
9 policy statement on them. So, for example, the Policy  
10 Statement 3 on decommissioning just sort of strikes me as  
11 something that came about in a period of time where there  
12 was a lot of decommissioning.

13 And if we didn't have such a policy statement,  
14 I would not be thinking about writing it now. But now we  
15 have an awful lot of new construction or -- or at least  
16 construction that the Department hopes to do. And -- and  
17 we do an awful lot of work in that area. As I recall our  
18 discussion on our work plan, it's like a 35 percent chunk  
19 of our manpower. It's pretty big.

20 But we have no policy statement on how we're  
21 supposed to do that. There were some things in the 2007  
22 time frame that I recall that Congress got involved or  
23 members of Congress -- congressional committees got  
24 involved with both the Board and the Secretary of Energy  
25 because there were some issues on some projects, and it

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1 didn't appear that the executive branch of the Federal  
 2 Government, which is both us and the Department of  
 3 Energy, were on the same page, if I -- if I characterized  
 4 that correctly from history. I wasn't here. But that  
 5 has led to us to do some things, but we've never written  
 6 a policy statement on it.  
 7 And we have recently asked the Secretary to  
 8 establish a line of communication, maybe a working group  
 9 -- I'm not sure what will come out of it -- on this  
 10 topic, because he is revising over in his building how  
 11 they do project management. So, there may be an  
 12 opportunity here for us to take something and -- and  
 13 create something to guide us and this agency in the  
 14 future on -- on how to do things with new construction.  
 15 Similarly, we don't have anything on  
 16 directives, review of directives, which we -- which we do  
 17 and our statute covers and they -- they may be the source  
 18 of a recommendation, and, in fact, they have been a  
 19 source of recommendations. But, again, over 20, 25 years  
 20 now with this agency, what has happened over in the  
 21 Forrestal Building with respect to their directives and  
 22 standards has changed significantly, to the point where  
 23 without being unkind to the Department of Energy, I think  
 24 there was a time where they really did not have much or  
 25 that what they had wasn't all that good.

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1 It's much better now. But it's gone through  
 2 several -- it's gone through several attempts and reviews  
 3 within their building. And, so, really, kind of the  
 4 question is what -- what do we need to do now as an  
 5 agency and does it make sense, should we have a policy  
 6 statement on it, where there's some Board-level guidance  
 7 on how we're doing business there. And I don't know if  
 8 any of the other Board members have comments on any of  
 9 that.  
 10 MS. ROBERSON: Mr. Santos?  
 11 MR. SANTOS: I've been reflecting on this, and  
 12 to me, I think -- and I've used this in the past -- a  
 13 worthwhile exercise, and I don't know if it had been done  
 14 in the past, is to simply walk down through our statute,  
 15 you know, line by line, and see do we as a Board -- as a  
 16 corresponding policy that we'll use to meet the statute.  
 17 I think we obviously meet our statute, but we do it  
 18 sometimes implicitly. So, having a more explicit  
 19 statement, and this is how this Board intends to meet the  
 20 statute on the various items, I think gets us a long way.  
 21 And I think what Sean described is just one self-example  
 22 or two of just that.  
 23 So, to me, I think it would be a worthwhile  
 24 exercise to go through that creation of policies based --  
 25 directly based on our statutory statement. And I open

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1 for your opinions or anything else.  
 2 MS. ROBERSON: No, I think it's a -- it's a  
 3 good idea. I particularly like the two examples Mr.  
 4 Sullivan cited on new construction and directives review.  
 5 I think there are other functions where we have  
 6 regulations, but I think it's fair to go through the  
 7 statute and see where we have coverage and how we define  
 8 it. I think it's a good exercise. That would be my  
 9 opinion.  
 10 MR. SANTO: Any thoughts, Sean?  
 11 MS. ROBERSON: Anything else, Mr. Sullivan?  
 12 MR. SULLIVAN: Of course I have other things.  
 13 So, turning to Policy Statement 5, we've only  
 14 tried to use it once, and we basically found we couldn't,  
 15 and that was on the emergency preparedness  
 16 recommendation, 2014-1. So, something I've characterized  
 17 before, and I hope I won't confuse the world on it, but I  
 18 think we have first-order issues, which we've written  
 19 recommendations on, and second-order issues. So, to me,  
 20 a first-order issue is there's a facility somewhere with  
 21 a problem, and if the -- if there's -- you know, if the  
 22 problem develops either due to natural disaster or human  
 23 error, you can -- human error at that facility, you can  
 24 say that's a problem, go fix it, go engineer some  
 25 controls, advise the Secretary to go fix it, et cetera.

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1 And second-order issues are those issues which  
 2 generally relate to ways where you get -- you can -- you  
 3 should almost expect human error, but you can't really  
 4 predict when or how the human error will occur. Those  
 5 are things like training, qualification, work planning  
 6 and control, conduct of regular operations, safety  
 7 culture. I mean, all of those things, if they are not  
 8 good, will likely result in human error. But exactly  
 9 where the human error will occur, exactly how that will  
 10 cause or may cause special nuclear material to -- to go  
 11 where it's not supposed to be and threaten the -- the  
 12 adequate protection of the public safety, you can't  
 13 really say.  
 14 Emergency preparedness, in my view, fell into  
 15 that category because almost by definition, you don't  
 16 need emergency preparedness if you have adequate controls  
 17 otherwise. By definition, emergency preparedness assumes  
 18 something has happened that wasn't supposed to happen.  
 19 And -- but exactly where, when, how, you can't predict.  
 20 So, nevertheless, in a lot of those areas,  
 21 training, qualification, conduct of operations, there's  
 22 plenty of data that might be available, especially if you  
 23 went to a specific site, that we might be able to use to  
 24 provide some sort of assessment risk. So, I guess my  
 25 thought is perhaps we ought to take another look at

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1 Policy Statement 5 and think about it in those terms as  
2 we're dealing with these sort of issues where, by  
3 definition, we know if we have this problem. It's a --  
4 it's a problem that can threaten the public. We have  
5 plenty of examples of recommendations where this agency  
6 has written that go towards those type of issues, yet you  
7 would not be able to apply Policy Statement 5 as it's  
8 written today and do any sort of an assessment of risk.

9 MS. ROBERSON: Mr. Santos?

10 MR. SANTOS: And, again, I just need to get a  
11 better understanding as I mature in the organization,  
12 but, I mean, I guess my question is for the Technical  
13 Director. Maybe he can answer it now or maybe we'll  
14 wait, but are we ready today as an agency to actually  
15 perform a quantitative review and assessment, whether  
16 it's PRA or even a review of assessment provided to us by  
17 -- by DOE. Do we have the tools, training, staff,  
18 competence, such that if in the future we were to get --  
19 or work on such a recommendation we can actually execute?

20 MR. STOKES: A review of a PRA, could we  
21 perform a PRA, we certainly have a core group of people.  
22 About two years ago, two and a half years ago, we formed  
23 a team. It was led by one of our senior staff, where  
24 with NRC experience, with PRA experience, we took the  
25 team; we put them through an aggressive one-year training

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1 program. They went to training at the NRC, other --  
2 other kinds of training, and so we have a cadre of people  
3 that can perform that work.

4 We have, also, on separate occasions with other  
5 individuals that have the technical skills, they have  
6 looked at quantitative risk assessment, not a  
7 probabilistic risk assessment, that employs many of those  
8 kinds of techniques. So, we've done it in the past, but  
9 it was on a draft document that the Department never  
10 forwarded and implemented in their safety basis.

11 So, we are prepared. We have -- we have the  
12 skill set. We can do it. We -- could we do it on the  
13 order of 100 PRAs a year? No. We don't have that kind  
14 of bandwidth to be able to address that capability.

15 MR. SANTOS: Thank you.

16 MS. ROBERSON: So, I guess -- I'm not asking  
17 you a question, Mr. Stokes, not yet. I'm just reacting  
18 to what I've heard. You know, I have mixed views. One,  
19 you know, Congress mandates the size of our organization,  
20 and, I mean, I guess we could have as many consultants as  
21 we have employees, but I don't think that's the intent,  
22 so I think we have to prioritize what we do.

23 Number two, I think notwithstanding that I  
24 think we can always improve our policies and the tier  
25 one, tier two discussion you just presented I think is a

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1 good one and we should look at it. But I also think we  
2 have to, in some degree, move in lock-step with the  
3 Department so the Department is still trying to fathom  
4 how it's going to approach PRAs. And in the end, they  
5 will generate the majority of the data.

6 Now, what Mr. Sullivan, if I understand  
7 correctly, if I look at a tier one recommendation, to me,  
8 you know, and I think back to at least the legislative  
9 history I've read is very much as you described. It's a  
10 barrier, is it going to fail, and the exposure is pretty  
11 straightforward. To me, a tier two recommendation is one  
12 in which because of the way this complex is designed, the  
13 safety approach at most of DOE's operation relies on what  
14 I call soft things. So, soft things being the competency  
15 of the people doing the activities; the maintenance of  
16 the equipment relied upon; procedures, like emergency  
17 response. And I consider those to be just as relevant.  
18 They're just the supporting elements to tier one.

19 That's just the way that I see it. I don't  
20 know if -- and, actually, Mr. Stokes, if you did have a  
21 comment, you're welcome to make it, but it's open to the  
22 Board members to react.

23 MR. SULLIVAN: Well -- well, if the Technical  
24 Director wants to make a comment, he can, while I'm --  
25 walk up there while I'm talking. But, I mean, I agree

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1 with you. Tier two, whatever we want to call it, but  
2 maintenance is a good example. It would be easy to  
3 look at some maintenance statistics somewhere and say  
4 you're not doing very good in maintenance and that's a  
5 problem and here's why. So, we would have sufficient  
6 data on maintenance, but, nevertheless, even if you  
7 concluded at a particular site that maintenance practices  
8 were poor, that doesn't tell you what piece of equipment  
9 will fail --

10 MS. ROBERSON: That's right.

11 MR. SULLIVAN: -- or when. So, that's the sort  
12 of -- sort of thing where I'm not sure that applying  
13 Policy Statement 5, as it exists today, would lead us to  
14 an answer. Nevertheless, as you said, Congress has  
15 mandated the size of our agency. They've also mandated  
16 that we assess risk, whatever sufficient data exists.  
17 And, so, I'm thinking about these second-order or second-  
18 tier issues and thinking, well, in many cases, there is  
19 data that could be assessed. We don't have a policy  
20 statement that would allow us to do it.

21 MS. ROBERSON: Mm-hmm.

22 MR. SULLIVAN: Go ahead.

23 MR. STOKES: I don't have any comments.

24 MS. ROBERSON: Oh, sorry.

25 Mr. Santos, do you want to further comment?

1 MR. SANTOS: Yeah, again, structure guy here.  
 2 I understand for the purpose of this discussion we're  
 3 talking about tiers one, two or second order, but I just  
 4 wanted to clarify that we haven't adopted that sort of  
 5 scheme, and I don't want to confuse people at this point  
 6 that we actually have such a -- such a scheme today. If  
 7 that's something we should be looking at to do, I -- I  
 8 welcome the proposal to actually go -- go do that. I  
 9 just didn't want to confuse people that we -- we  
 10 currently are filtering items one, two, and by some sort  
 11 of criteria because I haven't -- I haven't seen that.  
 12 And that's all.  
 13 MS. ROBERSON: Yeah, there probably isn't,  
 14 although there is a history on it, there probably --  
 15 you're right, we don't have a policy statement, but I  
 16 would say my experience is that is a thought process --  
 17 MR. SANTOS: Sure.  
 18 MS. ROBERSON: -- a historical thought process.  
 19 MR. SANTOS: I was just suggesting, I mean,  
 20 back to the structure, if that's something we think is  
 21 valuable, I'm -- I'm for actually let's write it down and  
 22 let's set up the criteria and implement that. That's  
 23 all.  
 24 MS. ROBERSON: So, are you proposing something?  
 25 MR. SANTOS: I would like to have further

1 discussion whether we should create such a structure.  
 2 MS. ROBERSON: Fair enough.  
 3 More on that topic? Mr. Sullivan?  
 4 MR. SULLIVAN: No, ma'am.  
 5 MS. ROBERSON: Mr. Santos?  
 6 MR. SANTOS: No.  
 7 MS. ROBERSON: Very well. Again, thank you,  
 8 Mr. Batherson, for igniting that.  
 9 Now I'd like to recognize our next presenter,  
 10 Mr. Steve Stokes, the Board's Technical Director. And  
 11 Mr. Stokes will report on the Technical Office's  
 12 organizational structure and underlying basis.  
 13 MR. STOKES: Good morning, Madam Vice Chairman  
 14 and Board members. My name is Steven Stokes, and I am  
 15 the Board's Technical Director. I'm here to discuss the  
 16 technical staff's organizational structure and basis.  
 17 The Office of the Technical Director is organized and  
 18 staffed for a singular purpose: to perform nuclear  
 19 safety oversight of the Department of Energy's defense  
 20 nuclear facilities, consistent with the Board's enabling  
 21 legislation and work plan.  
 22 The basis for our organizational structure was  
 23 essentially twofold: first, to establish an organization  
 24 that manages the Board's approved work plan efficiently  
 25 and effectively; and, second, to ensure that the

1 appropriate technical skills are applied to each work  
 2 plan activity.  
 3 Next slide, please. Slide 2 depicts the  
 4 overall organization of the Office of the Technical  
 5 Director. It includes the following organizational  
 6 elements: the Deputy Technical Director; Nuclear Weapons  
 7 Programs; Nuclear Materials Processing and Stabilization;  
 8 Nuclear Facilities Design and Infrastructure; and Nuclear  
 9 Programs and Analysis; and Performance Assurance.  
 10 This arrangement uses a flat organizational  
 11 structure to focus the maximum amount of available  
 12 technical resources on nuclear safety oversight,  
 13 establishes the appropriate management span of control,  
 14 responsibilities, accountabilities, and alignment with  
 15 the Board's strategic plan, and minimizes management  
 16 overhead. For example, the only administrative staff  
 17 assigned to each technical group is a single shared  
 18 resource responsible for supporting the administrative  
 19 needs of an entire group.  
 20 Slide 3, please. Individual staff assignments  
 21 within the simple structure are designed to parallel  
 22 DOE's organizational structure to ensure that we maintain  
 23 the necessary corporate knowledge within each group to  
 24 work effectively with DOE's -- Department of Energy's  
 25 points of contact at each site and applicable Department

1 of Energy headquarters elements. For example, cognizant  
 2 site engineers are assigned to the Nuclear Weapons  
 3 Program and Nuclear Materials Processing and  
 4 Stabilization groups, which parallel the National Nuclear  
 5 Security Administration, NNSA, and DOE's Office of  
 6 Environmental Management, EM, their organizational roles  
 7 and responsibilities.  
 8 If unique resource requirements exist, those  
 9 resources are typically assigned within that group, for  
 10 example, personnel with nuclear weapons expertise are  
 11 assigned to the Nuclear Weapons Program group. This is  
 12 portrayed on slide 3, and it depicts the allocation of  
 13 cognizant site and project engineers and programmatic  
 14 expertise.  
 15 Next slide, please. Slide 4 depicts the  
 16 Technical -- the Deputy Technical Director's group, as  
 17 well as our newest group, Performance Assurance. All of  
 18 the Board's site representatives report to the Deputy  
 19 Technical Director to ensure they receive consistent  
 20 direction and focused attention from headquarters. The  
 21 Performance Assurance Group was created to address both  
 22 new scope, the technical staff internal controls, and to  
 23 consolidate existing work scope, like training, under a  
 24 single supervisor.  
 25 The Performance Assurance Group's mission is to

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1 provide the necessary information and staff support to  
2 drive improvements within the technical staff and, to the  
3 extent practicable, perform the support functions  
4 necessary to meet management-related requirements, for  
5 example, our own internal oversight. This approach  
6 enables the other groups to focus on delivering the best  
7 technical products to the Board that we can.

8 Next slide. Slide 5 depicts how the technical  
9 staff's organization performs work in support of the  
10 Board's nuclear safety oversight mission. The technical  
11 staff uses a matrix approach for all of our technical  
12 reviews. This is necessary for one fundamental reason:  
13 our technical resources are very small compared to the  
14 scope of the Board's mission. To use them effectively,  
15 we maintain a flexible approach to the assignment of  
16 staff to the work scope identified in the Board's annual  
17 work plan. This approach dedicates staff with the  
18 appropriate expertise to the Board's highest priority  
19 projects.

20 Let me attempt to walk -- to walk through how  
21 the matrix approach works in a generic way. For each  
22 task in the Board's work plan, there is a cognizant group  
23 lead accountable for conduct of the review and a  
24 responsible review lead and review team who actually  
25 perform the work. The review team members are drawn from

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1 the entire pool of the technical staff, irrespective of  
2 group assignment.

3 As illustrated in the slide, interfaces exist  
4 between the site cognizant engineer, site representative,  
5 review lead and review team to ensure that each review is  
6 properly coordinated with the Department of Energy and  
7 within the technical staff. This model takes advantage  
8 of the strong relationships between and among cognizant  
9 group leads and cognizant site engineers, a supervisory  
10 relationship; cognizant engineers and site  
11 representatives, they maintain a frequent, commonly  
12 daily, contact, and their DOE counterparts; and, three,  
13 the review team lead, review team and cognizant site  
14 engineer and site representative. We use a similar  
15 matrix approach to review new design and construction  
16 projects, although I haven't listed that here.

17 Before ending my remarks, I'd like to emphasize  
18 that the matrix approach is central to the technical  
19 staff's ability to accomplish the extensive and diverse  
20 oversight activities defined in the Board's work plan  
21 with the limited resources we have available. There are,  
22 of course, instances where individual staff members  
23 perform a review without the involvement of a review  
24 team, where cognizant site and project engineers are also  
25 review team leads and/or team members for reviews that

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1 even occur anywhere in the DOE complex, not just the site  
2 where they have their primary responsibility, and where  
3 the Nuclear Weapons Programs and Nuclear Materials  
4 Processing and Stabilization Group lead is not the  
5 cognizant group lead for a review performed at their  
6 respective sites.

7 This flexible approach is embedded in the way  
8 we plan and execute the technical work performed by the  
9 Office of the Technical Director. Moreover, the approach  
10 provides the necessary flexibility to meet the diverse  
11 nature of Board oversight activities with such a small  
12 and highly talented technical staff.

13 In preparing these remarks, I asked the group  
14 leads to evaluate the current work plan to assess the  
15 extent to which we matrix our work. A simple statistic  
16 from that, 76 of our headquarters review teams include at  
17 least one member from another group other than the  
18 cognizant group lead who is assigned the task. And if  
19 you count involvement of site reps into that statistic,  
20 100 percent of our work is matrixed across the entire  
21 organization.

22 This concludes my remarks, and I'd be happy to  
23 address any questions you might have.

24 MS. ROBERSON: Mr. Sullivan? I'm always going  
25 to look to you.

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1 MR. SULLIVAN: You always want to start with  
2 me?

3 MS. ROBERSON: Yes, you're the furthest away  
4 from me.

5 MR. SULLIVAN: I'll let somebody else start, if  
6 they -- you want to start? Don't have any questions?  
7 Okay.

8 MR. SANTOS: I do.

9 MR. SULLIVAN: All right. Well, so, Mr.  
10 Stokes, you've been here a long time, so when I started  
11 talking about this history, you've lived it; I haven't.  
12 So, can you just generally walk us through? You gave us  
13 this. How's that compare to 20 years ago, 10 years ago?  
14 Can you go into that a bit?

15 MR. STOKES: Actually, it's quite -- it's  
16 virtually the same. It has -- there have been in some  
17 instances -- go back to slide 2, please. There have been  
18 different groupings. There's always been a -- there was  
19 a technical director, no deputy technical director. That  
20 was created in the late 1990s. Below that, there was  
21 essentially the same kind of organizational structure.  
22 You had different titles in the boxes, but when you moved  
23 to the work, the work was the same.

24 For example, we had, when I arrived, an  
25 engineering group. It was the largest group. And it

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1 was, by design, the individuals in that group were  
2 matrixed out to the other groups. We had one group that  
3 was Nuclear Weapons; we had one group that was --  
4 essentially the same, Nuclear Materials Processing and  
5 Stabilization. And, at the time, there were very few  
6 design and construction projects, so there wasn't a  
7 standalone group for that. And then we had a -- and a  
8 group that's analogous to Nuclear Programs and Analysis.

9 In the engineering group, I worked at every DOE  
10 site on review teams in review leads in the same manner  
11 that we do today. So, from -- from the bottom part of  
12 our organization, that has not changed in the 23 years  
13 that I've been here.

14 MR. SULLIVAN: Okay, so, the structure is  
15 pretty much the same. So, before when I was revealing  
16 the results of my unscientific review, I concluded that  
17 it just takes us longer today to get something throughout  
18 own agency system to the point where we're ready to send  
19 it over to the Department of Energy. And, so, feel free  
20 to tell me whether my review is wrong or whatever, but  
21 structure -- if it's true then structure doesn't appear  
22 to be the issue, so -- or the reason. And reason is a  
23 better word than issue because perhaps it's a reasonable  
24 conclusion that says we were too quick back in those days  
25 and maybe some stuff went over that shouldn't.

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1 So, I'd just like you to first say whether or  
2 not my conclusion -- whether or not you agree with it,  
3 that it takes us longer, and then if you could tell us  
4 why.

5 MR. STOKES: In my experience, I don't think it  
6 -- I don't know that it takes any longer. There were  
7 some things that I know I did that never went over, so  
8 that would be an infinite period of time. But there's  
9 also -- there is -- there is today versus yesteryear,  
10 there are some -- there are some significant differences  
11 that could be contributors to additional duration to be  
12 able to release reports. I would actually say that some  
13 of them were -- are improvements, you know, because  
14 there's a singular goal here, too, factual accuracy and,  
15 you know, technical adequacy. In many cases, we had a  
16 third of the staff, so you had one or two people working  
17 on a document instead of sometime now we bring much more  
18 expertise to bear.

19 We're also tackling different problems today  
20 the we were 20 years ago. So, to make a -- to make a  
21 comparison that would be essentially apples to apples,  
22 I'd have to defer and go look at some specifics. I know  
23 in my own personal experience many of the issues that we  
24 were dealing with 20 years ago, it was -- we used to call  
25 it low-hanging fruit, and when you first began the

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1 mission of the Board, there was a lot of things that  
2 could be addressed at the Department. There has been  
3 significant improvements over the past two decades in the  
4 way that the Department does its nuclear safety business.  
5 Many of the things that we do today are much more  
6 sophisticated than they were 20 years ago, particularly  
7 because we are, for example, doing design and  
8 construction and doing new -- you know, looking at new  
9 technologies that are -- that are groundbreaking, for  
10 example, the study of those kinds of things is much  
11 different than the things that we were doing 20-plus  
12 years ago.

13 If you look at the topics of the reports,  
14 generally 20 years ago, we were doing things more  
15 associated with conduct of operations, a lot more  
16 operational kinds of things. You can do an operational  
17 review and report on it because it's simply observations  
18 much quick -- much more quickly than you can a detailed  
19 evaluation of a technology, particularly an emerging  
20 technology for safety basis kinds of things.

21 So, I hesitate to draw any general conclusions  
22 from your observations, but I also know that we have --  
23 and there is an urgency, there's a desire to improve the  
24 amount of the -- the -- our ability to move things from  
25 the beginning of a review to the Board in a -- you know,

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1 in the right speed, because we don't want to sacrifice  
2 quality.

3 So, in fact, we've got initiatives. We're  
4 looking at those things right now, to be able to improve  
5 that, and we've studied it, too, and about the similar  
6 kind of scientific nature that you've described today.

7 MR. SULLIVAN: Okay. So, I appreciate your  
8 response. I know I'm asking you to dance, and you're  
9 dancing pretty good up there. So, and I don't want you  
10 to get defensive, because I'm not trying to be accusatory  
11 at all. I'm just trying to understand it, you know,  
12 because a lot of what the staff does is -- is just --  
13 it's not visible to me based, you know, on your process.

14 So, again, I'm going to take my five examples  
15 and -- to -- to lead to a specific question. But in all  
16 five of these cases, there was a period of time that  
17 measured from somewhere between seven to 16 weeks between  
18 the date on the issue report, you know, the author,  
19 whoever the author was, says, you know, it's dated  
20 November 3rd -- or I'm sorry, I had one example here,  
21 it's November 13th, okay, and then the date that it comes  
22 to us in orange folder, and now you can go to the public  
23 website and you can see the date the author has on her  
24 report, you can see the date that we signed out the  
25 letter, so I'm using an interim date, which isn't

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1 available to the public. That's the date that it came to  
 2 us for us to use our notational voting process.  
 3 And, so, one case I said November 13th, and the  
 4 date it came to us was January 9th, it was about eight  
 5 weeks there. There was one example, which must be some  
 6 anomaly because the date on the report was November 18th  
 7 and it didn't come to us until March 6th. So, that one  
 8 was about 16 weeks, but -- so, my specific question is  
 9 what's happening in that time? The only addition,  
 10 besides the report that I see generally is the cover  
 11 letter, and the cover letter is always very brief. So,  
 12 would you just walk us through what's -- what's happening  
 13 during that time?  
 14 MR. STOKES: I can't speak to individual  
 15 specifics on those, so I'll speak generically.  
 16 MR. SULLIVAN: Yeah.  
 17 MR. STOKES: When -- following the -- that --  
 18 when the author signs it out and the group lead signs it  
 19 out, the document then proceeds up to the Technical  
 20 Director and Deputy Technical Director. There is a  
 21 technical review and a quality review performed by the  
 22 Technical Director, myself, and the Deputy Technical  
 23 Director. So, if there are questions or there are  
 24 rewrites as a function of any number of things, it is  
 25 cycled back.

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1 Depending upon availability, I mean, again, one  
 2 deep kinds of things, there can be delays associated with  
 3 that. In fact, we studied that and the report that I can  
 4 recall from last summer, they were -- there was an  
 5 average of about two days in that cycle, unless there  
 6 were a lot of technical questions, and then it really  
 7 jumped up into the kinds of time frames that you're --  
 8 you're describing.  
 9 After those reviews are completed, the report  
 10 is signed off by the Technical Director. It then goes  
 11 for a factual accuracy check with all -- with all the  
 12 site reps, because we are -- we've learned over time that  
 13 an issue that may be at one site may have implications at  
 14 another. And, so, there's some sensitivities that we  
 15 want to reflect on in that factual accuracy check, so we  
 16 -- so we work with all of the site reps. Normally, those  
 17 state reviews take on the number of days; in some cases,  
 18 they can take a considerable period of time to be able to  
 19 work through issues that had not been -- the sensitivity  
 20 wasn't there, but when it got that broader review, that  
 21 sensitivity needed to be addressed. So, it take -- that  
 22 takes time.  
 23 In parallel with that, there is a review that  
 24 is performed by the Office of General Counsel. Those --  
 25 those reviews typically are quite short, but if there are

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1 issues, then that can -- that can drive time up. Once  
 2 those reviews are all -- all completed, and then we have  
 3 parallel security reviews also going on at that period --  
 4 and during that period of time, then once all those sign-  
 5 offs are in place, then it enters into the process you  
 6 called the orange folder process, which means that we  
 7 forward it to the Board for review and -- and further  
 8 staff work.  
 9 MR. SULLIVAN: Okay, thank you. Yeah, it seems  
 10 like there's a lot of steps in there. And we have five  
 11 site rep offices, so I can see, and they don't -- they  
 12 only have one or two people in them, so I can see why  
 13 that might take some time.  
 14 And do you have any statistics on, like, the  
 15 percentage of these staff issue reports where site reps  
 16 do raise an issue that requires the report to be  
 17 modified?  
 18 MR. STOKES: No, I don't.  
 19 MR. SULLIVAN: Okay, because, I mean, again,  
 20 the examples I'm citing, the date on the report --  
 21 perhaps the report was modified after it was first  
 22 written and dated, but I'm just using the date on the  
 23 report, so my assumption that the report was not modified  
 24 after the date that's on it. That may not -- may not be  
 25 a good assumption.

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1 And then I guess the other question is can any  
 2 of this be done in parallel, which would -- I mean, it  
 3 could even be as simple as it comes to us and we start  
 4 our process. And if the site reps sometimes, but not  
 5 frequently, have an issue, it could go to them at the  
 6 same time, and, you know, then there might be some rare  
 7 occasions where the -- we're in the middle of our process  
 8 and somebody has to raise a red flag, but that might  
 9 speed things up.  
 10 I'm just suggesting that we -- we take a look  
 11 at it. I know you say you're taking a look at it, so  
 12 I'll be interested in seeing what you come up with. I  
 13 think I've talked enough on this and I've made the  
 14 Technical Director dance enough. I will yield the floor.  
 15 Thank you.  
 16 MS. ROBERSON: Thank you, Mr. Sullivan.  
 17 Mr. Santos?  
 18 MR. SANTOS: I'll change the tune, but I'll  
 19 look for more dancing here. I know we don't make  
 20 widgets, but how do you get a sense of how much -- I just  
 21 want to follow up, Sean, how much rework has been  
 22 happening with the products? Are the products you're  
 23 getting from this team is pretty solid? Or do you feel  
 24 that you have to constantly have to modify?  
 25 MR. STOKES: They're -- from a -- you've got

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1 about -- there's about four or five questions there. Let  
2 me -- let me break them down. The confidence that I have  
3 in our technical staff to be able to provide an adequate  
4 technical review and describe the results of that review  
5 in a product are extremely high. So, I have great  
6 confidence in their ability to do the technical work.

7 We have a -- we also have parts of our process  
8 that occur before that date's applied, where we send the  
9 report to a technical editor, which we have on staff that  
10 resides in the building. And they provide feedback to  
11 the team, in parallel with other reviewers. The typical  
12 way of staffing something from the initial draft through  
13 to a final draft, which is what the Deputy Technical  
14 Director and I see, is done in parallel.

15 A review team will attempt to do things in  
16 parallel, and it's a very dynamic process at that -- at  
17 that point in time, where group members are contributing  
18 pieces and parts to a total or sometimes one author will  
19 draft an initial and then there will be comments provided  
20 by the team members. And then the way our process works  
21 is that -- that document then is concurred on by all of  
22 the -- the participants, and that means concurrence can  
23 be a concurrence or a nonconcurrence, and we've got  
24 processes to accommodate how that is reflected in the  
25 report.

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1 And then they go -- it goes to the cognizant  
2 group lead. So, what -- one of the things that -- that  
3 tends to add -- add things at the tail end of the  
4 process, for example, I spend a tremendous amount of time  
5 with the Board. Group leads spend less time with the  
6 Board. Staff spends even less time with the Board.

7 We -- we communicate on a weekly basis, for  
8 example, my observations about what happened with a  
9 particular paper as it went through the orange folder  
10 process, those observations are fed back through -- to  
11 the staff via the group leads, so there will be -- if the  
12 Board is concerned about a particular style of  
13 communication, which we have had the opportunity to have  
14 to address, those stylistic desires are then fed back to  
15 the staff. So, we have mechanisms that we had.

16 So, for example, when I get something, I may  
17 have comments like, okay, one of the things that we're  
18 constantly making sure that we do is be very mindful of  
19 the Secretary of Energy's time, so you don't want to,  
20 quote, "bury the lead," unquote. Don't start off a  
21 letter with a bunch of boilerplate and then get to the  
22 actual technical issue on page 7. Make sure that that's  
23 up front.

24 So -- and there will be times when the writing  
25 style needs to be adjusted like that, which then causes

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1 rework. The -- you know, the staff works very, very hard  
2 to try and be able to provide a document up through the  
3 Technical Director and to the Board that -- that is as  
4 accurate as possible.

5 In some cases, and it's usually -- it is the  
6 exception and not the rule, I will raise technical  
7 questions simply because I have a different perspective  
8 than some of the teams have. I have much more  
9 experience, on average; I can bring to bear other  
10 information that the team may not have had, simply  
11 because I've been here a long time, and we may have done  
12 something one way, you know, and we need to do it a  
13 different way.

14 All of those kind of things, and I realize now  
15 I'm not dancing very well, but at -- you know, the bottom  
16 line is the staff works very hard to be able to get the  
17 best products to the Board that they can. And I have  
18 great confidence in their ability to do that. In many  
19 cases, we stumble along the way, and we work very hard to  
20 be able to recover those things as quickly as we can.

21 MR. SANTOS: I have a few followup questions,  
22 ma'am.

23 See, if I were to lay out your process on a  
24 wall, when was the last time you kind of took a hard look  
25 for, you know, process improvement initiatives?

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1 MR. STOKES: A year ago.

2 MR. SANTOS: A year ago.

3 MR. STOKES: When we formulated the process for  
4 -- and we finalized it. So, we went through our existing  
5 process that we had that had a very simple structure, and  
6 we went through that and we attempted to describe what we  
7 do and provide guidance consistent with what we were  
8 doing. And we took a very hard look at how we move  
9 things through the -- through the staff. By and large,  
10 what we found is is that the steps in the process, and I  
11 did my own -- very recently, when we had the last site  
12 rep weekly gathering here in DC, I asked every site rep,  
13 tell me what you think is the matter with our concurrence  
14 process. I asked every one of them that.

15 Not a single one of the site reps told me we  
16 had a problem with the process -- an organic problem with  
17 the process. Where we spend a tremendous amount of time  
18 is -- is trying to make sure that as we communicate  
19 issues, that those -- that the way we communicate the  
20 issue is something that people agree on. The nature of  
21 the technical issue is usually not of debate, but what's  
22 important, what's not important. Those are things that  
23 the staff in general feel very -- they believe are very  
24 important. So, there's a lot of work that goes into  
25 doing that, and that takes time when there are later

1 individuals involved in the review, the group lead,  
2 myself, the Deputy Technical Director, and the Board, we  
3 all do rework.

4 There's a tremendous amount of churn in our  
5 process to reflect individual kinds of influences on our  
6 particular products. There's -- and I can tick them off.  
7 There's the review team and the review lead; the site  
8 rep; the cognizant site engineer; the group lead; the  
9 Technical Director; the Deputy Technical Director; and  
10 every Board member. So, every one of the folks that's  
11 involved in producing a product has the -- has the  
12 ability to affect that product. And those -- each of  
13 those views, in many cases unique views, because of their  
14 unique technical expertise, it's really important to be  
15 able to provide, for lack of a better term, a 360-degree  
16 product.

17 MR. SANTOS: Okay, for other questions. So, if  
18 I look at slide 5, which -- which shows the execution of  
19 work, is it correct that you're the ultimate decision-  
20 maker before the work goes to the -- product goes to the  
21 Board?

22 MR. STOKES: Am I ultimate decision-maker?  
23 Yeah, my -- my signature releases it from the technical  
24 staff to the -- to the Board --

25 MR. SANTOS: Okay.

1 MR. STOKES: -- and to the OGC, just like every  
2 office director is the ultimate -- I mean, we have a  
3 concurrence process, concurrence sheet, and my name is at  
4 the top for every technical document.

5 MR. SANTOS: Do you use any sort of independent  
6 input of the staff work product in coming up with your  
7 decision, or you're basically relying on your own  
8 assessment? Meaning do you have a -- when they produce a  
9 product, do you have like a senior advisor who kinds of  
10 challenges the work or looks at it and provides an  
11 independent input --

12 MR. STOKES: I have -- I have the entire staff  
13 at my disposal, if I so choose. The primary senior  
14 technical advisor is the Deputy Technical Director. I  
15 rely on Rich's technical expertise, and he's -- he's been  
16 here, I think two weeks less at this organization than I  
17 am, so he's -- has, you know, decades of experience, as  
18 well. And I also rely on the group lead and the review  
19 lead. There isn't a decision that I make regarding one  
20 of these documents that I do not -- that I make  
21 unilaterally without any input from relevant people.  
22 I -- I just don't operate that way.

23 So, for example, I just completed a review  
24 where I had several questions on a -- on an issue paper  
25 at Savannah River. I wrote my questions; the questions

1 went from me to the -- to the group lead. They were then  
2 staffed by the review team lead. The review team lead  
3 and I had a 45-minute discussion. He had filled in the  
4 facts, advised me, I made some observations. Those  
5 observations, then, were taken back to the team, ensured  
6 that there was -- that any of the concerns that I had did  
7 not create factual accuracy issues. The changes were  
8 made, and then it came back up to me, and they were  
9 brought to me by the review team lead, and they were  
10 checked off by the group lead. So, I used, in that  
11 scenario, I used the Deputy Technical Director, the group  
12 lead, and the review team lead, all as advisors to be  
13 able to ensure that any concerns that I had were properly  
14 reflected in that report.

15 MR. SANTOS: Okay. And my last question has to  
16 do with the different view process. Can you explain how  
17 that works and maybe how independence is provided,  
18 because, you know, you're describing normal set of works,  
19 everything is kind of through the line, but if there's a  
20 different opinion, is there any different process or  
21 independence that is brought up to bear?

22 MR. STOKES: There are two mechanisms that we  
23 have that will allow any staff member to be able to offer  
24 an opinion, if you will. Number one, during the review  
25 and concurrence process, all of the people that were on

1 the review have the ability to be able to provide their  
2 independent opinions about the final product. We don't  
3 suffer from people that are shy about expressing their  
4 views, which I think is a wonderful part of our culture.

5 The -- you know, there just isn't typically at  
6 that stage people get their reviews reflected and they --  
7 they team to try and resolve the reviews, their -- any  
8 differing views. There's also an independent process.

9 For example, if something were to go up to the  
10 Board and somebody had a differing professional opinion,  
11 that process also exists. In fact, we've -- we put --  
12 and that's proceduralized, and that process has been  
13 exercised one time since its inception. And the -- we  
14 form an independent team and we evaluate things  
15 independently and address any concerns that the  
16 individuals that raised the concern have, and all of that  
17 is formally documented and then provided to the Board.  
18 So -- and we've got two parallel and distinct processes  
19 for anyone in the organization to be able to voice any  
20 differing professional opinions they may have.

21 MR. SANTOS: So, what's your role, if that  
22 process happens? Or does your role change at all, or  
23 what's your role if -- if we have -- if you are faced  
24 with a differing view?

25 MR. STOKES: The role that -- the role that I

1 personally maintain is one of -- I sit back, and I'm  
 2 going to just kind of describe it in a high level.  
 3 The -- what we did, we were very concerned when we  
 4 constructed this, that there would not be conflict of  
 5 interest within a very small staff. So, what we did is  
 6 we -- we made the performance assurance group lead the --  
 7 responsible for managing that process. They, by and  
 8 large, on a day-to-day basis, are not involved in the  
 9 technical work. Some of them are. Again, we matrix  
 10 staff from the performance assurance group to do  
 11 technical reviews as well, so that's -- you know, but we  
 12 manage -- the Performance Assurance group lead is in  
 13 charge of running that process because he's the most  
 14 independent person we have.  
 15 It follows there is a very deliberate protocol  
 16 for doing that, of notifications, as well as forming an  
 17 independent team, doing independent evaluation, and then  
 18 -- and then taking it up through the Deputy Technical  
 19 Director and myself, and we sit and listen to all of the  
 20 individuals that have played a role in the differing  
 21 professional opinion. For example, the independent  
 22 review team has to provide a report. The individuals  
 23 that had the differing professional opinion, they have  
 24 access to the Technical Director. And there is -- so --  
 25 and we attempt to resolve the issues as early as

1 practicable.  
 2 And then at the end, the Technical Director has  
 3 the final responsibility for being able to make some kind  
 4 of a judgment. And then there are -- there's ways to  
 5 appeal that. And then there's also involvement with the  
 6 Board. So, you know, we tried to manage it so everyone  
 7 on the staff, if they have a concern, there is -- there  
 8 is an independent and fair approach to resolving that  
 9 concern.  
 10 MR. SANTOS: Thank you for explaining that to  
 11 the public and the Board. Thank you.  
 12 MS. ROBERSON: Thank you, Mr. Santos.  
 13 Any additional questions from Board members for  
 14 Mr. Stokes?  
 15 MR. SULLIVAN: Well, a comment. I think --  
 16 again, this is just my perception, that our differing  
 17 professional opinion process is proceduralized and it's  
 18 got a lot of steps, and I think it maybe has too many. I  
 19 mean, at the end of the day we don't have much more than  
 20 100 people in the organization, and I know them all by  
 21 name, and why we don't have a simpler procedure for  
 22 people to voice their opinions, you know, is -- and it's  
 23 just something that I think we -- we should be trying to  
 24 look at and not make it so -- so many steps in the  
 25 procedure.

1 I mean, I could imagine if I'm a staffperson, I  
 2 might just hesitate to start down this road of differing  
 3 professional opinion for the sole reason that I am now  
 4 making more work for my already busy fellow workers, who  
 5 now have to go through all this process of review of  
 6 whatever it is that I want to -- I want to say in a  
 7 differing professional opinion process. So, you know,  
 8 perhaps we could look at something that is simpler and  
 9 easier, streamline it a little bit. I think that -- that  
 10 might be helpful.  
 11 The other point I want to make is -- is I  
 12 understand that, you know, as you explained the process,  
 13 there's probably many times where staff members get in a  
 14 room and they go hash something out, and then they come  
 15 out with something that they think is the right answer  
 16 that everybody thinks that they can -- they can live  
 17 with. But if there's a question in any staff member's  
 18 mind that leads that staff member to believe that there  
 19 is an issue of adequate protection to the public,  
 20 there's a threat to the adequate protection of the  
 21 public, then -- then that needs to come to the Board,  
 22 because we're the ones who -- who decide that.  
 23 So, I would hope in this process we don't  
 24 stifle that. In other words, if there's a staff member  
 25 who feels very strongly that there's an issue out there

1 in the complex that does threaten the adequate protection  
 2 of the public health and safety that in this process  
 3 where they try to hash things out, you know, we don't end  
 4 up with a majority staff rule and majority rule by the  
 5 staff which then says, no, no, it's not -- it doesn't  
 6 rise to the level of issue of adequate protection. So,  
 7 then, it never gets to the Board, if that's -- if that's  
 8 the case.  
 9 So, again, I would hope that that would always  
 10 get to the Board if we have a single staff member  
 11 anywhere who believes that there's an issue. We need to  
 12 have a process, if we don't have one now, where quickly  
 13 we can raise that issue to the Board level and have the  
 14 Board decide this question, because all of those -- you  
 15 know, all of those questions -- the answers to those  
 16 questions all belong with the Board.  
 17 MS. ROBERSON: Are you done, Mr. Sullivan?  
 18 MR. SULLIVAN: Yes, I am.  
 19 MS. ROBERSON: Yeah. Well, I just want to tag  
 20 onto that because I think you didn't talk about this  
 21 enough, even though we're a little over. Sorry. You  
 22 didn't really talk much about the concurrent process. I  
 23 know I've seen at least four instances where whether it  
 24 was a nonconcurrence or not, or an employee wanted the  
 25 Board to have additional information in its decision-

1 making, is that process proceduralized and understood by  
 2 our staff?  
 3 MR. STOKES: Yes, it is.  
 4 MS. ROBERSON: Okay.  
 5 MR. STOKES: And I -- and kind of extending my  
 6 response a bit, the staff generally is not shy about  
 7 saying whether they have an adequate protection issue or  
 8 not. There is a -- every group lead, myself, the Deputy  
 9 Technical Director, is trained to ensure that if we do  
 10 have an adequate protection issue that it be raised to  
 11 the Board as soon as we have a basis to be able to  
 12 support that. I mean, certainly, we -- we have to be  
 13 responsible about making sure that if, you know, we're  
 14 not going to cry wolf, in essence, so we have to have a  
 15 technical basis consistent with what the legislation  
 16 requires, if we're going to do a recommendation, you have  
 17 to have a basis.  
 18 So, built into our procedures is also, for  
 19 every staff concern that's raised, we categorize them.  
 20 And they're categorized one, two, three, and four. And  
 21 all category four things have to go to the Board. And  
 22 those are the ones that the staff believes have  
 23 inadequate protection. So, if there is any staff member  
 24 that believes that they have an issue, it's classified  
 25 that way -- categorized that way, and it goes to the

1 Board.  
 2 So, there is a -- there actually is a process  
 3 to be able to accommodate that. The -- and then for  
 4 those things that are of lesser degree, they're tracked  
 5 and with the exception of ones which are dismissed, which  
 6 says there really is no issue here. But that's  
 7 documented, and then -- and so that the basis for that is  
 8 also documented.  
 9 And those things are all tracked. So, we have  
 10 the ability to be able to watch that over time. I would  
 11 be very surprised that any staff member would be unable  
 12 to believe that they have the ability, because we have  
 13 open-door policies with all Board members; we have an  
 14 open-door policy with all group leads, with myself and  
 15 the Technical Director, that anyone who has that kind of  
 16 an issue doesn't have an avenue to be able to make sure  
 17 that those concerns are known.  
 18 MS. ROBERSON: So, can I ask you a quick  
 19 question? And then Mr. Santos has a quick question.  
 20 You, as the Technical Director, I mean, at the  
 21 end of the day the Board decides what decision it makes  
 22 through the statutory process. Are you comfortable if  
 23 they're nonconcurring --  
 24 MR. STOKES: Of course.  
 25 MS. ROBERSON: -- with the Board action?

1 MR. STOKES: Of course. If I do not believe  
 2 that what we've provided with the Board -- or to the  
 3 Board is factually accurate or technically correct or any  
 4 action that the Board takes, I believe to be, you know,  
 5 suffer from factual inaccuracies or it lacks technical  
 6 adequacy or justification, I'd have no hesitancy to  
 7 inform Board members of those concerns and to act upon  
 8 them. I -- you know, I just don't. It's -- the public  
 9 protection is just too important.  
 10 MS. ROBERSON: Okay.  
 11 Mr. Santos?  
 12 MR. SANTOS: Good question for fellow Board  
 13 members. Have the Board ever been presented or waited on  
 14 this one through four items? Because the staff might  
 15 feel an item is two; the Board might feel it's three or  
 16 four. I mean, there's all these items being tracked.  
 17 Has the Board ever been presented with a summary or as to  
 18 make an opinion on are those the right categorizations?  
 19 I just don't know -- I haven't seen that in my time here.  
 20 MS. ROBERSON: So -- so for public consumption,  
 21 you're referring to the staff's categorization of, I  
 22 don't know, significance relative to the statute.  
 23 MR. STOKES: When we, relative to the statute  
 24 and relative to being able to prepare information for the  
 25 Board, to manage, well, what things -- what things need

1 further study, for example, do we have all the  
 2 information necessary for being able to provide the Board  
 3 with an adequate volume of information to be able to make  
 4 any kind of decision, so that then drives further study  
 5 and then there's a plan that goes into doing that.  
 6 So, those things are available internally. The  
 7 Board has access to them. Have we made a presentation on  
 8 every one of them, by and large, no, because, by and  
 9 large, anything that rises to any level goes to the Board  
 10 in an issue paper. So, you see them as we develop them,  
 11 in essence.  
 12 MS. ROBERSON: So, your question primarily is  
 13 to the Board, so I'll let Mr. Sullivan respond, and then  
 14 I can respond, as well.  
 15 MR. SULLIVAN: Refresh my memory, Steve. Is it  
 16 -- which is worse, one or four?  
 17 MR. STOKES: Four.  
 18 MS. ROBERSON: Okay, that's your answer.  
 19 MR. SULLIVAN: Yeah. Okay, so, four means we  
 20 should be writing a recommendation. Is that what that  
 21 means?  
 22 MR. STOKES: Basically, yes.  
 23 MR. SULLIVAN: Okay. Because I'm aware of  
 24 times where based on just discussions I've had with staff  
 25 members where the staff member thought that something was

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1 an issue that rose to the level of a threat to the  
2 adequate protection of the public health and safety and  
3 might -- and probably should be writing a recommendation,  
4 yet we are not because staff member thinks DOE is moving  
5 in the right direction without the recommendation. And  
6 some concerns that if the Board weighed in, you know,  
7 with the heavy hammer, maybe that would actually upset  
8 the applearc. And, you know, I guess the bottom line  
9 there is, well, you know, staff's entitled to that  
10 opinion, and it's a good opinion. Nevertheless, the  
11 resolution of the question still belongs to the Board.

12 So, typically, in those scenarios, those  
13 questions have not come to us, at least not in a format.  
14 You know, we're going to have a closed meeting this  
15 afternoon. We just haven't had those, so we haven't been  
16 able to have the discussion without those closed  
17 meetings. I mean, they just haven't come to us in a  
18 format where -- where actually we get to weigh in. And I  
19 guess it's my observation, whether it's fair or  
20 otherwise, that there's been sort of a screening process  
21 or a filtering process where the staff itself is saying,  
22 okay, this should -- this is an issue of adequate  
23 protection, but we're not going to write a recommendation  
24 because we think the right path is the path that we're  
25 already on. And -- and, so, then the question itself

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1 never comes to the Board, and I think we need to take a  
2 look at that in terms of how we do our own process.

3 MS. ROBERSON: Well, my answer is yes and no.  
4 I mean, there have been cases where I have worked  
5 alongside the staff to produce a recommendation, so as  
6 far as their categorization of issues, the answer is  
7 still yes and no. I would say there is no systemic way  
8 that I'm aware of that the Board does that, but as an  
9 individual Board member, I take that as, you know, a  
10 responsibility I have.

11 MR. SANTOS: Is the criteria at least clear to  
12 you?

13 MS. ROBERSON: So, the criteria for me is a  
14 distinction between is it good information or is there a  
15 potential gap as it relates to adequate protection,  
16 whether the Board should be taking more meaningful  
17 action, not uniquely the criteria that the staff used to  
18 categorize, but as a Board member, do I agree that it is  
19 good information for the Department to act on or not  
20 information because -- that they need because it will  
21 just confuse the matter or if we should be issuing a  
22 recommendation. So, it's fairly simplistic for me.

23 MR. SANTOS: Thank you.

24 MS. ROBERSON: Other comments from Mr. Stokes  
25 or Board members?

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1 MR. SULLIVAN: I'd just like to address a  
2 comment that you made. In the time -- in the time that  
3 I've been here working with you, I'm not aware of a  
4 circumstance where you worked with the staff to produce a  
5 recommendation. We've only had the --

6 MS. ROBERSON: But you know I'm telling the  
7 truth, right, because --

8 MR. SULLIVAN: No, no. I'm not questioning  
9 your --

10 MS. ROBERSON: Okay.

11 MR. SULLIVAN: -- your veracity, no, no. So,  
12 my point is this. Based on two things that happened, one  
13 was changes in our statute, which occurred early in 2013,  
14 and another has been the Board getting assigned an IG,  
15 which led us to looking internally at internal controls  
16 or the lack thereof, so we started internal controls.

17 One of the things we started was creating this  
18 work plan, which -- which we didn't have before. The  
19 work plan led to, well, now we have a Board-approved  
20 plan, so Board members should not be individually  
21 upsetting that plan by just, you know, grabbing staff  
22 members and saying, okay, let's -- you know, I want you  
23 to go off in a corner and -- and start doing things.

24 So, it's -- it's become -- you know, other -- I  
25 guess my point is I think you're -- what you're talking

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1 about occurred in a -- in a different era on the Board  
2 and perhaps some of the other procedural things that we  
3 have now, which were all instituted for a good cause, may  
4 actually get in the way of a -- of a Board member trying  
5 to do the same thing. I mean, I think we could try to do  
6 the same thing, but it's -- it's just not easy, right.

7 If I thought something was worthy of a  
8 recommendation, you know, we do have procedures where I  
9 could request the staff assistance, but, you know, it  
10 gets back to the Board, you know, convincing the Board in  
11 the first place that the other Board members in the first  
12 place, well, then, you know, gosh, if Sullivan wants to  
13 go off and write a recommendation on something, why would  
14 -- why would other Board members want to dedicate  
15 precious staff time to that effort unless they already  
16 agreed that it was something that was worthy of a  
17 recommendation.

18 So, I'm just saying we need to look at the  
19 format and the process. This isn't a -- you know, I  
20 think, and the point is that the -- when you have done  
21 this in the past, you did it in the era where we didn't  
22 have nearly as many procedures and processes as we do  
23 now. And, so, we need to figure out how we fit that in.

24 MS. ROBERSON: I don't know that I fully agree  
25 with that, Mr. Sullivan, I think even today. The time

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1 I'm referring to is 2010, 2011, even 2012. I think the  
 2 Board -- the Board may not have had the formality we have  
 3 today, and I'll give an example. The Board conducted a  
 4 series of hearings at Hanford. And following that  
 5 hearing, when the Board did its hotwash, it was clear  
 6 that the Board was not satisfied with the responses that  
 7 it had. And, so, I jumped in to work with the staff.  
 8 So, I didn't go to the staff with my own idea. I went to  
 9 apply my individual expertise to help them produce a  
 10 product that the Board, as a whole, would have to vote  
 11 on. And I think we can do that today.  
 12 So, I'm not saying that I tasked the staff  
 13 outside of the work plan. I think we've all agreed we're  
 14 not going to do that. But I think ideally we have  
 15 expertise in certain areas, and our job is to apply our  
 16 expertise to the products of the Board. So, I -- I see  
 17 no reason why you couldn't work with the staff on  
 18 something that the Board had clearly decided it wanted to  
 19 pursue. That's my view. That's all.  
 20 Yes, sir.  
 21 MR. SANTOS: I just didn't perceive the  
 22 disagreement because in both cases the -- there was a  
 23 Board agreement that it was worthwhile.  
 24 MS. ROBERSON: No, there's no disagreement. I  
 25 just want to clarify what I was saying.

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1 MR. SANTOS: Oh, okay.  
 2 MS. ROBERSON: I think that's what Mr. Sullivan  
 3 was asking.  
 4 MR. SANTOS: Okay.  
 5 MS. ROBERSON: So, other comments while we have  
 6 Mr. Stokes standing here? Or should we wrap up this part  
 7 of the agenda?  
 8 Mr. Sullivan?  
 9 MR. SULLIVAN: I just want to reiterate, nice  
 10 job dancing, and you probably should have made Rich get  
 11 up and do some dancing.  
 12 MR. SANTOS: And my last question is you did an  
 13 assessment a year ago; do you plan for another one?  
 14 MR. STOKES: Which assessment are you referring  
 15 to?  
 16 MR. SANTOS: Process improvement, you know,  
 17 looking at the whole.  
 18 MR. STOKES: We're looking at it right now.  
 19 In fact, one of the -- the tasks that I have for the  
 20 group -- for the Performance Assurance group lead is to  
 21 look at all of the directives that we currently have,  
 22 look for ways to streamline them, we have been compiling  
 23 for over a year staff comments on these documents. Those  
 24 comments are going to be reflected in the -- as  
 25 improvements to our current set of directives, and we've

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1 looked at -- stepped back and we're looking at the entire  
 2 plan and looking for ways to streamline that because  
 3 there have been a number of things that, upon reflection,  
 4 don't necessarily add the kind of value that we  
 5 originally had thought they might.  
 6 And to give context to that statement, when we  
 7 developed the plan for our technical staff internal  
 8 controls, we were at a point in time where we were -- we  
 9 desired we were going to put procedures into place. So,  
 10 we developed an architecture and we did it, and we did it  
 11 in three phases. In the ensuing time period, we learned  
 12 by implementing the ones that we created and we're  
 13 looking at the other -- all of the architecture that we  
 14 had originally envisioned that was necessary to meet our  
 15 needs and we're questioning that. We're doing feedback  
 16 and improvement. So, it's in a several-step process.  
 17 What we're doing right now is we've got a  
 18 commitment to the Board to produce the second phase of  
 19 the internal controls, so we're doing that. For the most  
 20 part, those are written and we're going to continuing  
 21 staffing. In parallel with that, we're looking at our  
 22 existing internal controls, looking to streamline them,  
 23 reflect on staff feedback to improve them, and then we're  
 24 assessing everything we're doing in phase three to see if  
 25 they're really even necessary or if there is a better way

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1 to be able to address what we believed our needs were  
 2 when we envisioned the architecture three years ago.  
 3 MR. SANTOS: Thank you. No more questions.  
 4 MS. ROBERSON: Last call.  
 5 Thank you, Mr. Stokes.  
 6 At this point in our agenda, we have scheduled  
 7 a 15-minute recess, so I would ask everyone to return no  
 8 later than 11:15. We are in recess.  
 9 (Brief recess.)  
 10 MS. ROBERSON: Welcome back, everyone. I'd  
 11 like now to call Mr. Mark Welch back to provide an  
 12 overview of planned resources to matters raised in recent  
 13 organizational assessments of the Board from outside  
 14 entities.  
 15 MR. WELCH: Thank you, Madam Vice Chairman.  
 16 Slide 2, please. I'm going to provide a brief  
 17 overview of the organizational assessment tools used to  
 18 provide feedback to the Board over the last 12 months. I  
 19 will then briefly discuss the organizational trends  
 20 identified by these tools. Finally, I will provide an  
 21 outline of the planned current, short-term, and long-term  
 22 actions in response to the organizational assessments.  
 23 Slide 3. In June of 2014, the Board  
 24 participated in the annual federal employee viewpoint  
 25 survey, or FEVS, conducted by the Office of Personnel

1 Management. As in previous years, the response rate was  
 2 an impressive 73 percent of the employees eligible to  
 3 receive the survey responded.  
 4 As a result of the feedback from the Fiscal  
 5 Year 14 FEVS, the Board contracted with Logistics  
 6 Management Institute, or LMI, to conduct an assessment of  
 7 the Board's workforce and culture. LMI is a company with  
 8 a proven track record of helping organizations solve the  
 9 organizational issues raised in the FEVS. The assessment  
 10 was conducted in October of 2014, and 60 percent of the  
 11 agencies attended a focus group or interview session.  
 12 The final organization assessment was initiated  
 13 by the Board's Office of the Inspector General. It was  
 14 conducted by Towers Watson in April of this year. Again,  
 15 the response to this survey was an impressive 74 percent.  
 16 Although all three assessments were conducted by separate  
 17 entities and each provided a unique insight into the  
 18 organizational culture at the Board, there were certain  
 19 trends that emerged.  
 20 Slide 4, please. The three organizational  
 21 assessments revealed certain strengths that we continue  
 22 to build upon. First is the staff's commitment to the  
 23 mission of the Board, as evident by their continual  
 24 willingness to participate in activities like these  
 25 assessments, aimed at improving our agency. Our

1 employees believe in the Board's pivotal safety mission  
 2 and want to contribute to its success.  
 3 Second, each assessment showed that responses  
 4 to questions about performance management were positive  
 5 when compared to recent historical agency responses. The  
 6 issue of performance management was one area that Board  
 7 leaders committed to improve upon in Fiscal Year 2013,  
 8 and the assessments indicate that the agency is moving  
 9 towards achieving this goal.  
 10 The third area of strength identified by the  
 11 assessments was that of professional relationships  
 12 between employees and immediate supervisors. The  
 13 assessments revealed that, generally speaking, there's a  
 14 mutual trust and respect between employees and their  
 15 supervisors.  
 16 Again, the Board is looking to build on these  
 17 strengths to help improve the agency's organizational  
 18 culture and other areas, and these include recognition,  
 19 communication, and senior leadership. In this context,  
 20 drawing from these three assessments, recognition  
 21 includes the areas of monetary and nonmonetary awards and  
 22 the acknowledgment of high-quality work; communication,  
 23 in terms of its regularity, tone, and timeliness was  
 24 identified as an area in need of improvement in all three  
 25 assessments; finally, it was apparent from the feedback

1 that there's a lack of trust and respect for the Board's  
 2 senior leadership.  
 3 In the remaining three slides, I will discuss  
 4 the planned current, short-term, and long-term actions to  
 5 address the trends identified by the three organizational  
 6 assessments.  
 7 Slide 5, please. The planned approach to  
 8 building on successes and addressing areas in need of  
 9 improvement can be divided into three stages. The first  
 10 stage includes those activities that could be implemented  
 11 immediately in support of improving the organizational  
 12 culture. These activities, outlined on this slide, are  
 13 aimed at strengthening the Board's foundation to address  
 14 its areas of need.  
 15 The development of agency core values is an  
 16 agency-wide initiative aimed at getting employees at all  
 17 levels of the Board engaged in determining the values  
 18 that will guide our future communications, behaviors, and  
 19 decision-making throughout the agency. Increased  
 20 communication, employee engagement activities, and use of  
 21 individual development plans, or IDPs, are all aimed at  
 22 improving the working environment of the Board's  
 23 employees.  
 24 By increasing communication at all levels, the  
 25 goal is to ensure that employees are receiving accurate,

1 appropriate, and timely information that allows them to  
 2 do their jobs better. By increasing employee engagement  
 3 activities like the special emphasis programs, core  
 4 values initiative, and public service recognition  
 5 activities, we are encouraging employees to come together  
 6 to celebrate their accomplishments, their differences,  
 7 and, most importantly, the fundamental role they play in  
 8 the success of our agency.  
 9 The coaching and training activities listed  
 10 here, along with the Internet resource and the  
 11 accountability for providing timely employee feedback,  
 12 including the midyear performance review sessions, are  
 13 aimed at strengthening competencies at all levels of  
 14 leadership. By investing in these activities, the agency  
 15 is showing its readiness to improve the organization from  
 16 the top down.  
 17 Slide 6, please. The short-term actions listed  
 18 here indicate activities that will occur over the summer  
 19 and into early fall. Some, like the adoption of the core  
 20 values for the agency and the availability of the  
 21 Internet resource for managers, executives, and Board  
 22 members, build on current activities.  
 23 Others, like the trainings on performance plans  
 24 and recognition tools and expanded use of professional  
 25 development opportunities, are aimed at improving the use

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1 of already available resources.  
 2 The final activity listed, expanded award  
 3 categories, is a new initiative based on the feedback  
 4 from the organizational assessments. The goal of  
 5 expanding the award categories at the annual ceremony is  
 6 to show the agency's commitment to expanding, including,  
 7 and recognizing the contributions of employees at all  
 8 levels of the Board.  
 9 The initiative strives to acknowledge that  
 10 although professional achievements may come in different  
 11 forms, the success of one Board employee is a success for  
 12 all Board employees.  
 13 Slide 7. Positive change will not occur  
 14 overnight, nor will it come without a concerted effort  
 15 from all organizational levels to make it happen. To  
 16 that end, there are additional long-term actions that can  
 17 be implemented to ensure all the areas of need identified  
 18 by the three organizational assessments are addressed.  
 19 The activities listed here are aimed at building on our  
 20 strengths, putting resources into the areas that need  
 21 improvement, and allowing for an organizational culture  
 22 that supports our employees and their professional  
 23 growth.  
 24 This long-term strategy is a dynamic approach,  
 25 and additional initiatives may be added as supplementary

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1 data becomes available. For example, once the Board  
 2 receives the final report from Towers Watson and goes  
 3 through the action plan process, other items might be  
 4 added. Likewise, the results of the 2015 FEVS may also  
 5 serve as a catalyst for future improvement efforts.  
 6 This concludes my presentation. I'm happy to  
 7 answer any questions.  
 8 MS. ROBERSON: Thank you, Mr. Welch. And this  
 9 time I'll start with you, Mr. Santos, if you have any  
 10 questions at this time.  
 11 MR. SANTOS: Well, just a comment. I'm very  
 12 encouraged by the initiative that the staff is working on  
 13 to develop their own set of core values and they're tied  
 14 to their mission. To me, that's fundamental if we want  
 15 to get to a very open and collaborative work environment.  
 16 I think it's paramount that we have a good framework that  
 17 can be very clear to everybody and have everybody  
 18 accountable that that's the type of environment we want.  
 19 I just wanted to tell the staff they have a  
 20 champion in me for this initiative. I do plan to bring  
 21 it in front of the Board once I get a product for them,  
 22 and not only in the initial step, but throughout, through  
 23 my actions and as we institutionalize our own set of core  
 24 values. So, public service announcement, I really would  
 25 like to encourage the staff that has not got involved yet

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1 to go ahead and participate, bring up their own ideas,  
 2 their set of experience and contribute to what I think  
 3 will be an important agency initiative.  
 4 Thank you.  
 5 MS. ROBERSON: Thank you, Mr. Santos.  
 6 Mr. Sullivan.  
 7 MR. SULLIVAN: Thank you. One of the things  
 8 the Towers Watson folks told us was that the staff  
 9 members did not feel free to talk to Board members,  
 10 despite the fact that we've told them many times that  
 11 there's -- I think each of us has told them we all have  
 12 an open door, that the staff thinks there's a virtual  
 13 door there that is closed and they can't walk through it.  
 14 For whatever is the cause of that, do we have anything in  
 15 these actions that is trying to attack that?  
 16 MR. WELCH: Well, we are going to have the  
 17 action to plan workshops that Towers Watson will assist  
 18 us with, so, I mean, that certainly could be one of the  
 19 areas that we focus on.  
 20 MR. SULLIVAN: Okay, thank you.  
 21 MS. ROBERSON: You done, Mr. Sullivan?  
 22 MR. SULLIVAN: I'm done with questions.  
 23 MS. ROBERSON: For now?  
 24 MR. SULLIVAN: Yes.  
 25 MS. ROBERSON: I guess I'd like to pick up on

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1 that, because we didn't really talk much about it. Is  
 2 the -- and I know Mr. Santos has experience with this,  
 3 the -- there's an added benefit to the Towers Watson  
 4 evaluation in that they work with us as a group to help  
 5 identify, because, you know, we could do a million  
 6 things, but they help us identify what are the key things  
 7 to do. That's what those workshops are designed to do,  
 8 so I'm really looking forward to having their expertise  
 9 help us target our attention.  
 10 The other thing I'd like to say is, one, I'd  
 11 like to thank you, Mr. Santos, for taking the lead among  
 12 the Board to work with the staff on development of core  
 13 values. I think it's important for a Board member to  
 14 pitch in on these things so the staff knows the  
 15 seriousness with which we take them. And, so, I just  
 16 want to thank you personally for doing that.  
 17 MR. SANTOS: Any questions?  
 18 MS. ROBERSON: I don't have any. I'll come  
 19 back around, unless Board members have other comments,  
 20 we'll move on. Any other comments, Mr. Sullivan?  
 21 MR. SULLIVAN: I don't have any questions.  
 22 MS. ROBERSON: Do you have comments?  
 23 MR. SULLIVAN: I might have some comments.  
 24 MS. ROBERSON: It's your floor.  
 25 MR. SULLIVAN: Oh, okay. Then I don't need Mr.

1 Welch standing at the podium.  
 2 MS. ROBERSON: Well, he may.  
 3 MR. SULLIVAN: Oh, you do, okay, well, keep  
 4 going -- keep going with questions.  
 5 MS. ROBERSON: Okay.  
 6 MR. SULLIVAN: And I will -- I will jabber when  
 7 he --  
 8 MR. SANTOS: A question on the 2015 FEVS  
 9 survey. What's our current numbers and deadlines and  
 10 where we are with that?  
 11 MR. WELCH: It closes June 12th. I think the  
 12 last figure we had, I thought we were up to 50 percent or  
 13 so -- 64 percent, I'm being told.  
 14 MR. SANTOS: Okay. Again, public service  
 15 announcement --  
 16 MR. WELCH: Right.  
 17 MR. SANTOS: -- I want to encourage all staff  
 18 to -- to participate in the surveys, and you want to get  
 19 a sense -- I haven't talked to many of staff on this, but  
 20 I want to make sure they get a sense that we take this  
 21 seriously and that we actually derive implementation  
 22 actions straight based on the result of this assessment.  
 23 So, it's very important to me, at least, that I get a  
 24 statistically representative solid sample so our actions  
 25 can be, you know, commensurate with it, with the items.

1 So, I just wanted to communicate that to the  
 2 staff, that at least from my stand, I really would like  
 3 for everybody to participate. And then I want to make  
 4 sure we are effectively communicating for this topic that  
 5 was identified. This is what you expect; this is how  
 6 your actions -- and they'll be given a chance to express  
 7 their own views on how they think some of those items are  
 8 -- could be improved.  
 9 I just want to make sure we're not just driving  
 10 this from what we, the senior leadership, think is going  
 11 to be the solution. I think it's very important that as  
 12 far as this process we organically provide an opportunity  
 13 for staff to be part of the solution. That's not clear  
 14 to me how that process is going to work out today, but I  
 15 look forward to your initiatives as you come up with the  
 16 plans.  
 17 Anything you want to say regarding how to  
 18 better integrate staff in the whole process?  
 19 MR. WELCH: Well, I mean, first of all, I  
 20 agree. I'll chime in on the public service initiative,  
 21 that if everybody could respond by June 12th, that would  
 22 be great, because, as you said, the better -- the higher  
 23 percentage response we get the more -- the more feedback  
 24 and -- and the higher statistically valuable that  
 25 feedback is.

1 So, going forward, that's -- I mean, that's one  
 2 of our -- one of our goals is to engage the employees  
 3 more in coming up with some of these solutions. So,  
 4 we've already started that with the core values workshop.  
 5 I think the action to plan workshops will help in that  
 6 regard, too, because that -- that is -- that is going to  
 7 involve employees. So, that will be a good step forward.  
 8 MR. SANTOS: Okay. And my last question,  
 9 what's the time line to work with, like, Towers Watson on  
 10 some of these initiatives? So, the time line to where we  
 11 -- you feel you're going to get to at least a list of  
 12 things that just needs to be executed.  
 13 MR. WELCH: Right. So, notionally, we're  
 14 planning on the workshops roughly early July.  
 15 MR. SANTOS: Okay.  
 16 MR. WELCH: So, I believe they'll take -- and  
 17 don't quote me exactly on this -- I believe they'll take  
 18 four to six weeks. So, we're probably looking towards  
 19 the end of the fiscal year when we actually have  
 20 something to move out.  
 21 MR. SANTOS: Thank you.  
 22 MS. ROBERSON: Thank you, Mr. Santos.  
 23 The floor is open for comments, Mr. Sullivan.  
 24 MR. SULLIVAN: That's your signal that you may  
 25 cease standing up, if you so choose.

1 Yeah, well, so, on the issue of feedback to  
 2 Board members, I just wanted to comment that I find it --  
 3 I find it difficult for us as individual Board members to  
 4 try to attack some of these issues. Unless we were to be  
 5 able to have a meeting pursuant to our own regulations  
 6 under the Sunshine Act and we close it in order to  
 7 discuss strictly internal or personnel matters, and I  
 8 think we would need to probably have our General Counsel  
 9 again take a look at the parameters for which that's --  
 10 that's applicable or that's appropriate, because I  
 11 imagine other agencies, boards, commissions have done the  
 12 same thing and been challenged on it. So, I imagine  
 13 there's some -- some court rulings or whatever that set  
 14 some parameters. So, there's probably some work there  
 15 for us to do, because we've never done that.  
 16 So, as a Board member, the staff doesn't work  
 17 for me. So, now, the question becomes what do I do with  
 18 information if I do get it where a staff member says  
 19 here's a problem with the agency? We're such a small  
 20 agency, it's very difficult to talk about the specifics  
 21 of that issue without revealing who the staff member is.  
 22 So, if the staff member comes forward to me but doesn't  
 23 really want to let it be known to his or her supervisor  
 24 that they're basically complaining about something, they  
 25 want to be able to have that be kept in confidence, well,

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1 I go turn around and I -- since staff doesn't work for  
 2 me.  
 3 If the staff did work for me, I could just tell  
 4 senior leaders of the staff, okay, well, change A and B  
 5 and C and I don't really have to tell them exactly where  
 6 I got information that said A and B and C are a problem,  
 7 but since they don't work for me, I have to -- you know,  
 8 I'd say change A, B, and C or I suggest we change A, B,  
 9 and C, and they come back and say A, B, and C is not a  
 10 problem. Well, in order to explain it's a problem, you  
 11 kind of got to give specifics, but then you can't give  
 12 specifics without revealing who gave you the specifics  
 13 because we're such a small, specialized agency. Any  
 14 description of any particular specifics quickly leads  
 15 back to, okay, who was the source of that information.  
 16 So, I just find it to be problematic for me as  
 17 a Board member unless we were to sit as a board and do  
 18 this sort of thing, but then we would have to do it in  
 19 public, unless we close it. So, I guess that's my  
 20 thought. I would like to see us give some serious  
 21 thought to what we can and cannot talk about on these  
 22 issues in a closed meeting so that we can talk with a lot  
 23 more specificity in terms of what we -- what -- what  
 24 particular members of the staff have said their  
 25 experiences were and we can try to work through those.

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1 MS. ROBERSON: So, Mr. Sullivan, are you asking  
 2 legal to provide some feedback to the Board on the  
 3 potential for having such a discussion?  
 4 MR. SULLIVAN: Again, legal doesn't work for  
 5 me, so I think it would be good if we had that.  
 6 MS. ROBERSON: Well, all of the employees in  
 7 this agency work for the Board.  
 8 MR. SULLIVAN: Well, understand, but, again,  
 9 it's the tasking thing. So, I think -- I think we should  
 10 have some guidance from our General Counsel that would  
 11 allow -- would give us the parameters, what could we talk  
 12 about and keep from the public if we're going to get into  
 13 the -- you know, have a meeting where the Board members  
 14 acting as a board, could make decisions and be free to  
 15 talk about specifics that really shouldn't be in the  
 16 public because they identify specific employees and  
 17 specific circumstances.  
 18 MS. ROBERSON: I'm not really asking for a  
 19 comment. I just want to make sure you understood the --  
 20 MR. BATHERSON: I certainly understand the  
 21 issue, and if the Board so desires, we can look at it.  
 22 MS. ROBERSON: Let me make sure Mr. Sullivan is  
 23 done now. He had a list. Is that your last comment?  
 24 MR. SULLIVAN: Yes. Thank you.  
 25 MS. ROBERSON: Okay. Mr. Santos?

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1 MR. SANTOS: I just want to make sure this  
 2 topic we can bring it up this afternoon, so we can  
 3 actually formalize any sort of action, because I just  
 4 heard the discussion.  
 5 MS. ROBERSON: Okay.  
 6 MR. SANTOS: Are we actually going to act on it  
 7 as a board now or later? Should we revisit it later this  
 8 afternoon?  
 9 MS. ROBERSON: Well, I guess my understanding  
 10 of the exchange that just happened was a Board member  
 11 identified a desire to have insights from legal as to  
 12 what parameters may exist for such a discussion, and so I  
 13 want to hear that feedback. I don't -- I don't think we  
 14 need to talk about tasking anymore, I mean, we're all  
 15 here.  
 16 MR. SANTOS: Okay.  
 17 MR. BATHERSON: Right, it would be -- we would  
 18 need to look at it first to give you the preliminary  
 19 advice to proceed.  
 20 MR. SANTOS: Okay. I just wanted to say --  
 21 MS. ROBERSON: That's the normal way it works.  
 22 MR. SANTOS: -- okay, I just wanted to say I  
 23 think it's a good effort and I support it. That's all.  
 24 Just in case you needed more -- more than one.  
 25 MS. ROBERSON: Okay. Okay.

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1 MR. SANTOS: That's all.  
 2 MS. ROBERSON: Any other comments, Mr. Santos?  
 3 MR. SANTOS: No.  
 4 MS. ROBERSON: Any other comments?  
 5 Okay, so, at this time, as stated on the agenda  
 6 and in the Federal Register notice, we will welcome  
 7 comments from the public and other interested parties. I  
 8 will call speakers who have signed up in advance and ask  
 9 the speakers to state their name and title at the  
 10 beginning of their statement.  
 11 Those who have added their names on the sign-up  
 12 sheet that was posted outside will follow those who have  
 13 already registered with us in the order in which they  
 14 have signed up. This will be followed by reading the  
 15 comments submitted by e-mail by remote viewers.  
 16 To give everyone wishing to make a statement an  
 17 equal opportunity, we will ask speakers to be brief. The  
 18 Vice Chair may interject if a speaker exceeds five  
 19 minutes, but will then give consideration for additional  
 20 time should the agenda permit. Statements should be  
 21 limited to the subject of this public meeting as stated  
 22 on the agenda. The Board members may question anyone  
 23 making a statement to the extent deemed appropriate.  
 24 And, so, it is my understanding we have -- can  
 25 we close this off for this, unless somebody needs it, is

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1 making a presentation? But my understanding is we have  
 2 no speakers signed up. Is that -- where is Mr. Tibideau  
 3 (phonetic)? No speakers signed up.  
 4 So, I think, Board members, we're going to have  
 5 to draft people in the audience. Is there anyone in the  
 6 audience who would like to make a statement? Yes, Mr.  
 7 Pasko.  
 8 MR. PASKO: My name is John Pasko, and I am an  
 9 employee of the Board. I currently serve as the Nuclear  
 10 Materials Processing and Stabilization Group. And I'd  
 11 like to just offer some thoughts on the -- on the last  
 12 topic, when we were talking about staff engagement. And  
 13 I would tell you that one of the things that the staff  
 14 needs to feel engaged is to feel that they're valued and  
 15 appreciated. And that kind of -- if you differentiate  
 16 that out, it comes down to trust.  
 17 In the last session, prior to the break,  
 18 several of the Board members were discussing the mystery  
 19 by which the staff works and what's the staff working on,  
 20 and I would just tell you from the staff's perspective  
 21 that says -- that can convey that the Board doesn't trust  
 22 what the staff is doing. And they work at counter to  
 23 each other. So, I just wanted to make sure you're aware  
 24 of that.  
 25 And then the second thing I had was a question.

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1 I know the staff is working on values. I think one of  
 2 the -- one of the other problems that the staff deals  
 3 with sometimes we see conflicting which direction are we  
 4 going to go, and I was curious if the Board in their  
 5 closed deliberations intends to do the same thing, to try  
 6 and plot a course that the staff could look at and have  
 7 some confidence that we know what your priorities are  
 8 going forward.  
 9 So, there are my comments.  
 10 MS. ROBERSON: Thank you. I think it's a good  
 11 question. Let's give the Board members an opportunity to  
 12 see if they want to comment on -- no, you don't get to  
 13 go. Stay right there.  
 14 MR. PASKO: I'll stay here and dance.  
 15 MS. ROBERSON: Mr. Santos or Mr. Sullivan,  
 16 would you like to comment on that?  
 17 MR. SANTOS: I just want to express what my  
 18 expectation is regarding the core values. I think it's  
 19 important that, you know, they get developed by the  
 20 staff, and the next step is to bring it to the Board and  
 21 then through that exchange the Board needs to be very  
 22 clear and communicate back to the staff exactly what  
 23 you're saying.  
 24 So, I think the process will allow us to do  
 25 that, to communicate very clearly what is the direction

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1 we as a Board have, where the staff is, and how they may  
 2 align, or if not, why. So, I do look forward to this  
 3 process, but I need to make sure adequate time is given  
 4 for the people to -- to embrace it and deal with it, but  
 5 I think the process is going to get us there. That's  
 6 just my expectation.  
 7 MR. PASKO: I'm not sure whether it will line  
 8 up like this or like this.  
 9 MR. SANTOS: And that's okay.  
 10 MR. PASKO: The process has got great  
 11 potential.  
 12 MR. SANTOS: Exactly. I just -- let's just  
 13 wait and see, but I think we're going to get there.  
 14 MR. PASKO: Okay.  
 15 MR. SANTOS: And I also believe it's a --  
 16 either a evolutionary process, as we grow and as we  
 17 establish, you know, new relationships as we move  
 18 forward. So, I'm an optimist.  
 19 MR. PASKO: Thank you.  
 20 MS. ROBERSON: Mr. Sullivan?  
 21 MR. SULLIVAN: Yes. Thanks, John, for standing  
 22 up and saying something. So, give me an opportunity to  
 23 point out, you know, comments that I make might be  
 24 perceived by the staff as I don't trust the staff, so let  
 25 me just reiterate that's not the case at all. I mean,

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1 the statute provides that the staff -- that supervision  
 2 of the employees is done by the Chairman, and currently  
 3 that's the Vice Chairman who's the Acting Chair. So, I  
 4 don't supervise the staff on a day-to-day basis, and  
 5 while there's plenty of information available to me, you  
 6 know, some of these things about the procedure, it's just  
 7 -- it's just hard for me to figure out, well, exactly  
 8 who's doing what. And I don't know if I actually go  
 9 asking the questions who's doing what and then maybe  
 10 that's perceived as I don't trust them. I'm just trying  
 11 to figure it out.  
 12 I mean, just -- just this morning, I had a  
 13 conversation with the Technical Director about another --  
 14 it's just a product that's in the chain and I look at it  
 15 and I was like, okay, I see that it's in the chain, but  
 16 it hasn't come to us yet and it's been in the chain in  
 17 the staff level for a while. And if the issue is  
 18 important, you know, what -- what's taking so long, why  
 19 can't -- why can't it get to us faster? I mean, it's  
 20 just that sort of thing, you know, because I think the  
 21 issue is important. And, so, I'm just trying to figure  
 22 out if there are ways to be more efficient or more  
 23 effective on that.  
 24 Happy to talk to the staff on any of the points  
 25 that I was -- I was making earlier today. I know I made

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1 one where I thought, you know, staff members themselves  
 2 might, you know, self-filter, if you will, a potential  
 3 issue of adequate protection because a staff member  
 4 already thinks he or she has an adequate path to  
 5 resolution. And my point is, well, okay, this is not an  
 6 issue of trust; you know, my guess is that if the Board  
 7 were then to consider the issue, the vast majority of  
 8 times we would probably endorse what the staff is doing.  
 9 That's not the point; the point is I have a statutory  
 10 duty to -- to do certain things, which is to decide these  
 11 questions. So, if the question never comes to me, I  
 12 can't decide it. And that's -- that's the only point I  
 13 was making there. So, yeah, I understand what you're  
 14 saying, these can be perceived as, you know, I don't  
 15 trust the staff, and I just ask the staff to say, okay,  
 16 there's always two sides to every issue, this is why we  
 17 need the communications piece. I appreciate your making  
 18 the communication. Thank you.

19 MR. PASKO: Thank you.

20 MS. ROBERSON: And I want to thank you, as  
 21 well, for being brave and standing up, because that's  
 22 kind of what we need to happen. I appreciate the  
 23 feedback. I think it is fair. I also am committed to  
 24 once I say I'm going to operate according to a certain  
 25 set of values, I think the staff can count on me to do

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1 that. I won't say I'm going to do it if I'm not going to  
 2 do it.

3 I think on the flip side, even though history  
 4 always looks better, we are a Board of diverse  
 5 individuals. We have different backgrounds, different  
 6 careers, different experience, and different areas of  
 7 expertise. And I know sometimes the staff would like for  
 8 us to all see things the same. That will never happen  
 9 because we are not built that way. That's why there's a  
 10 Board. And, so, I think if we can provide greater  
 11 comfort in the value side of our operation, the Board can  
 12 better appreciate when we disagree on operational or  
 13 technical matters.

14 MR. PASKO: Yes, ma'am. I think as the survey  
 15 that we just completed bears out, over 90 percent of the  
 16 folks who work here think what we do is very, very  
 17 important. So, you know, and I tend to like to use, you  
 18 know, my sayings, but that dog hunts, if safety is one of  
 19 your values. So, thank you for the time. I appreciate  
 20 it.

21 MS. ROBERSON: Thank you, Mr. Pasko.

22 Does anyone -- yes, sir. Mr. March, come up.

23 MR. MARCH: Hi, I'm Charles March. I'm on the  
 24 Board staff. I just want to make one -- just one comment  
 25 or one suggestion. You know, as the Board, you know,

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1 deliberates later this afternoon about potential changes  
 2 to procedures and activities, particularly related to the  
 3 staff, I'd just suggest that you consider the possibility  
 4 of making those temporary changes or interim changes to  
 5 give a chance to see how things work out, you know,  
 6 before making permanent changes.

7 We've gone through a lot of change here over  
 8 the last couple of years, and my fear is just here's  
 9 another change that we're going to look at and then are  
 10 we going to have to come back and look at it again. So,  
 11 if you just kind of go into with the idea we'll try these  
 12 things out for, you know, six months or a year or  
 13 whatever and see and then reevaluate, it just might make  
 14 things a lot easier in the future. And perhaps even make  
 15 it like a sunset provision whereas we'll try it for a  
 16 year, and if we don't, the Board doesn't act on it again,  
 17 it will just go back to the way it was.

18 Just a thought.

19 MS. ROBERSON: Thank you, sir.

20 Any Board comments on that? Go ahead, Mr.  
 21 Santos.

22 MR. SANTOS: Yeah, I appreciate the comment. I  
 23 just -- I'm kind of on a continuous improvement  
 24 mentality, so to me, nothing is always permanent. If  
 25 clearly something doesn't work or needs to be improved,

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1 we shall act on it.

2 MR. MARCH: Okay.

3 MR. SANTOS: So, that would be my comment on  
 4 that.

5 MS. ROBERSON: Thank you, Mr. Santos.

6 Mr. Sullivan?

7 MR. SULLIVAN: Well, with that said, we could,  
 8 you know, if we're going to direct a procedural change,  
 9 we could equally direct a sunset provision in it. And,  
 10 so, you know, that's -- it's an idea worth considering.  
 11 Thank you.

12 MR. MARCH: Thank you.

13 MS. ROBERSON: I echo Mr. Sullivan's comment.  
 14 I think when we do that, it's something we can discuss,  
 15 as well. Thank you very much.

16 MR. MARCH: Thank you.

17 MS. ROBERSON: Anyone else in the audience that  
 18 would like to make a statement or comment? Anybody from  
 19 DOE? I mean, we're spending a lot of time talking about  
 20 how we do our job and how it affects DOE. Anyone from  
 21 DOE like to give their individual feedback? I recognize  
 22 you don't come with a statement from the Secretary. Sean  
 23 wants to draft somebody.

24 MR. SULLIVAN: You're going to have to bribe  
 25 them.

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1 MS. ROBERSON: I'm going to bribe them with  
 2 another recommendation. How about that?  
 3 MR. SULLIVAN: How about -- how about a get-  
 4 out-of-recommendation-free card?  
 5 MS. ROBERSON: Please do. Please feel  
 6 comfortable to share anything. Drew? Mr. Walter, would  
 7 you like to say anything? Yeah.  
 8 MR. WALTER: I'm Drew Walter. I'm a  
 9 professional staffer with the House Armed Services  
 10 Committee, and I just want to pile on and say, you know,  
 11 I think Congress at large really appreciates the mission  
 12 of the Board and recognizes the deep technical expertise  
 13 that's resident at the Board, and keeping our nuclear  
 14 deterrent and the nuclear enterprise itself safe is of  
 15 the highest priority. We really appreciate everything  
 16 you guys do. Thank you.  
 17 MS. ROBERSON: Thank you, sir. Thank you for  
 18 being here.  
 19 MR. WALTER: Sure.  
 20 MS. ROBERSON: Anyone else? Otherwise I guess  
 21 I can bribe you with lunchtime. I want to thank you all.  
 22 I'll give -- since we have the time, I'll offer to the  
 23 Board members any statements they want to make before we  
 24 break for lunch on what's happened earlier.  
 25 Mr. Sullivan?

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1 MR. SULLIVAN: Thank you. I'm just going to  
 2 review some things that we talked about here, but in  
 3 terms of explicit direction, I don't -- I'm not sure that  
 4 any has necessarily been provided, so I'll just review  
 5 them for -- as a kind of a summary, but I think I've  
 6 mentioned a possible new policy statement on how we do  
 7 design review of new construction projects at the  
 8 Department of Energy, potential new policy statement on  
 9 how we do -- how we review the Department of Energy's  
 10 orders, directives, standards.  
 11 We talked about looking at Policy Statement 2  
 12 and trying to decide if it's even needed any longer. We  
 13 talked about looking at Policy Statement 5 to see if  
 14 perhaps we should be adding something so we could do some  
 15 sort of risk assessment on those things which are not  
 16 tier one specific facility issues.  
 17 The -- we talked about having legal take a look  
 18 at some of the issues of -- that involve restrictions on  
 19 us in terms of agency action and/or making things  
 20 available through FOIA if we are sending things over to  
 21 the Department of Energy as staff products.  
 22 We talked about looking at -- having legal take  
 23 a look at doing -- you know, how would we do -- or what  
 24 are the parameters under which we can close a meeting for  
 25 internal or personnel matters so that we could perhaps

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1 have a more explicit discussion about what particular  
 2 employees believe that they are faced with.  
 3 And I talked with the General Manager standing  
 4 at the podium about looking at the -- specifically  
 5 looking at the Towers Watson comment that said the  
 6 employees did not feel that they were free to be able to  
 7 -- to come and speak to Board members.  
 8 And, finally, I think I spoke specifically to  
 9 the Technical Director about a desire to take a look at  
 10 how the staff does its business, simply to see if we  
 11 can't shorten some of that time line, perhaps putting  
 12 things in parallel with them and currently being series.  
 13 And I think that's it.  
 14 MS. ROBERSON: Do you have any notes written  
 15 down of things that Mr. Sullivan missed that you believe  
 16 you asked?  
 17 MR. SANTOS: I'm glad we have a transcript, so  
 18 that could help.  
 19 MS. ROBERSON: I just didn't know if you kept  
 20 any notes.  
 21 MR. SANTOS: But I just -- it's an expansion.  
 22 He gave some examples, but, you know, I talked about  
 23 maybe it will be worthwhile to have an exercise where we  
 24 go through the statute and have an equivalent set of  
 25 policies that matches it. Just an expansion of Mr.

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1 Sullivan's examples.  
 2 And, also, I would like to probably see some  
 3 structure if we're going to start entertaining employment  
 4 at tiered one, two, three approach to -- to issues and  
 5 come up with the necessary criteria to support that.  
 6 MS. ROBERSON: Mm-hmm.  
 7 So, Mr. Batherson, you have all these? No, I'm  
 8 saying, you've got the list.  
 9 MR. BATHERSON: Yes.  
 10 MS. ROBERSON: Step with me. I'm not saying  
 11 give us an answer now.  
 12 MR. BATHERSON: Yes, ma'am.  
 13 MS. ROBERSON: You have the list. So, I guess  
 14 what I'd ask is maybe at the -- somewhere during the  
 15 afternoon session we just see if we can get some feedback  
 16 on those that the office directors can give us feedback  
 17 on, schedule, scope. Some of them overlap. Give us some  
 18 feedback on when you think some of these could be done.  
 19 And we can move on from there. And, you know, the Board  
 20 can always vote to direct on any of them. And maybe  
 21 that's what we need to do this afternoon, but I'd like to  
 22 get some feedback from the office directors on them.  
 23 MR. BATHERSON: Got it.  
 24 MS. ROBERSON: Any other comments?  
 25 Mr. Santos?

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1 MR. SANTOS: No, ma'am.  
 2 MS. ROBERSON: We are recessed for lunch, and  
 3 we will be back in this room at 1:00 p.m.  
 4 MR. SANTOS: You're changing the --  
 5 MS. ROBERSON: What does it say?  
 6 MR. SANTOS: 1:30. You're changing the --  
 7 MR. BATHERSON: We're 1:30, ma'am, or 1:00?  
 8 MS. ROBERSON: Well, we're done -- we're done  
 9 early. I guess I'd ask for unanimous consent to  
 10 reconvene at 1:00. It gives us a little more time in the  
 11 afternoon if we need it. If we have visitors here for  
 12 lunch, at least it maximizes their time, so I'm going to  
 13 ask the Board members for unanimous consent.  
 14 MR. SANTOS: I consent.  
 15 MR. SULLIVAN: Just a point of order, do we  
 16 think we might have confused out there who may have not  
 17 been here this morning who might be planning on coming  
 18 this afternoon and may not show up until 1:30 because of  
 19 our Federal Register notice?  
 20 MS. ROBERSON: There is that possibility, and  
 21 if you want to not consent for that reason, I'm happy to  
 22 reconvene at 1:30.  
 23 MR. SULLIVAN: I mean, I guess I just wanted to  
 24 raise the point. I'm happy to start early, leave early,  
 25 be done early, so I'll go ahead and give my consent, if

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1 that's what the majority of the Board wants to do.  
 2 MS. ROBERSON: Is there some remedial action  
 3 you think we should take to inform any -- you know, put  
 4 it on our website, maybe?  
 5 MR. BATHERSON: We can do that. I mean, we  
 6 could have, I guess, something posted on the -- on the  
 7 direct feed that we'd be reconvening at 1:00 instead of  
 8 1:30.  
 9 MS. ROBERSON: Would that satisfy your concern  
 10 at this time?  
 11 MR. SULLIVAN: Certainly.  
 12 MS. ROBERSON: Okay.  
 13 MR. SANTOS: Yes.  
 14 MS. ROBERSON: Okay, we'll reconvene at 1:00.  
 15 Thank you.  
 16 (Recess for lunch.)  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
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1 AFTERNOON SESSION  
 2 (1:01 p.m.)  
 3 MS. ROBERSON: Okay, welcome back. I'd like to  
 4 now turn to consideration of the four requests for Board  
 5 action that were previously submitted in anticipation of  
 6 this public meeting.  
 7 These requests are, number one, 2015-098,  
 8 request for Board action by Board Member Daniel J.  
 9 Santos, proposed revision of Board policies and staff  
 10 procedures pertaining to site representative reports.  
 11 The second request is 2015-102, request for  
 12 Board action by Board Member Sean Sullivan, revise  
 13 applicable staff procedures governing staff issue papers.  
 14 The third request is 2015-099, request for  
 15 Board action by Board Member Daniel J. Santos,  
 16 incorporate the legal opinion of DOJ Office of Legal  
 17 Counsel into a Board policy.  
 18 And the fourth action is 2015-101, request for  
 19 Board action by Board Member Sean Sullivan, revise Board  
 20 policies and staff procedures regarding the drafting of  
 21 recommendations.  
 22 The requests will be considered and voted on in  
 23 the order I just presented them. And, so, the first  
 24 request is proposed revision of Board policies and staff  
 25 procedures pertaining to site representative reports, and

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1 I'll leave -- open the floor to you, Mr. Santos, to open  
 2 up the discussion.  
 3 I'm sorry, would you like for Mr. Batherson to  
 4 actually read it, or would you like to speak first?  
 5 MR. SANTOS: I would like Mr. Batherson --  
 6 MS. ROBERSON: Batherson to read the request?  
 7 MR. SANTOS: -- and then --  
 8 MS. ROBERSON: Okay.  
 9 MR. BATHERSON: Right, Document 2015-098,  
 10 request for Board action by Board Member Daniel Santos,  
 11 proposed revision of Board policies and staff procedures.  
 12 The action: request to create or revise applicable Board  
 13 policies to allow any Board member to initiate Board  
 14 action on a case-by-case basis regarding whether or not  
 15 to waive the deliberative process privilege associated  
 16 with site representative report (weekly and monthly  
 17 reports) or a portion of such reports; request to direct  
 18 the DNFSB staff to revise applicable staff procedures  
 19 governing all site representative reports to explicitly  
 20 solicit timely and formal feedback from DOE (coordinated  
 21 through the office of the departmental representative to  
 22 the DNFSB) on the content of the draft reports and  
 23 provide feedback for Board consideration prior to final  
 24 distribution and publication.  
 25 The office of the departmental representative

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1 to the DNFSB should be provided with a draft report at  
2 the same time the report is provided to the site  
3 management (typically the week following the creation of  
4 the report) and be given a window of five business days  
5 to review the draft report and provide feedback to the  
6 Board if they so desire.

7 The staff would forward the DOE feedback to the  
8 Board. If no Board member initiates a Board action  
9 within five days after receipt of the feedback from DOE,  
10 the DNFSB staff should continue with the disposition and  
11 publication of the site representative reports. If any  
12 Board member initiates a Board action, disposition of the  
13 site representative report should be stayed until the  
14 Board completes any and all actions, including a  
15 determination regarding the waiving of the deliberative  
16 process privilege.

17 The intent of this request is to formalize  
18 mechanisms for the Board members to be made aware of any  
19 DOE concerns about a site representative report and to  
20 decide whether or not to redact any part of a site  
21 representative report before it is made publicly  
22 available. It is not intended to be used by the Board  
23 members to make wording changes to the reports.

24 DNFSB staff has requested to affirm to the  
25 Board by July 13, 2015, that the necessary changes to

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1 applicable staff procedures governing site representative  
2 reports (weekly and monthly reports) have been  
3 incorporated. That's the end of the request.

4 MR. SANTOS: Thank you. At the very heart, I'm  
5 basically interested in formalizing actions that it's my  
6 understanding can be taken today. With the first one  
7 it's basically the Board -- any Board member can initiate  
8 the same type of actions where -- whether we want to  
9 waive or not the deliberative process privilege making a  
10 site report public or not. I just want to make sure we  
11 can explicitly write it down so the staff and other  
12 stakeholders know that it's in the Board's purview to  
13 take such action. So, it's a matter of formalizing that.

14 With the second request, at the core of it,  
15 basically as an individual Board member, I value various  
16 sources of information. And to me, I will value to get  
17 feedback from -- from DOE on our site reports. Today,  
18 that's something, again, that I could pursue on an  
19 individual basis, but it's not really formalized or  
20 written down, you know, anywhere.

21 So, I'm just looking for a more formal  
22 mechanism to obtain feedback. After giving some thoughts  
23 and -- and discussions on this, I would like to make some  
24 amendments -- propose some amendments to simplify my  
25 intentions behind this.

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1 MS. ROBERSON: Okay.

2 MR. SANTOS: So, the first amendment I would  
3 like to propose to the Board members is to split the two  
4 requests for actions into two separate votes, so treat  
5 number one as it is; and if we could move to that one  
6 right now, that would -- that would be good. So, it will  
7 be one request for Board vote on just the first paragraph  
8 that reads -- we'll read it again. Is that okay? Or do  
9 I have to read it again?

10 MR. BATHERSON: Yeah, go ahead and read it.

11 MR. SANTOS: I mean, request to create or  
12 revise applicable Board policies to allow any Board  
13 member to initiate Board action on a case-by-case basis  
14 regarding whether or not to waive the deliberative  
15 process privilege associated with the site representative  
16 reports (weekly and monthly reports) or a portion of such  
17 reports.

18 And I will ask for a Board vote on that  
19 specific one, if the amendment passes. So, the first  
20 thing we got to do is vote on my amendment to split into  
21 two actions. So, I will kindly request for a Board vote  
22 on the amendment.

23 MR. BATHERSON: Are you moving to --

24 MR. SANTOS: Yes.

25 MR. BATHERSON: -- for an amendment.

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1 MR. SANTOS: For an amendment, correct, to  
2 split the vote.

3 MR. BATHERSON: Are there any objections?

4 MR. SULLIVAN: So, just a -- I just want to  
5 clarify.

6 MR. SANTOS: Yes.

7 MR. SULLIVAN: All right, if -- so, if we move  
8 on this and then we vote, what we're voting on is we're  
9 agreeing to vote twice more. Is that -- do I get that  
10 right?

11 MR. BATHERSON: If you vote on -- if you vote  
12 on the amendment, then there's going to be another vote  
13 for the final vote on number one.

14 MR. SANTOS: Correct.

15 MR. SULLIVAN: And -- and then a number two,  
16 whatever -- whatever that may be.

17 MR. SANTOS: I will have a different amendment,  
18 will require a different vote, and then a subsequent  
19 vote.

20 MR. BATHERSON: Correct.

21 MR. SANTOS: So, that way, we're --

22 MR. SULLIVAN: These votes are --

23 MR. SANTOS: That's right.

24 MR. SULLIVAN: That's okay. I just wanted to  
25 understand.

1 MR. SANTOS: So, it looks like we're going to  
 2 have four votes.  
 3 MS. ROBERSON: All right.  
 4 MR. SULLIVAN: Wow, okay. Great.  
 5 MS. ROBERSON: So, the first thing we're voting  
 6 on is --  
 7 MR. SANTOS: The amendment.  
 8 MS. ROBERSON: -- the amendment.  
 9 MR. BATHERSON: What is the amendment?  
 10 MR. SANTOS: The amendment is to split the  
 11 current proposed --  
 12 MR. BATHERSON: Oh, got you.  
 13 MR. SANTOS: -- so we can treat number one  
 14 separate from number two.  
 15 MR. SULLIVAN: So, if I understand correctly,  
 16 Mr. Santos moved the question to vote on his amendment  
 17 one, which is just to --  
 18 MR. SANTOS: Split the current request for  
 19 Board action into two independent requests for action,  
 20 each requiring a separate Board vote.  
 21 MR. SULLIVAN: Okay, well, so I second moving  
 22 the question, which I understand correctly actually  
 23 requires us to vote on vote on moving the question --  
 24 MR. SANTOS: Yes.  
 25 MR. SULLIVAN: -- before we vote on the

1 amendment. We get plenty of votes. It's great.  
 2 MR. SANTOS: You want to vote? We got to get  
 3 votes.  
 4 MR. BATHERSON: Okay, I'm going to take the  
 5 roll of the Board members for the motion to move the  
 6 question. We'll go with Mr. Sullivan.  
 7 MR. SULLIVAN: Yes.  
 8 MR. BATHERSON: Mr. Santos?  
 9 MR. SANTOS: Yes.  
 10 MR. BATHERSON: Ms. Roberson?  
 11 MS. ROBERSON: Yes.  
 12 MR. BATHERSON: Okay, we have three votes to  
 13 move the question and approved.  
 14 MR. SULLIVAN: So, now we're voting on the  
 15 amendment?  
 16 MR. SANTOS: Correct.  
 17 MR. BATHERSON: Correct. Before we vote, are  
 18 there any objections to the amendment?  
 19 MS. ROBERSON: No.  
 20 MR. BATHERSON: Okay, I'll take -- I'll call  
 21 the roll for the amendment to split the vote -- split the  
 22 questions proposed in the original request for Board  
 23 actions and we'll take a vote on that amendment.  
 24 Mr. Sullivan?  
 25 MR. SULLIVAN: Yes.

1 MR. BATHERSON: Mr. Santos?  
 2 MR. SANTOS: Yes.  
 3 MR. BATHERSON: Ms. Roberson?  
 4 MS. ROBERSON: Yes.  
 5 MR. BATHERSON: All right, the vote to amend to  
 6 split the original request into two parts is approved.  
 7 And now we're going to the first -- the vote on the first  
 8 part of the request, to approve that. Correct?  
 9 MR. SANTOS: Correct.  
 10 MR. BATHERSON: All right, Mr. Sullivan?  
 11 MR. SULLIVAN: So, just point of order, so now  
 12 we're voting on number one already?  
 13 MR. BATHERSON: Correct, so I'll read it back  
 14 so that we don't have any confusion. So, the first part  
 15 of 2015-098, Mr. Santos' request for Board action is as  
 16 follows: one, request to create or revise applicable  
 17 Board policies to allow any Board member to initiate  
 18 Board action on a case-by-case basis regarding whether or  
 19 not to waive the deliberative process privilege  
 20 associated with the site representative report (weekly  
 21 and monthly reports) or a portion of such reports;.  
 22 MR. SULLIVAN: Okay, so I just want to be  
 23 clear, because I don't think we've actually moved this  
 24 question yet. I just had something I wanted to say about  
 25 it.

1 MR. SANTOS: Mm-hmm.  
 2 MR. SULLIVAN: And, also, I'm a little bit  
 3 rusty on the procedures, so correct me if I'm wrong, but  
 4 we don't necessarily have to move every question. I  
 5 think the Chair can just say, all right, hearing no  
 6 further discussion, I will call for a vote. And if  
 7 nobody speaks up, then we just go. Okay.  
 8 MR. BATHERSON: You can just move to the vote.  
 9 MR. SULLIVAN: All right.  
 10 MS. ROBERSON: But we're in discussion on this  
 11 first one.  
 12 MR. BATHERSON: Correct.  
 13 MR. SULLIVAN: I just want to say, I mean, I  
 14 have no objection to approving this thing but -- other  
 15 than to point out that it says to create or revise  
 16 applicable procedures allowing a Board member to initiate  
 17 action on a case-by-case basis, et cetera, et cetera, and  
 18 I think we already have that procedure. So, I'm not sure  
 19 what we will create out of this. Nevertheless, we can --  
 20 we can move forward on it.  
 21 MR. SANTOS: You're correct in that we have  
 22 procedures that allow members to initiate action. The  
 23 part that I want to make explicit is this concept of  
 24 deliberative process privilege associated with the weekly  
 25 report. So, it's the explicit component of that.

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1 MR. SULLIVAN: Very well.  
 2 MR. SANTOS: Yes.  
 3 MS. ROBERSON: So --  
 4 MR. SANTOS: It's not -- it's not complex.  
 5 MS. ROBERSON: -- did you get your --  
 6 MR. SULLIVAN: I have no more discussion.  
 7 Whenever --  
 8 MS. ROBERSON: Well, one, I just kind of want  
 9 to take a minute to make sure I explain to people who  
 10 don't really understand what we're doing. So -- and you  
 11 correct me if I'm wrong. This item -- in 1998, the then  
 12 Board members actually formally approved releasing site  
 13 rep weekly reports to the public. And the Board has done  
 14 so since that time.  
 15 No board since that time has actually  
 16 reevaluated whether -- because the Board members, it is a  
 17 Board product and the Board has to waive its privilege to  
 18 release them. And, so, as I understand it, Mr. Santos,  
 19 what you're doing is saying create procedures -- and this  
 20 is what I understand this to say -- we will continue to  
 21 do that, but we recognize that Board members have the  
 22 right to recall their consent to waive their privilege.  
 23 Is that right?  
 24 MR. SANTOS: That is correct.  
 25 MS. ROBERSON: Is that your understanding, Mr.

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1 Sullivan?  
 2 MR. SULLIVAN: Yeah. I'm happy. I'm a happy  
 3 guy.  
 4 MS. ROBERSON: Okay, okay. I just want to make  
 5 sure people understand. Did I say something wrong, Mr.  
 6 Batherson?  
 7 MR. BATHERSON: No, ma'am.  
 8 MS. ROBERSON: You just look at me like that  
 9 all the time, huh?  
 10 MR. BATHERSON: Yes, I do.  
 11 MS. ROBERSON: Okay. Okay. I'm always getting  
 12 in trouble. All right, I don't have any other comments  
 13 on it. I understand it.  
 14 MR. SULLIVAN: I think that's --  
 15 MS. ROBERSON: So, are we -- is there further  
 16 discussion?  
 17 MR. SULLIVAN: -- he's calling for a vote.  
 18 MR. BATHERSON: All right, Mr. Santos, are you  
 19 ready?  
 20 MR. SANTOS: Yes.  
 21 MR. BATHERSON: All right, so we're going to  
 22 call for a vote to approve part one of 2015-098. Mr.  
 23 Sullivan?  
 24 MR. SULLIVAN: Yes.  
 25 MR. BATHERSON: Mr. Santos?

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1 MR. SANTOS: Yes.  
 2 MR. BATHERSON: Ms. Roberson?  
 3 MS. ROBERSON: Yes.  
 4 MR. BATHERSON: So, 2015-098, part one, is  
 5 approved by a vote of three approves and no disapproves.  
 6 Let's move on to part two.  
 7 MR. SANTOS: Yes, I have a second proposed  
 8 amendment, that is to change the second item of the  
 9 current request for proposal. So, it's the second  
 10 paragraph there.  
 11 MR. BATHERSON: Correct.  
 12 MR. SANTOS: And I have provided the words to  
 13 the fellow Board members, but I will read it for the --  
 14 for the record, and then I'll probably give you this copy  
 15 in case you need to read it again. So, let me read it  
 16 real quick.  
 17 Change the entire paragraph and the last  
 18 paragraph to read: request the Board to approve a  
 19 revision to Board procedures to create a new Board  
 20 product that will solicit timely and formal feedback from  
 21 DOE headquarters on the content of the site  
 22 representative reports (weekly and monthly reports). The  
 23 DOE office of the departmental representative to the  
 24 DNFSB will be provided with each draft report at the same  
 25 time DOE site personnel are provided the draft reports

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1 for sensitivity and awareness review. DOE headquarters  
 2 will be requested to provide written feedback to the  
 3 Board if they so desire.  
 4 I will now pass it --  
 5 MR. BATHERSON: Yep.  
 6 MR. SANTOS: -- to you so you can have it here.  
 7 Maybe move to discussion? And then --  
 8 MS. ROBERSON: Yes, we can.  
 9 Mr. Batherson, you have what you need? We're  
 10 ready to move to discussion?  
 11 MR. BATHERSON: Let me -- let me read it just  
 12 real quickly.  
 13 MS. ROBERSON: Okay.  
 14 MR. BATHERSON: Okay, go ahead.  
 15 MS. ROBERSON: I'll start, if that's okay,  
 16 since I rarely get to start. So -- so, in -- there are  
 17 actually, I see two pieces to your proposal, and you  
 18 correct me if I'm wrong. One piece would begin to issue  
 19 monthly reports, which is currently not done, so that's  
 20 your intention in this recommendation, right?  
 21 MR. SANTOS: Treat both the same, so correct.  
 22 MS. ROBERSON: So, treat both the same, okay.  
 23 MR. SANTOS: Right. That's implicit, though.  
 24 MS. ROBERSON: Exactly. Okay.  
 25 MR. SANTOS: I can entertain further amendments

1 if you feel that will clarify.  
 2 MS. ROBERSON: No, no, no. I just wanted to  
 3 clarify. I understood it.  
 4 MR. SANTOS: Yes. Okay.  
 5 MS. ROBERSON: I just wanted to make sure it  
 6 was clear. And then the second part of this, which is  
 7 revising our procedures, which we're going through now,  
 8 to create some formalized product where any Board member  
 9 can request feedback from DOE. Those are the two parts,  
 10 right? Yeah, I don't -- I don't really have any -- any  
 11 questions on this. I just want to make sure I understood  
 12 what you were proposing.  
 13 MR. SANTOS: Instead of what I envisioned, and  
 14 we can have an open dialogue, I envisioned this to happen  
 15 on like an automatic basis where the Board is actually  
 16 forwarding this to DOE and DOE's requested feedback if  
 17 they so desire in written, you know, format. But, again,  
 18 any Board member can move to stop the automatic nature of  
 19 it. As opposed to -- I don't want to necessarily burden  
 20 the Board that every week we have to say, okay, give it  
 21 to -- okay, give it to -- you know what I'm saying?  
 22 MS. ROBERSON: Mm-hmm.  
 23 MR. SANTOS: So, that -- that's what I  
 24 envisioned, and in the Board product I envision it to be  
 25 simply some sort of cover letter that makes it a Board

1 product and attaches the standardized form to forward,  
 2 attaches the report and makes it a Board product, instead  
 3 of a staff product.  
 4 MS. ROBERSON: And let me just be clear, so I  
 5 understand what you're saying, and when the Board  
 6 develops that product, it would be subject to another  
 7 vote anyway, right?  
 8 MR. SANTOS: I'm sorry?  
 9 MS. ROBERSON: So, the Board -- or maybe you  
 10 would propose to the Board that tool, that instrument,  
 11 that would be incorporated into our procedures, and by  
 12 definition, the Board would vote again on that --  
 13 MR. SANTOS: Correct.  
 14 MS. ROBERSON: -- acceptance of that tool.  
 15 MR. SANTOS: So, I envision that when the Board  
 16 votes to approve the revised Board procedures, I will be  
 17 providing what I consider the template for this new Board  
 18 product, so you are correct.  
 19 MS. ROBERSON: Okay. I don't have any  
 20 additional questions.  
 21 Mr. Sullivan?  
 22 MR. SULLIVAN: I'm just trying to understand  
 23 here. The -- you said your goal was to obtain timely  
 24 feedback from DOE on site rep reports. You want  
 25 feedback, right, as a Board member. You want DOE to be

1 giving feedback to you? Is that -- is that your goal?  
 2 MR. SANTOS: No. I -- well, yes, and by  
 3 extension the Board. I do feel that if we get feedback  
 4 on the weekly reports, we can increase actually the  
 5 amount of information available on a particular issue or  
 6 items affecting the complex.  
 7 MR. SULLIVAN: Okay. Because, again, we got  
 8 this FOIA animal. We've got issues. In one universe, if  
 9 the -- if the staff is giving a draft product that is  
 10 intended to be public anyway, that will -- that will --  
 11 they're just giving it to them a little bit early. I  
 12 don't see that as an issue with FOIA because it's  
 13 ultimately going to be made public anyway.  
 14 I'm just not sure this -- the format of what  
 15 would now be sending over as an agency product and what  
 16 feedback we might be getting might all be in the realm of  
 17 that -- that stuff, both way, now might be needed to go  
 18 into the public domain, which, again, it's not  
 19 necessarily a problem.  
 20 It's just your first part we were discussing  
 21 the deliberative process privilege, which would -- which  
 22 would allow us to protect things. I'm wondering if this  
 23 second part would make it so that we couldn't protect  
 24 anything, because now it's a formal agency product. So,  
 25 I'm just wondering if there's a little bit at odds there.

1 MR. SANTOS: I understand. Again, I just don't  
 2 see any difference of what happens today. It's just --  
 3 I'm just looking to formalize it, because today you could  
 4 argue that it is an agency product, for which the Board  
 5 previously agreed to waive the process. And I expect  
 6 that to be the predominant way that we'll continue to do  
 7 business. I consider it to be an exception basis where  
 8 we're actually moving to -- to waive it. I mean, in my  
 9 six months here, I haven't seen a single move to do that.  
 10 So, all I'm trying to do is kind of formalize  
 11 things that happen today.  
 12 MS. ROBERSON: I don't want to interrupt. I'm  
 13 just thinking.  
 14 MR. SULLIVAN: Okay. No, I guess my point is  
 15 the whole first thing was about deliberative process  
 16 privilege and whether or not by a case-by-case basis  
 17 we're going to try to stop that train.  
 18 MR. SANTOS: Mm-hmm.  
 19 MR. SULLIVAN: Which is okay, right? But if in  
 20 the second part of this we're now making this thing a  
 21 Board product, I mean, we may not -- we may have lost the  
 22 ability to stop it at all, I guess that's -- that's kind  
 23 of it, because we're automatically making this an agency  
 24 product, and so now you can't stop that train. You know,  
 25 the FOIA rules, as I understand them, would say, oh,

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1 you've got an official agency product, the public is  
 2 entitled to that information.  
 3 So, all I'm saying is I think your second --  
 4 your second part of this may make your first part moot,  
 5 because there's no -- we're automatically making it an  
 6 agency product that has no deliberative process --  
 7 deliberative process privilege protection at all under  
 8 FOIA.  
 9 MR. SANTOS: And I understand, but I -- I'm not  
 10 really seeking FOIA protection with this proposal, and I  
 11 see today we have that issue today.  
 12 MR. SULLIVAN: Okay. I was just --  
 13 MR. SANTOS: Yeah.  
 14 MR. SULLIVAN: -- I'm talking about --  
 15 MR. SANTOS: Again, my goal is to -- sorry.  
 16 MR. SULLIVAN: -- actually potentially making  
 17 something moot that we just did.  
 18 MR. SANTOS: Okay.  
 19 MS. ROBERSON: The -- I mean, you want me to  
 20 just comment, we may need, as we talked about earlier, we  
 21 may need a little bit of help from legal on what's a  
 22 staff product and what are our obligations and vice  
 23 versa, and I think that's fair.  
 24 I also think we can disposition that matter  
 25 through our process on Board procedures, once we have

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1 that insight to our approval of Board procedures. So, I  
 2 think we definitely need some, which we've already put on  
 3 your list of to-do, Mr. Batherson --  
 4 MR. BATHERSON: Yes, ma'am.  
 5 MS. ROBERSON: -- is provide us some insight  
 6 on, you know, if the Board issues something versus the  
 7 staff. We need to just understand what our -- what the  
 8 obligations are.  
 9 MR. BATHERSON: And we're talking at a -- at a  
 10 later time? Or --  
 11 MS. ROBERSON: Yeah, I don't expect you to  
 12 answer that right now. I don't. I mean, other Board  
 13 members may want more insight.  
 14 MR. SANTOS: I just want to clarify, my goal  
 15 with the proposal is not to seek FOIA protections or  
 16 anything like that. It's to simply formalize the receipt  
 17 of feedback from DOE on the reports.  
 18 MS. ROBERSON: I think I -- I think I  
 19 understand what you're saying. And Mr. Sullivan will  
 20 correct me if I don't understand what he's saying. So,  
 21 in item one, we've just voted to support any Board  
 22 member's desire to waive privilege that would release  
 23 something based on, you know, the execution of their  
 24 duties. The second, without recognizing that, they could  
 25 conflict. And, so, we need to make sure we understand

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1 what our obligations are depending on who's document it  
 2 is and how that would either be overcome or not.  
 3 Am I understanding what you were saying, Mr.  
 4 Sullivan?  
 5 MR. SULLIVAN: I'll try to say it again.  
 6 MS. ROBERSON: Okay, so, I was wrong?  
 7 MR. SULLIVAN: No, no. Just for clarity. The  
 8 first part was all talking about the deliberative process  
 9 privilege involved in site rep weekly reports. You know,  
 10 just -- that's what it was all about. My second one, all  
 11 I'm saying is if we are automatically converting this  
 12 site rep weekly report from some staff document coming to  
 13 the Board to some Board document, there may not be any  
 14 privilege left to protect.  
 15 So, the whole discussion of deliberative  
 16 process privilege, which we just had, in my view, becomes  
 17 moot. Now, that doesn't mean it's a problem; that  
 18 doesn't mean it's a FOIA problem, because if somebody  
 19 FOIAs something, then we will release it as we're  
 20 required by FOIA. I'm not -- I'm not talking about any  
 21 problems. All I'm saying was not more than about three  
 22 or four minutes ago we took an action and now we might be  
 23 taking an action which makes the one we just took moot.  
 24 That's all I'm suggesting.  
 25 So, with that said, I don't know that I care to

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1 talk about this anymore, unless somebody wants more from  
 2 me.  
 3 MS. ROBERSON: I'm done. I don't -- I don't  
 4 need any additional discussion.  
 5 Did you want to say something else, Mr. Santos?  
 6 MR. SANTOS: To avoid being repetitive, no.  
 7 MR. BATHERSON: So, is the Board ready to vote  
 8 on the amendment? Or is the Board considering tabling?  
 9 MS. ROBERSON: On this one, I'm prepared to  
 10 vote, but I actually think the question is on the table.  
 11 I don't know, are you prepared to vote, Mr. Sullivan?  
 12 MR. SULLIVAN: I'm prepared to vote.  
 13 MS. ROBERSON: Okay.  
 14 MR. SULLIVAN: I mean, these votes, we could  
 15 take another vote sometime later if we look back at this  
 16 and decide, oops, maybe we didn't do the right thing.  
 17 So, I don't -- I don't see this as the end of the world  
 18 one way or the other.  
 19 MS. ROBERSON: Okay. Then I think we're ready  
 20 to vote.  
 21 MR. BATHERSON: All right. To Mr. Santos'  
 22 2015-098 part two, which he has read the amendment and I  
 23 had previously read the original request, how do you vote  
 24 to amend, Mr. Sullivan?  
 25 MR. SULLIVAN: Okay, so point of order, we're

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1 voting on the amendment, which simply replaces the other  
 2 one? We're going to have to vote a second time?  
 3 MR. SANTOS: Correct.  
 4 MR. BATHERSON: Correct.  
 5 MR. SULLIVAN: Okay. Yes.  
 6 MR. BATHERSON: Mr. Santos?  
 7 MR. SANTOS: Yes.  
 8 MR. BATHERSON: Ms. Roberson?  
 9 MS. ROBERSON: Yes, I think.  
 10 MR. BATHERSON: That's a yes. All right, the  
 11 vote to amend item two of Mr. Santos' 2015-098 is  
 12 approved three to zero. Now we turn to the actual item.  
 13 Mr. Santos?  
 14 MR. SANTOS: Yes.  
 15 MR. BATHERSON: Did you want to have discussion  
 16 -- any further discussion?  
 17 MS. ROBERSON: No.  
 18 MR. BATHERSON: Okay, so, now --  
 19 MS. ROBERSON: Please vote.  
 20 MR. BATHERSON: -- we'll have a call of the  
 21 roll. Mr. Sullivan?  
 22 MR. SULLIVAN: Yes.  
 23 MR. BATHERSON: Mr. Santos?  
 24 MR. SANTOS: Yes.  
 25 MR. BATHERSON: Ms. Roberson?

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1 MS. ROBERSON: Yes.  
 2 MR. BATHERSON: All right, the vote carries  
 3 three to zero. The action proposed, as amended, part two  
 4 of Mr. Santos' 2015-098 is approved. And I think we move  
 5 to the next agenda item.  
 6 MS. ROBERSON: The next agenda item is proposed  
 7 actions 2015-102, request for Board action by Board  
 8 Member Sean Sullivan, revise applicable staff procedures  
 9 governing staff issue papers. And, Mr. Sullivan, do you  
 10 want to read it, or would you like Mr. Batherson to read  
 11 the proposal?  
 12 MR. SULLIVAN: I can read it.  
 13 MS. ROBERSON: Okay.  
 14 MR. SULLIVAN: So, the request for Board action  
 15 states direct the DNFSB staff to revise applicable staff  
 16 procedures governing staff issue papers. The revision  
 17 shall require a copy of the staff issue paper to be  
 18 provided to the Department of Energy's department  
 19 representative to the Board by not later than the time  
 20 such staff issue paper is provided to the Board under  
 21 Section 3.1 of the Board procedures (Orange Folder  
 22 routing).  
 23 The revision shall further require that any  
 24 comments regarding the staff issue paper received from  
 25 the Department of Energy's department representative to

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1 the Board shall be provided to all Board members within  
 2 one business day. The DNFSB staff is requested to affirm  
 3 to the Board by July 13, 2015, that the necessary changes  
 4 to staff procedures have been made.  
 5 So, having read it, let me talk about it. The  
 6 -- as I was alluding to this morning, we have these staff  
 7 issue reports, and then they come to us, and then it's  
 8 typically at least three to four weeks, based on our  
 9 process, before we can act on them and send them over.  
 10 And, so, this as written would require that at the same  
 11 time we receive these reports we would give a draft copy  
 12 to our department representative so that they would have  
 13 it to do what they might want to do with it within the  
 14 Forestall Building. I imagine they might want to send it  
 15 to the people who might be impacted, just give an  
 16 opportunity for them to provide necessary information up  
 17 through their chain to program secretarial officers.  
 18 For purposes of the public, again, the staff  
 19 issue report is typically anywhere from two to ten  
 20 pages long. They're technical in nature; they do  
 21 analysis  
 22 of a particular issue within the -- the staff does, and  
 23 they -- and they write a technical report.  
 24 And the reason why I'm submitting this is  
 25 because I've received feedback from folks at the senior

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1 places in the Forestall Building that says, look, when we  
 2 approve these things, after a quick classification  
 3 review, they -- they go to the -- they go out and into  
 4 the press and to the public, and it's very quick from the  
 5 time we approve it. And, so, a technical report then  
 6 lands in the public eye that they've never seen.  
 7 Now, I know our staff generally outbriefs when  
 8 they do a review at a site, which would lead them to  
 9 write such a report. Sometimes these reviews actually  
 10 happen within the Forestall Building itself. It might be  
 11 looking at a program run out of the Forestall Building.  
 12 But in any event, the difference between what  
 13 the staff may say and what they may hear at an outbrief  
 14 is a little bit different than written words, which are  
 15 going to come out, and then get into the public domain  
 16 and be read by members of the public, members of the  
 17 press, members on Capital Hill, et cetera.  
 18 And, so, the point of this proposal is pretty  
 19 simple. It's just to give the people in the Department  
 20 of Energy a couple of weeks to review and staff  
 21 themselves what this report is actually going to say  
 22 before it becomes public. These are papers that are  
 23 intended to become public. The staff submits them to us  
 24 intending them to become public. And, so -- so, they  
 25 would just simply have some additional time to know

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1 what's going to be in this technical report before it  
 2 comes out.  
 3 It's very similar to what is actually mandated  
 4 by statute with our recommendation, although that  
 5 actually is a process that's much more detailed. I was  
 6 trying to not make this detailed. I was trying to not  
 7 make this where it would make our process necessarily  
 8 take even longer. It's just -- this is simple. We give  
 9 it to the department representative's office. We don't  
 10 even ask them to give us feedback. If they have  
 11 feedback, okay, it'll come to Board members and we'll --  
 12 we'll figure out what to do with it, if we get some.  
 13 So, that's it. That's my explanation of it. I  
 14 think it is a simple -- a relatively simple thing, and I  
 15 invite other comments from the other Board members.  
 16 MS. ROBERSON: Did you want to go ahead, Mr.  
 17 Santos?  
 18 MR. SANTOS: Yeah. So, to clarify, it's just  
 19 to provide an advance copy. There's no expectation on --  
 20 again, I'm just repeating your words -- receiving any  
 21 feedback or expecting any Board action based on whatever  
 22 feedback, if anything, we get from -- from DOE. It's  
 23 just simply that they get a copy in parallel as we get it  
 24 and then we are deliberating on it.  
 25 MR. SULLIVAN: Right.

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1 MR. SANTOS: It's just an advance draft copy  
 2 basically?  
 3 MR. SULLIVAN: Yes. I mean, here's the point.  
 4 If I receive another -- in another conversation with a  
 5 program secretarial officer at, you know, some sort of --  
 6 you know, some sort of complaint, if you will, as to,  
 7 hey, this thing just came out and I didn't even get a  
 8 chance to see it, my response will be, well, your  
 9 department representative had it a couple of weeks ago.  
 10 So, you know, beyond that, I can't control what  
 11 they do with it, what the Department of Energy might do  
 12 with this, what the department representative will do  
 13 with it. The part about comments is simply that anytime  
 14 you give somebody something they may comment or they may  
 15 want to comment. So, if they say I have a comment, the  
 16 question is for our staff, what do they do with it. So,  
 17 I just wrote down, okay, staff doesn't necessarily need  
 18 to do anything with it, other than send it to us. If  
 19 staff wants to do something with it, this procedure  
 20 wouldn't preclude it.  
 21 So, the whole comment thing, in my view, was --  
 22 was not to solicit comments from the Department of Energy  
 23 or anything. It was simply recognize that just as we are  
 24 independent from them, they are independent from us. So,  
 25 if they decide they want to say something, they go back

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1 to the staff member and say, well, we have these  
 2 comments. What does our staff member do with that?  
 3 Well, if the staff wants to have their own process to,  
 4 you know, to do something with those, this doesn't  
 5 preclude that. It just says, here's the only -- here's  
 6 the only thing that we say you really do need to do, send  
 7 it to us.  
 8 What would we do with it? We would decide that  
 9 on a case-by-case basis, and again, I think it would take  
 10 a majority of the Board to make any decision. So, I'm  
 11 not particularly worried about that. You know, if we get  
 12 something, we have procedures where we could do something  
 13 if a majority of the Board wanted to.  
 14 MR. SANTOS: My follow-on comment would be, so,  
 15 early this morning we saw the results of your  
 16 nonscientific study, where you expressed the concern that  
 17 our processes may take, you know, too long. Do you  
 18 envision this could have an unintended consequence of --  
 19 at the staff level of adding even more time?  
 20 MR. SULLIVAN: There's always could-be,  
 21 unintended consequences. So, anything is possible. I'm  
 22 not sure why it would, as I'm sitting here answering you.  
 23 But I'm sure somebody could later say that it is, but  
 24 it's certainly not my intention. If anything, I would  
 25 like to speed things up. All this would require them to

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1 do is give it to the department representative, generally  
 2 speaking, a couple of weeks prior to the time it's going  
 3 to become public anyway.  
 4 MR. SANTOS: Thank you. No further question --  
 5 comments.  
 6 MS. ROBERSON: Well, I don't know if my -- if I  
 7 have questions or comments. My -- obviously, one of my  
 8 concerns here is what's in -- what's a Board product  
 9 versus a staff product. By definition, we're talking  
 10 about an issue paper, which is something the Board is --  
 11 this Board is going to own it. The Board's going to  
 12 shape it. And the question we talked about earlier this  
 13 morning, what are our transparency obligations.  
 14 I like the process Congress imposed on us for  
 15 recommendations. I don't know if we can mimic that for  
 16 this, but I would prefer, to take your phrase, a little  
 17 more structure. And I'd also -- one of my concerns is I  
 18 want -- I would like to see the staff products from the  
 19 staff, because I think that's the only way I can judge.  
 20 It's not that I don't take input from all kinds of  
 21 sources, but I would like to see the staff product kind  
 22 of raw. I mean, that's just my preference.  
 23 Yes?  
 24 MR. SANTOS: Is your concern because today we  
 25 get raw -- raw staff product. Is your concern that if we

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1 now provide this to the department reps and they very  
2 quickly come back to the staff with feedback, that that,  
3 then, is going to actually shape, influence the raw  
4 product?

5 MS. ROBERSON: That could be a concern. It's  
6 the same thing Mr. Sullivan just said, anything could  
7 happen. But my primary concern is by definition -- I  
8 mean, if we were talking info papers and trip reports, I  
9 would feel differently, but by definition, it's an issue  
10 paper. And by our own structure, the Board is going to  
11 act on whatever that is. And, so, that -- where is this?  
12 I don't know that we can just say, staff, go do this.  
13 I'm not comfortable with that.

14 Do you understand what I'm saying?

15 MR. SANTOS: Yes, because by the time Mr.  
16 Sullivan is proposing it's a staff draft product that the  
17 Board has not shaped yet.

18 MS. ROBERSON: Right. That's right.

19 MR. SANTOS: Have it being a staff -- having it  
20 being a Board product, your concern --

21 MS. ROBERSON: Yeah.

22 MR. SANTOS: -- may go away.

23 MS. ROBERSON: Yeah. That's -- and there are  
24 other issues with that, as Mr. Sullivan pointed out  
25 earlier. And I just need to better understand that. For

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1 me --

2 MR. SANTOS: Okay.

3 MS. ROBERSON: -- that's an important element.

4 MR. SANTOS: Will there -- will there be a way  
5 to provide and -- and I don't know who can answer this,  
6 but probably legal, to provide a -- the Board product  
7 with heads-up time for DOE prior -- before releasing it  
8 to the public?

9 MS. ROBERSON: That's the question. I mean --

10 MR. SANTOS: And we do that.

11 MS. ROBERSON: -- that's the question. And I  
12 don't know that we have --

13 MR. SANTOS: Because I think that will satisfy  
14 Mr. Sullivan's point of heads-up --

15 MS. ROBERSON: Mm-hmm.

16 MR. SANTOS: -- and your point of Board  
17 product. But I just don't know if that's something that  
18 can be done.

19 MR. SULLIVAN: So --

20 MR. SANTOS: I'm just -- yeah.

21 MS. ROBERSON: Mm-hmm. No, it's the right  
22 point.

23 MR. SULLIVAN: Okay, so, I understand we're  
24 asking a question, and we're asking it of legal, but  
25 nobody expects the legal officer to start telling us our

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1 legal obligations here in public.

2 MS. ROBERSON: Right.

3 MR. SULLIVAN: Is that -- is that true?

4 MR. SANTOS: That's right.

5 MS. ROBERSON: Right.

6 MR. SANTOS: I just want to confirm -- let  
7 me -- let me ask the General Counsel, is this the type of  
8 questions that you will be -- that you will answer?

9 MR. BATHERSON: Not here.

10 MR. SANTOS: Not here, no, no, no.

11 MR. BATHERSON: I would prefer, yes.

12 MR. SANTOS: Sure.

13 MR. BATHERSON: These are the sorts of  
14 questions.

15 MR. SANTOS: Okay.

16 MR. BATHERSON: And if you -- if you would,  
17 there's been discussion back and forth. You need to  
18 clearly articulate the question so that we have it and we  
19 can go back -- go back to it.

20 MR. SANTOS: The question is can the Board  
21 release a product to DOE prior to -- with some type --  
22 prior to releasing it to the public, you know, give some  
23 time between the moment it was released to DOE and the  
24 moment it got actually published.

25 MR. SULLIVAN: Well, let me point a little bit

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1 more clarity on that, if I can.

2 MR. SANTOS: Thank you.

3 MR. SULLIVAN: All right. So, I mean, my -- my  
4 thought in doing this was it would nominally be at least  
5 three weeks and that the department representative would  
6 have three weeks to do whatever the department  
7 representative can do given the department  
8 representative's authorities and their own -- its own  
9 procedures, et cetera.

10 So, I think the question is once we deem  
11 something to be a Board product, can we then -- can we  
12 then give Department of Energy three weeks to look at it  
13 before it will become public. Is that the question?

14 MR. SANTOS: I think that's -- yes.

15 MR. BATHERSON: And no other -- no other  
16 communication back from the Department on that?

17 MS. ROBERSON: I think that's the question. I  
18 think we can shape it in writing to make sure legal  
19 answers the right question. All the Board members can --  
20 MR. BATHERSON: Yeah, because it's -- I get the  
21 question. Are there nuances to that question that aren't  
22 being articulated here?

23 MS. ROBERSON: I'm not articulating a nuance.

24 MR. SANTOS: No. And to your second question,  
25 I think Mr. Sullivan made clear that there's no

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1 expectations from DOE once they receive that information.  
 2 Is that correct, Mr. Sullivan?  
 3 MR. SULLIVAN: We're not -- yeah. Let me  
 4 caveat --  
 5 MR. SANTOS: Yeah, go ahead.  
 6 MR. SULLIVAN: -- in my reply. I wasn't --  
 7 we're not formally soliciting any feedback.  
 8 Nevertheless, the real world says we're going to get  
 9 some. So, I would expect there will be feedback.  
 10 MR. SANTOS: That's different.  
 11 MR. SULLIVAN: Well --  
 12 MR. BATHERSON: That's why I asked.  
 13 MR. SANTOS: Yeah.  
 14 MR. SULLIVAN: -- yeah, so, I mean, I just -- I  
 15 mean, that's just the real world, right? You give  
 16 anybody a draft copy of something, they're likely to say  
 17 something.  
 18 MR. SANTOS: Yeah.  
 19 MR. SULLIVAN: You know, then the question  
 20 becomes, well, what do we do with what they say? So, how  
 21 does that shape this legal question that we're asking?  
 22 Do we need to decide that now? I don't think we do. I  
 23 sense that we've got a motion to table coming here.  
 24 MS. ROBERSON: Yes.  
 25 MR. SULLIVAN: So that we can go and answer

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1 some legal questions, which is okay. And I guess I'm not  
 2 sure that we actually need to further refine. I know  
 3 that you want the question -- the legal question further  
 4 refined. I'm just not sure we need to do that publicly  
 5 either.  
 6 MR. BATHERSON: And, so --  
 7 MR. SANTOS: Sorry to interrupt. To the point  
 8 that the issues could be appropriately decoupled, the  
 9 better for me, because we can't really envision all the  
 10 combinations that could -- could happen in the real  
 11 world. That's all.  
 12 MS. ROBERSON: Okay.  
 13 MR. SULLIVAN: Well, the longer we sit here,  
 14 the more nuances we're going to get.  
 15 MS. ROBERSON: Yeah. So, I'm actually going to  
 16 make a motion to table and seek some counsel from legal  
 17 on the question or questions that we have put on the  
 18 table.  
 19 MR. BATHERSON: Understand.  
 20 MR. SULLIVAN: So -- yeah, I'll second it.  
 21 MR. BATHERSON: Okay, we have a second for the  
 22 motion. We can go ahead and vote on the motion.  
 23 Mr. Sullivan?  
 24 MR. SULLIVAN: Yes.  
 25 MR. BATHERSON: Mr. Santos?

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1 MR. SANTOS: Yes.  
 2 MR. BATHERSON: Ms. Roberson?  
 3 MS. ROBERSON: Yes.  
 4 MR. BATHERSON: The question -- the issue is  
 5 tabled, and we will --  
 6 MR. SULLIVAN: We're done.  
 7 MR. BATHERSON: Hold on, on the table, let me  
 8 just get it for the record here, 2015-102, request for  
 9 Board action by Board Member Mr. Sullivan, revise  
 10 applicable staff procedures governing staff issue papers  
 11 has been tabled.  
 12 We'll move on to the next agenda item.  
 13 MS. ROBERSON: The third item, the third  
 14 request for action is 2015-099, request for Board action  
 15 by Board Member Daniel J. Santos, incorporate the legal  
 16 opinion of DOJ OLC into a Board policy.  
 17 MR. SANTOS: I will ask the General Counsel to  
 18 read it first.  
 19 MS. ROBERSON: All right.  
 20 MR. BATHERSON: Request for Board Action 2015-  
 21 099, made by Board Member Daniel Santos, incorporate the  
 22 legal opinion of DOJ OLC. The purpose of this request is  
 23 for action to gather additional information to support  
 24 the development of a Board policy to incorporate the  
 25 legal opinion rendered by the Department of Justice

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1 Office of Legal Counsel dated May 21, 2015.  
 2 The DNFSB office directors, in consultation  
 3 with the DNFSB General Counsel, are requested to apply  
 4 reasoning associated with the legal opinion rendered by  
 5 the Department of Justice to generate and provide a list  
 6 of all types of information currently not available to  
 7 all Board members. The DNFSB staff is requested to  
 8 provide this information to all Board members by July 31,  
 9 2015. Once the list is provided to the Board members,  
 10 the intention is to have one or more Board member develop  
 11 a draft policy and submit such policy for Board approval.  
 12 That's the end of the request.  
 13 MR. SANTOS: Are there any questions from  
 14 fellow Board members?  
 15 MS. ROBERSON: I don't have any questions.  
 16 MR. SULLIVAN: I don't have any questions and I  
 17 support the action.  
 18 MR. BATHERSON: All right, are we ready to take  
 19 a vote on the action?  
 20 All right, Mr. Sullivan?  
 21 MR. SULLIVAN: Yes.  
 22 MR. BATHERSON: Mr. Santos?  
 23 MR. SANTOS: Yes.  
 24 MR. BATHERSON: Ms. Roberson?  
 25 MS. ROBERSON: Yes.

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1 MR. BATHERSON: All right, the request for  
 2 Board action by Mr. Santos 2015-099 is approved, and we  
 3 can move on to the next agenda item.  
 4 MS. ROBERSON: The fourth proposed action is  
 5 2015-101, request for Board action by Board Member Sean  
 6 Sullivan, revise Board policies and staff procedures  
 7 regarding the drafting of recommendations.  
 8 MR. BATHERSON: And, Ms. Roberson -- or, I'm  
 9 sorry, Mr. Sullivan?  
 10 MR. SULLIVAN: Again, I can read it. The  
 11 specific request is in three subparagraphs that were all  
 12 intended to be voted on as one.  
 13 The first paragraph, request to create or  
 14 revise applicable Board policies to require the Board  
 15 affirmatively act to authorize the staff to proceed  
 16 beyond the creation of an outline in the drafting of a  
 17 recommendation to the Secretary of Energy. The  
 18 affirmative act shall be a vote of the Board and may be  
 19 made by notational vote or during a meeting or portion  
 20 thereof that is closed to the public in accordance with  
 21 10 CFR 1704.4(c). Prior to voting, the Board shall  
 22 receive from the Technical Director an outline of the  
 23 recommendation to be drafted. The outline need not  
 24 exceed one page.  
 25 Subparagraph two, request or direct the DNFSB

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1 staff to revise applicable staff procedures covering the  
 2 drafting of a recommendation to the Secretary of Energy.  
 3 The revision shall require an affirmative act of the  
 4 Board as discussed above.  
 5 Subparagraph three, the DNFSB staff is  
 6 requested to affirm to the Board by July 13, 2015, that  
 7 the necessary changes to the staff procedures have been  
 8 made.  
 9 Any questions before I talk about it?  
 10 MS. ROBERSON: No, I don't have any questions  
 11 before you talk about it.  
 12 MR. SULLIVAN: Okay, so the first thing I'd  
 13 like to say is I have received some feedback from the  
 14 staff that says that they think the date in subparagraph  
 15 three is a bit aggressive, and I think the date I was  
 16 provided that would be better was August 19th, if I have  
 17 that right, so I'd seek a friendly amendment from the  
 18 Board -- my fellow Board members to just go ahead and  
 19 revise subparagraph three to change the date in there  
 20 from July 13th to August 19th.  
 21 Do I have agreement?  
 22 MR. BATHERSON: Madam Chairman?  
 23 MR. SANTOS: I second that.  
 24 MR. BATHERSON: Madam Chairman?  
 25 MR. SULLIVAN: Okay, I'm not hearing any

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1 objection, so --  
 2 MS. ROBERSON: Well, I'm not objecting. I  
 3 mean, I do have a proposed amendment, but I'm not  
 4 objecting to changing the date.  
 5 MR. SANTOS: Can we vote one at a time?  
 6 MS. ROBERSON: Yeah.  
 7 MR. BATHERSON: Okay, so, do we have any  
 8 objections to a friendly amendment to the date?  
 9 MS. ROBERSON: No, no, no. He's got the floor,  
 10 right?  
 11 MR. SULLIVAN: Right, but I was proposing a  
 12 friendly amendment, and so --  
 13 MS. ROBERSON: Oh, it's a friendly --  
 14 MR. SULLIVAN: -- I think that's done,  
 15 basically without -- you know, if there's no objection,  
 16 then we can all consider the date to be August 19th  
 17 instead of July 13th, as written.  
 18 MR. SANTOS: No objection.  
 19 MS. ROBERSON: No objection to Mr. Sullivan  
 20 amending his own.  
 21 MR. SULLIVAN: Okay.  
 22 MR. BATHERSON: Great.  
 23 MR. SULLIVAN: So, now to the substance of the  
 24 -- of what I'm requesting is I go back to last year, we  
 25 did write a recommendation on emergency preparedness. I

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1 think the recommendation -- it began in earnest shortly  
 2 after the accident at WIPP, Waste Isolation and Power  
 3 Plant. And the -- which occurred -- there's actually two  
 4 separate accidents in February -- February 5th and 14th,  
 5 2014, if memory serves me correctly.  
 6 And I think the -- the Board members at the  
 7 time all -- even prior to those accidents felt that  
 8 emergency preparedness was a problem generally in the  
 9 Department of Energy, and we were contemplating whether  
 10 or not we thought a recommendation should be needed. And  
 11 then having actually had an accident, which -- where  
 12 there were some issues by the Department in responding,  
 13 felt that, okay, we really need to have one.  
 14 Nevertheless, we didn't have something, and, again, by  
 15 statute, we -- we now sent a draft over to the Secretary,  
 16 and if memory serves me correctly, we did that in June.  
 17 So, the point of all that lead-in was that that  
 18 was a long time. And it was a considerable amount of  
 19 effort from the staff to produce that. They ultimately  
 20 produced something which -- which is about 60-some-odd  
 21 pages in total. So, it was a lot of work. The staff put  
 22 in a lot of good work to come up with that  
 23 recommendation. But we didn't -- we never acted on it as  
 24 a Board until months had gone by, and we got the 60-some-  
 25 odd-page document.

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1 And, so, the purpose of this is just to throw  
 2 in some sort of check early on where the Board would  
 3 affirmatively say, yes, go do this, to the staff. Under  
 4 our current procedures, this isn't necessary, so we can  
 5 get into the scenario where the staff will, for their own  
 6 reasons, and they may be very good reasons, decide to  
 7 invest all of this time -- staff time and staff effort --  
 8 producing something, which even if it's a good product,  
 9 if the Board at that point, at the end of all that staff  
 10 work were to decide either, no, this is not an issue of  
 11 adequate protection or, two, it is but maybe you didn't  
 12 have the right factors in it, whatever the Board might  
 13 decide, the potential exists that we have exerted an  
 14 awful lot of staff time without the Board ever weighing  
 15 in on the topic and potentially making all of that staff  
 16 time -- or much of it -- have been wasted or time that  
 17 could have been spent on something else if we told them  
 18 early on, no, don't -- don't go do that or do it  
 19 differently.  
 20 So, I see this -- and this is the intention  
 21 with which I've presented this -- it's just a very simple  
 22 thing, which would say, staff, just bring the issue to us  
 23 as soon as you think you have an issue that is an issue  
 24 of adequate protection. Bring it to us and the Board  
 25 must act on it. It allows us to act in any -- any of the

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1 ways that we might act as a board. So, it doesn't  
 2 necessarily need to slow us down by something where we'd  
 3 have to go put notice -- Federal Register notices and --  
 4 and go through the time requirements to -- to have a --  
 5 an actual meeting.  
 6 So, I see this as a relatively simply proposal,  
 7 and I encourage you to accept it as such.  
 8 MS. ROBERSON: So, I'd like to propose a  
 9 friendly amendment. Can I do that? Because -- no, if  
 10 you want to say something else before I do it.  
 11 MR. SANTOS: Just one clarifying question.  
 12 MS. ROBERSON: No, please.  
 13 MR. SANTOS: Is the intent for -- is the staff  
 14 the only one that can create such an outline, or can  
 15 Board members also work or create or, you know, the same  
 16 thing, the outline?  
 17 MR. SULLIVAN: So, my favorite answer,  
 18 anything's possible. So, if this is adopted as written,  
 19 the staff would have to give us something that they  
 20 propose. Nothing would prevent us from using our  
 21 existing procedures to revise the outline that they give  
 22 us.  
 23 MR. SANTOS: Thank you.  
 24 MS. ROBERSON: So, now can I explain myself?  
 25 MR. BATHERSON: So, your -- a friendly

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1 amendment?  
 2 MS. ROBERSON: I'd like to make a friendly  
 3 amendment, but let me -- I mean, I think it's a good  
 4 recommendation, I do. I think this is a good  
 5 recommendation. My proposed friendly amendment is more  
 6 for structure than -- at least maybe it makes me  
 7 comfortable, it doesn't mean anything to the others.  
 8 But my amendment is to keep Mr. Sullivan's  
 9 number one, which is the essence of what he's proposing,  
 10 and I propose to modify its steps. And I'll read those,  
 11 and then I can hand you my notes, that after Mr.  
 12 Sullivan's original one that we had a second that says  
 13 "The staff proposes an outline that specifically  
 14 incorporates the basis of an adequate protection gap.  
 15 The staff shall request unanimous consent from all Board  
 16 members on that outline. This consent is affirmation  
 17 that each Board member will receive through the outline,  
 18 regardless to the recommendation, the type of information  
 19 they require to actually register a vote to direct the  
 20 staff to produce or not to produce a proposed  
 21 recommendation consistent with the Board member statutory  
 22 duties."  
 23 I would recommend that this outline receive  
 24 unanimous consent by July 13th. So, is that -- is that  
 25 first -- let me just read the whole thing, and then

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1 people can ask me questions.  
 2 And then the second step would be, The staff  
 3 and the Board should revise their respective procedures  
 4 to incorporate the consensus process, and this step  
 5 should be completed no later than 45 days from the date  
 6 that unanimous consent on the outline is provided, or it  
 7 could be the same date Mr. Sullivan has changed his  
 8 overall action to, August 13th. Either one.  
 9 So, questions from me on the friendly  
 10 amendment?  
 11 MR. SULLIVAN: Yes. Yes, if I may. So, let's  
 12 just -- let's go -- to be clear here, so my -- my  
 13 paragraph one -- subparagraph one we're keeping? Okay.  
 14 My subparagraph two would go away and be  
 15 replaced with your --  
 16 MS. ROBERSON: That's what I'm proposing.  
 17 MR. SULLIVAN: -- what you're proposing?  
 18 MS. ROBERSON: Right.  
 19 MR. SULLIVAN: Okay. What about my paragraph  
 20 three, does that go away, too?  
 21 MS. ROBERSON: That -- yeah, I just restated  
 22 it. It doesn't change the outcome, but, yes, I would  
 23 propose a replacement, simply because of the date,  
 24 nothing more. If Board members don't like my date, then  
 25 it doesn't go away.

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1 MR. SULLIVAN: Okay. So, if I understand what  
2 now becomes -- would become paragraph two under your  
3 friendly amendment, the -- the staff is supposed to  
4 propose an outline that incorporates the basis of an  
5 adequate protection gap, but you want them to do that by  
6 July 13th of this year?

7 MS. ROBERSON: Yes.

8 MR. SULLIVAN: We're talking about a -- my  
9 outline was dealing with an outline of a proposed  
10 recommendation which doesn't exist at the moment, so I'm  
11 not sure what they're supposed to do by July 13th of this  
12 year.

13 MS. ROBERSON: So, my -- it's really aimed at  
14 more structure. My outline is a proposed outline, no  
15 matter what the recommendation is, so that each Board  
16 member can actually be informed when they asked about --  
17 so, for instance, I may require a different piece of --  
18 you know, a different type of information that you might  
19 need to make a decision. And if we want the staff to do  
20 this and we want to be efficient in doing it, we need to  
21 make sure very Board member is going to get the  
22 information they need in that early document.

23 MR. SANTOS: May I make a suggestion to your  
24 friendly amendment, to say the staff will propose an  
25 outline structure, because that's what we're talking

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1 about, you know, these are the sections of an outline  
2 that will get filled up with the necessary information  
3 when a future recommendation is being worked on. Just to  
4 make it more clear.

5 MR. SULLIVAN: Well -- okay. If we want  
6 suggestions on top of friendly amendments on top of  
7 amendments --

8 MR. SANTOS: Yeah.

9 MR. SULLIVAN: -- we're just going to get lost  
10 here. I mean, one of the beauties of a meeting is we  
11 have a record now of what we're talking about. So, as  
12 long as I think we make clear what our intent is on the  
13 record, then the words, while important, will probably  
14 not be as ambiguous as they might otherwise see later.

15 So, I just think that what I understand you're  
16 doing is I envisioned that they be giving us an outline  
17 on a case-by-case basis, whenever they thought they had  
18 an issue of adequate protection. And you're -- you want  
19 them now to march forth and create what is basically a  
20 standard outline that later, on a case-by-case basis,  
21 they'll have to fill in all those specific things and  
22 then send it back to us. Did I get that right?

23 MS. ROBERSON: You -- absolutely right.

24 MR. SULLIVAN: Okay. Do we -- do we want to  
25 then consider friendly amendment of the friendly

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1 amendment and change July 13th to August 19th? Do we  
2 want to do that?

3 MR. BATHERSON: You can do that.

4 MS. ROBERSON: I have no objection to doing  
5 that.

6 MR. SULLIVAN: Okay.

7 MR. BATHERSON: Mr. Santos?

8 MR. SANTOS: No objection.

9 MR. SULLIVAN: Okay. And then -- then, your  
10 final paragraph, Ms. Roberson, would say staff and the  
11 Board would revise their respective procedures to  
12 incorporate the consensus process. This step should be  
13 completed no later than 45 days from the date that  
14 unanimous consent on that outline. So, that's -- by  
15 August 19th, they're going to present us this standard  
16 format outline, and we're all going to consent to it.  
17 And then within 45 days after that, everybody's got to  
18 revise their procedures accordingly. Did I get that  
19 right?

20 MS. ROBERSON: Absolutely.

21 MR. SULLIVAN: Okay. And, so, my three goes  
22 away and replaced by this. Okay. I'm happy with all  
23 that. So, this was a friendly amendment?

24 MS. ROBERSON: It's a friendly amendment.

25 MR. SULLIVAN: I consent to your friendly

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1 amendment.

2 MR. BATHERSON: All right.

3 MR. SANTOS: Did my friendly amendment to your  
4 friendly amendment to add the word "structure" or  
5 "standard" --

6 MR. SULLIVAN: Where do you want to add it?

7 MR. SANTOS: In the first sentence, the staff  
8 proposes an outline structure.

9 MS. ROBERSON: I have no objection.

10 MR. BATHERSON: Mr. Sullivan?

11 MR. SULLIVAN: Neither do I.

12 MR. BATHERSON: Okay.

13 MR. SULLIVAN: We're setting a world record  
14 here on --

15 MS. ROBERSON: Friendly amendments.

16 MR. BATHERSON: Friendly amendments.

17 MR. SULLIVAN: -- friendly amendments.

18 MS. ROBERSON: We're the friendliest bunch.

19 MR. SULLIVAN: Okay.

20 MR. BATHERSON: Any further discussion on 2015-  
21 101?

22 Okay, I'm going to ask the Board to cast their  
23 votes on Document 2015-101, Request for Board action by  
24 Board Member Sullivan, as amended.

25 MR. SULLIVAN: Yes.

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1 MR. BATHERSON: Mr. Sullivan is a yes.  
 2 Mr. Santos?  
 3 MR. SANTOS: Yes.  
 4 MR. BATHERSON: Ms. Roberson?  
 5 MS. ROBERSON: Yes.  
 6 MR. BATHERSON: Okay, Document Request 2015-101  
 7 is approved, and I believe that completes the listed  
 8 agenda items.  
 9 MS. ROBERSON: Yeah. That does complete the  
 10 listed agenda items. I'll go around to the Board members  
 11 to see if they have any additional comment on those items  
 12 before we move to closing this session.  
 13 Mr. Sullivan?  
 14 MR. SULLIVAN: Well, thank you. So, I'll just  
 15 -- well, first of all, before we close the session, I  
 16 mean, I think you asked this morning for some additional  
 17 feedback.  
 18 MS. ROBERSON: Yes.  
 19 MR. SULLIVAN: So, perhaps we can get that  
 20 before we close the session. Secondly, so, I want to  
 21 reiterate, again, earlier today we heard one of our staff  
 22 members, one of our group leads stand up and say, you  
 23 know, some of this could be interpreted as, Board, you  
 24 don't trust the staff. And, so, I just want to reiterate  
 25 that that is not the case here. I am seeking to try to

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1 institute some changes that I think will just make us  
 2 more effective and more efficient and might also help us  
 3 work better with the Department of Energy. It's all  
 4 designed, in my view, anything we do would be to further  
 5 the mission of the agency.  
 6 So, again, I encourage that -- people to walk  
 7 through my open door or my virtually closed door, come  
 8 talk to me if you don't -- if you think that I am  
 9 indicating in any way that I don't trust the staff,  
 10 because that's not the case here. I do actually trust  
 11 them. I do actually value their input.  
 12 And as I mentioned earlier this morning, at the  
 13 very beginning of my day today here, here at 625 Indiana  
 14 Avenue, I had a discussion with the Technical Director  
 15 about a particular piece of -- of correspondence, which  
 16 is -- which the staff has been working on. And I was  
 17 only asking about it because I've seen a draft and I  
 18 think it's a good product.  
 19 And maybe I'm just -- you know, got trigger  
 20 finger. I'm ready to -- I'm ready to move on it, and why  
 21 -- why can't I. And it was in that sort of vein, not in  
 22 the vein of, hey, I don't trust you guys to do the right  
 23 thing. It's, hey, these are -- these are very important  
 24 issues that staff is working on. They're all doing very  
 25 good work. If we can do it more efficiently, more

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1 effective, get -- if it needs -- you know, if getting the  
 2 Board involved earlier would help, and I think it would  
 3 help, I think it would help from the standpoint of not  
 4 having the Board expend time and energy on something if  
 5 they don't have a majority of the Board that's going to  
 6 support it at the end anyway. So, hopefully, it's  
 7 received in that vein and not in the vein of lack of  
 8 trust. Thank you.  
 9 MS. ROBERSON: Thank you, Mr. Sullivan.  
 10 Mr. Santos, any comments?  
 11 MR. SANTOS: Not at this time.  
 12 MS. ROBERSON: So, I thank the Board members  
 13 and I thank all of you for enduring with us. We had good  
 14 discussion today. I think one of the things we spent  
 15 quite a bit of time on earlier that I just want to  
 16 reiterate is, you know, we went through some of the  
 17 reviews. Mr. Welch went through some of the reviews and  
 18 talked about the actions we're taking, and we take those  
 19 very serious.  
 20 And I think one of the things that I wanted to  
 21 reemphasize, we talked a lot about nonconcurrences and  
 22 DPO, and so I'm going to do another commercial, and that  
 23 is if -- if for any reason any of our employees believe  
 24 that we are overlooking a matter of adequate protection  
 25 and you don't feel you can get our attention, we do have

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1 an IG now, and I encourage you, you can do that  
 2 anonymously. I would never want one of our employees to  
 3 struggle with that kind of information, so we have many  
 4 levels and many opportunities to make sure the Board  
 5 understands your issue.  
 6 And I appreciate the work that the staff does.  
 7 I appreciate the work the Board does. And I thank our  
 8 office directors today and everybody that's attended.  
 9 So, having completed consideration of each of the  
 10 business items on the agenda today, I just want to thank  
 11 you again for your participation in this business  
 12 meeting.  
 13 MR. SULLIVAN: Point of order?  
 14 MS. ROBERSON: Yes.  
 15 MR. SULLIVAN: I think we've said we were --  
 16 didn't -- we were going to try and get some feedback.  
 17 Were we going to do that on the record?  
 18 MS. ROBERSON: Yes.  
 19 MR. SULLIVAN: Okay. Mr. Batherson, on that  
 20 list of items from earlier.  
 21 MR. BATHERSON: Yes. All right, so --  
 22 MS. ROBERSON: You should have stopped me  
 23 before I was on my roll.  
 24 MR. BATHERSON: So, we've got several policy  
 25 statements which suggest that we might need to either

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1 develop or revisit design construction review policy  
2 statement concerning DOE directives; Policy Statement 2,  
3 whether that needs to be repealed or revised; Policy  
4 Statement 5, whether we need to add something regarding  
5 risk assessment on non-tier-one items; legal restrictions  
6 on agency actions for FOIA, sending as staff products to  
7 DOE and a closed meeting issue regarding internal  
8 personnel or procedures relating to employee-type  
9 concerns.

10 And then Mr. Santos had a issue regarding  
11 reviewing the statute and comparing a line-by-line  
12 statute to maybe existing policies or policies we may  
13 need to develop. And, so, from my office's standpoint,  
14 we would need significant time to look at these. We're  
15 short-staffed now, so I can't give you -- I can't give  
16 you any precise data on how long this would take, but  
17 certainly we could -- we could prioritize these and start  
18 taking a look at them. But it would -- it would involve  
19 an effort, and -- but we're prepare to do that.

20 MR. SANTOS: One more for the record, and it's  
21 that if we're going to explore a tiered approach, tier  
22 one, tier two items, which is different from the staff's  
23 tiered approach, this is a Board-level tier approach to  
24 issues, and whatever policies or criteria we need to  
25 develop on that. I just want to be complete.

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1 MR. BATHERSON: Got it.

2 MS. ROBERSON: I'm sorry, go ahead.

3 MR. SULLIVAN: So, our legal is a small staff  
4 to begin with, and then, you know, one or two people go  
5 off and take a different job, then they -- then they  
6 really get short-staffed, so I understand that. So, I  
7 guess my first question would be of the list we have just  
8 gone through, eventually legal touches everything, but  
9 the -- you know, some -- some initial thoughts or some  
10 initial, you know, outlines, what would go in a -- for  
11 example, a policy statement on -- on review of design --  
12 new construction and design. I mean, I would think that  
13 might actually fall within the tech staff to give us the  
14 first cut --

15 MS. ROBERSON: Yes.

16 MR. SULLIVAN: -- at something.

17 MS. ROBERSON: He was hitting the microphone.

18 MR. SULLIVAN: And, again, not even a -- not  
19 even a smooth product. So, okay, so, I mean, there's a  
20 couple of those, you know, that, you know, we may want to  
21 go back through the list, that are strictly legal.

22 MR. BATHERSON: Correct.

23 MR. SULLIVAN: And as much as you might want  
24 help, you're not going to get it. But some of these  
25 others, I think, you know, some of the other -- some of

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1 our other departments here could be taking the lead on to  
2 provide something. And, again, I think at this point  
3 we're probably just talking about a plan for a plan.

4 MR. BATHERSON: Yeah, I mean, for purposes of  
5 completeness, I read through the entire list, but you're  
6 right, there are two items specifically -- actually,  
7 three -- directed at legal, and that's the restrictions  
8 on the FOIA matter, the closed meeting, and then review  
9 of the statute for Mr. Santos' issue. So, those three --  
10 I would prioritize those three likely as the restrictions  
11 on the agency action, FOIA, being the first one.  
12 Obviously, that's something that came -- staff reports  
13 versus Board, completed Board actions, so we can look at  
14 that first.

15 And then the closed meeting on the internal  
16 procedures, I would prioritize that as number two, just  
17 based on the fact that I anticipate we'll be having more  
18 of these closed meetings and following on the heels of  
19 the -- of the various surveys and viewpoint studies, so  
20 that would be something we'll be turning to next.

21 And then kind of -- kind of not a back-burner  
22 but an ongoing process to look at the statute, see what  
23 policies we have. I know we have already encountered in  
24 our mission statement from amendments the last go-around  
25 from Congress that there are some changes there which we

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1 could -- we've talked about that may warrant us looking  
2 at a new policy on, you know, how this advice and  
3 analysis is given to the Secretary. So, that's -- that's  
4 what I would give from our office.

5 MS. ROBERSON: Okay. And, Mr. Stokes?

6 MR. SULLIVAN: Just before we hear from the  
7 Technical Director, I want to say that for the record  
8 that I agree with that priority list. I just wanted to  
9 add for the record the first one, the FOIA one, I think  
10 we need that to act on the -- on the request for Board  
11 action that we tabled tonight. So, you know, in the  
12 interest of trying to get to that tabled action, I think  
13 we should try to look at that.

14 And the other one on -- on potentially closing  
15 a meeting to talk about internal issues and personnel  
16 issues, given the timing of the Federal employee  
17 viewpoint survey, you know, which the results don't come  
18 out until the fall, so that might be a good time to be,  
19 you know, trying to hitch those two together if we can so  
20 that when those results come out, if we decide we should  
21 do something in a closed session, we might be prepared to  
22 do it.

23 MS. ROBERSON: So, just so we close out here, I  
24 agree with that order, and I guess subject to any  
25 comments that Mr. Santos has, I think the Board's kind of

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1 asking legal to come back to the Board with kind of the  
 2 plan for the plan for those, with that priority.  
 3 MR. BATHERSON: Correct.  
 4 MS. ROBERSON: Okay.  
 5 MR. BATHERSON: Thank you.  
 6 MS. ROBERSON: Thank you.  
 7 MR. STOKES: Okay, so, I'll first talk to the  
 8 question about a policy statement for design and  
 9 construction. I'd add several comments. First, in  
 10 effect, we have a policy on -- for design and  
 11 construction in the form of the Congressionally mandated  
 12 report, the joint report from 2007. So, that -- that, by  
 13 and large, has formed the basis for how we've done design  
 14 and construction in -- for -- since 2007, as far as when  
 15 we do communications with the Department, along those  
 16 lines, which is a -- which is the policy question.  
 17 I'd like to point out, too, that from a  
 18 technical perspective there is very little that's unique  
 19 about design and construction reviews over any of the  
 20 other technical reviews that we do of systems,  
 21 structures, and components. So, it would be -- it might  
 22 not be a valuable exercise to form a policy statement  
 23 that attempts to prescribe what we would do from a  
 24 technical basis. Our generic procedures govern that  
 25 activity, in my opinion, quite well.

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1 The last thing that I would offer is that we  
 2 are currently, because of a previous Board action, at the  
 3 present time we are engaging with the Department of  
 4 Energy to revisit the practices, for lack of a better  
 5 term, policies that were enacted in 2007 to do a lessons  
 6 learned so that in view of that fact-finding there would  
 7 be essentially a desire at that time to be able to  
 8 reflect on those findings and then at which time there  
 9 may be sufficient rationale to be able to have the Board  
 10 move in the direction of a unique policy to replace or to  
 11 supplement what currently exists.  
 12 MS. ROBERSON: And the directives review?  
 13 MR. SULLIVAN: Do we want to talk about those  
 14 each individually? I mean, because -- okay.  
 15 So, okay, I agree with everything the Technical  
 16 Director just said. To take your last point first, I  
 17 know we're doing this review. A review is -- at this  
 18 point, it's open-ended. I mean, there's -- there's --  
 19 it's a blank slate. I know we're -- we're going to --  
 20 the Secretary hasn't even formally responded to our  
 21 letter. We -- we have indications that we'll get a  
 22 favorable response, something will happen, but exactly  
 23 what will happen or how long it will take, I don't know.  
 24 And that's okay. Maybe we'll know more when -- after  
 25 somebody meets with somebody at the staff level in order

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1 to decide what to do.  
 2 But to the point you made before that about the  
 3 -- what the technical staff does and their technical  
 4 reviews, I agree, and I don't think we would have  
 5 anything about a policy statement that would try to  
 6 redirect the technical nature of a review. But there is  
 7 a big difference, in my view, on design and construction  
 8 as opposed to review of operating facilities, and that is  
 9 that the design and construction isn't -- you know, if  
 10 there's a threat to the adequate protection of the public  
 11 health and safety, that threat will not manifest for some  
 12 time.  
 13 So, just from a timing perspective of, you  
 14 know, when are we looking at and what are we looking at,  
 15 should we -- I just, you know, suppose we were a  
 16 thousand-person agency, would we descend two or three  
 17 people continuously on a project that's stretching over  
 18 years, or would we try to take a huge group of a hundred  
 19 and try to go for a short period of time? I mean,  
 20 there's other -- there's other things from that  
 21 standpoint in terms of what makes the most sense and  
 22 what's the best utilization of our resources. And, in  
 23 any event, I think as a Board and as a Board policy that  
 24 sort of material probably should be fair game.  
 25 MR. SANTOS: I just want to add to that and

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1 react to the comment that there might not be anything  
 2 unique or different, but I think there is between an  
 3 existing facility and new construction, also when it  
 4 comes to items like the testing and commissioning  
 5 programs, the validation, and having worked with existing  
 6 facilities and new construction, those are very different  
 7 activities that require a different set of skills and  
 8 look at, so the approach is associated with a full  
 9 commissioning or testing program for a new construction  
 10 is way different than a -- than a normal facility. So, I  
 11 think there's room for additional things that could  
 12 warrant a Board policy to complement and augment what you  
 13 guys already -- are already doing.  
 14 MS. ROBERSON: Do you have any comment, Mr.  
 15 Stokes?  
 16 MR. STOKES: I've got a couple of comments.  
 17 First and not to -- not to belabor the point, the skill  
 18 set that we have at the Board is confined to the number  
 19 of people that we have here. Despite the -- the  
 20 potential differences in commissioning of a new facility  
 21 versus an existing facility, the resources that we use  
 22 are identical. So, it's a training and qualification  
 23 issue at that point versus a policy decision. The staff  
 24 that we have that perform those reviews do those reviews  
 25 consistent with existing DOE standards. So, if there is

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1 an -- if there is an issue in that regard, we also have  
 2 the ability to look at their directives and to develop  
 3 and resolve any potential gaps there, as well.  
 4 One other -- one other comment is to recognize  
 5 that in the design and construction activity we do have a  
 6 work plan. The Board approves the work plan. So, if  
 7 there is a matter of priorities on an annual basis, the  
 8 Board is already engaged in ensuring that the mixture of  
 9 priorities consistent with what our legislated mandates  
 10 are to review design and construction in a timely and  
 11 effective way, those are also reviewed by the Board  
 12 annually when they approve the work plan.  
 13 So, if you're -- and one other -- one other, I  
 14 think, substantive point to understand is, is that  
 15 delaying design and construction activities beyond a  
 16 point in time in a design process where fixes are easy  
 17 and inexpensive, that does have a -- that does have  
 18 somewhat of an expiration date on it, if you will, so  
 19 that the -- the moving of resources around with relative  
 20 priorities, also, and the Board is asked to make these  
 21 kinds of decisions when they look at the annual work  
 22 plan, is, is that -- is, is that they -- if you delay  
 23 certain things with regard to design and construction,  
 24 the opportunity to do those in a timely way goes with it.  
 25 And those -- those items are also reflected in

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1 the work that goes into the preparation of the work plan.  
 2 So, my point is, is that the Board already does have a  
 3 vehicle for being able to address the kinds of concerns  
 4 that Mr. Sullivan raised about the relative priority of  
 5 design and construction versus operating facilities, and  
 6 that's in the Board-approved work plan.  
 7 MS. ROBERSON: So -- and I want to recognize  
 8 everybody's comments, and I appreciate your comments,  
 9 too. And I think the -- a -- a Board policy -- the  
 10 benefit for a Board policy isn't necessarily by  
 11 definition intended to change what the staff does. That  
 12 would be the value that I see. To me, the value is  
 13 something where the Board members can find some alignment  
 14 on what they're after, which could be helpful to the  
 15 staff. So, I don't see it as dipping necessarily --  
 16 MR. STOKES: And I wasn't --  
 17 MS. ROBERSON: I know. I know.  
 18 MR. STOKES: -- framing -- that's not my  
 19 intent.  
 20 MS. ROBERSON: I know.  
 21 MR. STOKES: It's to -- at this stage, it's to  
 22 inform the Board that if we -- we essentially may already  
 23 have existing policies that -- and if we -- if the Board  
 24 so chooses to consolidate those into a distinct policy,  
 25 it would then manifest itself by changes to a variety of

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1 other things, so there's -- there is that aspect of it.  
 2 And then to my final point, which is when could  
 3 we do this, it would take a considerable amount of  
 4 planning and staff work to be able to provide an adequate  
 5 schedule, both since we have not been able to respond to  
 6 the Department's -- you know, we haven't received the  
 7 Department's response --  
 8 MS. ROBERSON: Right.  
 9 MR. STOKES: -- on the previous letter. So, at  
 10 this point in time, I could not do anything more than  
 11 provide a plan for a plan.  
 12 MS. ROBERSON: Mr. Sullivan?  
 13 MR. SULLIVAN: Well, so, I'd like to suggest  
 14 that after there is some initial meeting of somebody from  
 15 our staff with somebody from the Department of Energy  
 16 staff, which I think they'll be talking at a very high  
 17 level about what to do in response to the letter that we  
 18 sent out, but I guess if ultimately we're going to have  
 19 some staff members trying to look at the issues that were  
 20 raised in that letter, which was really, you know, is  
 21 there a way we could be more efficient for both of us,  
 22 you know, what are our agency -- you know, what's our  
 23 agency opinion about what's our most efficient and  
 24 effective way.  
 25 And, so, again, I think that is a -- you know,

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1 we are the agency. It's the -- at the moment, it's the  
 2 three of us sitting here. So, yeah, I think we should --  
 3 I'd like to hear something after the initial meeting, and  
 4 then that might lead to something where we could try to  
 5 come up with a format for us to create something that  
 6 might again provide some guidance if we're going to go  
 7 forward with the Department of Energy, what is it that we  
 8 -- we are trying to achieve. We're at the highest  
 9 possible level in that one letter we sent to the  
 10 Secretary, so we may need more.  
 11 MS. ROBERSON: Mr. Santos?  
 12 MR. SANTOS: Yeah. I just want to be careful  
 13 on the terminology because you mentioned we already have  
 14 policies. I think you referred to the staff --  
 15 MR. STOKES: No. No.  
 16 MR. SANTOS: -- because the Board policies were  
 17 described this morning --  
 18 MR. STOKES: We have a document that is in  
 19 effect, and that's the clarification, a Board policy.  
 20 There was a joint report to Congress that was signed by  
 21 the Department of Energy --  
 22 MS. ROBERSON: Right.  
 23 MR. STOKES: -- and the Board in 2007 that  
 24 describes what the Board and Department agree to as far  
 25 as integrating safety early into the design of new

1 construction projects. It prescribes in there the same  
2 kinds of activities that one would logically have put  
3 into a policy regarding, for example, we shall provide  
4 early communications, which provide staff-to-staff  
5 discussions in an attempt to resolve issues soon. We  
6 will provide project letters, and we actually have  
7 incorporated that into our performance plan, and we track  
8 that, and we work -- we work to those, and that manifests  
9 itself into items in the work plan.

10 So, there is a document, and it's been in place  
11 since 2007, that, in effect, does have policy  
12 implications, ergo, I call it a -- you know, a policy-  
13 statement-like document that does that. And -- and  
14 that's what we are attempting to revisit to see if it is  
15 still as effective as it -- as it was determined to be in  
16 2007.

17 MR. SANTOS: So, maybe it's just a matter of  
18 format and organization as we go through our revised  
19 structure for procedures and policy. What -- what else  
20 is out there that is considered a policy-like item but we  
21 actually don't call it a -- a policy? Anyhow.

22 MS. ROBERSON: So -- well, I was just going to  
23 say I -- I think our best approach is kind of what Mr.  
24 Sullivan laid out. We ought to see what we and the  
25 Department have learned and think we might do differently

1 and use that as a jumping off point to decide if we need  
2 to do something more. That would be my opinion.

3 MR. SULLIVAN: Yeah, I agree. I think I've  
4 heard a lot here, and it all actually sounds more like  
5 agreement to me than -- than not. But, again, it's  
6 actually pretty simple. I think as the Technical  
7 Director said, if we had this -- you know, we had this  
8 2007 document and if we weren't even thinking about  
9 potentially changing anything, well, then, it would be  
10 pretty simple. We would take that document, translate it  
11 somehow into something that's a Board policy statement,  
12 and we're done.

13 But we also have a Board-approved letter. All  
14 right, so, the Board has already gone on record as  
15 saying, well, Mr. Secretary, maybe we should look at this  
16 with you to see if we can't even improve upon a process  
17 that is now eight years old. And, so, we're talking  
18 about potential changes. Now, the realm of change is  
19 anything, including nothing. And, so, that's fine, but,  
20 you know, what -- what is it we think, if anything,  
21 should be some sort of starting point. That's -- I think  
22 that's the question we're ultimately trying to figure out  
23 how we might get to as a -- as an agency, as a Board.

24 MR. SANTOS: I think your proposal, just me  
25 speaking, is reasonable. Use the letter and the dialogue

1 as the starting point.

2 MS. ROBERSON: And then the second item, Steve,  
3 you don't --

4 MR. STOKES: The directives.

5 MS. ROBERSON: The directives. If you're  
6 prepared; if you don't have anything.

7 MR. STOKES: Yeah, we've -- the -- if I  
8 understand correctly, one of the things that we're --  
9 we're looking at a number of things in directives. In a  
10 short discussion in between sessions, I think there's a  
11 couple of things that need to be brought to bear. Number  
12 one is we currently have quite a few comments. The  
13 revising of the concurrence process is only one of many  
14 things that we have to do. Our current process is to --  
15 is that is not the number one priority currently. If we  
16 change the number one -- that to the number one priority,  
17 it will have a cascading effect into all of the other  
18 things that we're currently working on which require us  
19 to reprioritize.

20 I'm not prepared at this point in time to say  
21 what that priority would be and where everything would  
22 sort itself out to, because we've -- in our database that  
23 I mentioned earlier, we currently have 134 comments.  
24 Roughly 20 percent deal with some aspect of the  
25 concurrence process. The concurrence process is embedded

1 in numerous different internal controls that we currently  
2 have. So, what will be required is a completely  
3 different relook at what we would -- what we have  
4 planned, and that will have a fairly significant  
5 cascading effect through not only the existing procedures  
6 as well as the ones we're currently trying to produce.

7 The plan that we put together was done to  
8 optimize getting as many of the phase two directives out  
9 with the least amount of effort and then tackling the --  
10 revising the tier one documents, and then embedded in  
11 that is the stuff with the concurrence process. So, it's  
12 -- in the short time that we've had to evaluate it, we  
13 just can't -- I cannot give you a definitive description  
14 of what that will involve, nor how much time it will  
15 take.

16 MS. ROBERSON: Board members, comments?

17 MR. SULLIVAN: So, can we get a plan for a  
18 plan?

19 MS. ROBERSON: So, my proposal would be I think  
20 it's -- you sensitized this well. Obviously, this is  
21 veins running through a lot of internal control  
22 procedures. I guess my recommendation would be that the  
23 Board discuss the prioritization of this effort during  
24 the work planning process and whether we -- how we want  
25 to prioritize it or not. You guys are already developing

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1 your work plan for the coming year.  
 2 MR. STOKES: That's correct.  
 3 MR. SULLIVAN: Okay, so, if I understand what  
 4 you're saying, you'll -- you'll just direct the technical  
 5 staff, which you can do, to put it in their work plan to  
 6 come up with something with regards to a policy statement  
 7 for -- on directives. Is that -- is that what you're  
 8 going to ask them to do?  
 9 MS. ROBERSON: No. Actually, I was asking the  
 10 Board to -- it will be on the list, but the Board will  
 11 prioritize it when it goes through its review of the  
 12 staff's work plan.  
 13 MR. SULLIVAN: Right, but it's got to be there  
 14 from the beginning for us to figure out, yeah.  
 15 MR. STOKES: It is in the work -- it will be --  
 16 MS. ROBERSON: You will put it in the work  
 17 plan.  
 18 MR. STOKES: -- it will be in the work plan.  
 19 MS. ROBERSON: Okay. All right.  
 20 MR. SULLIVAN: Okay. All right. I understand.  
 21 Thank you.  
 22 MS. ROBERSON: Okay.  
 23 Mr. Santos?  
 24 MR. SANTOS: Refresh my memory again, what date  
 25 is this?

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1 MR. STOKES: The work plan is scheduled to be  
 2 reviewed by the Board on September 23rd. We are  
 3 currently producing it. It's an activity that will take  
 4 us a couple of months because it involves every activity  
 5 for the next fiscal year, so we will currently take what  
 6 we're working on, roll it into the updated plan for --  
 7 for staff activity, and then the Board will review that  
 8 and we'll -- it'll -- we'll have another business meeting  
 9 on September 23rd.  
 10 MR. SANTOS: So, if I'm clear, September 23rd  
 11 is where I'll see a proposed plan to --  
 12 MR. STOKES: You will see a draft plan in  
 13 advance of that meeting.  
 14 MS. ROBERSON: You will see a -- the staff's  
 15 proposed work plan.  
 16 MR. SANTOS: Correct.  
 17 MS. ROBERSON: Which includes all activities  
 18 that they would undertake.  
 19 MR. SANTOS: Okay.  
 20 MS. ROBERSON: And you will have the  
 21 opportunity to express your individual opinion as to  
 22 whether it's the right priority or application of  
 23 resources.  
 24 MR. SANTOS: Got it. And including what your  
 25 estimated duration for each one. Got it.

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1 MR. STOKES: For every one.  
 2 MR. SANTOS: Okay. Thank you.  
 3 MS. ROBERSON: Is there another action?  
 4 MR. SULLIVAN: There was one -- there was the  
 5 potential second shoe to fall on Policy Statement 5,  
 6 which was the one for assessment of risk for a  
 7 recommendation.  
 8 MR. STOKES: And I'll put that -- I can -- the  
 9 best we could do at the present time is have a plan for a  
 10 plan, but not with a date, particularly concerning the  
 11 fact that for us to do risk assessment, and particularly  
 12 if we're involved with the tier one and tier two topics,  
 13 those need to be defined first by the Board before we  
 14 could figure out how to do that, so there would be a two-  
 15 step process, as I understand it, and then depending upon  
 16 the tools that would be necessary, we would have to  
 17 decide what to do now.  
 18 In my recollection, it took us several months  
 19 to develop Policy Statement Number 5. So, I would  
 20 estimate that we would be on the same order to revise it.  
 21 MS. ROBERSON: So, I'm going to propose --  
 22 sorry, Mr. Batherson, but I actually think I -- I think  
 23 in one of the -- in some legal analysis done for us this  
 24 was touched on already. I guess I'd ask legal to  
 25 actually take the first step. I think there is knowledge

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1 out there. I think the Board needs to -- does need to  
 2 decide on the definitions, but I think we need to rely on  
 3 what exists in the legislative record, as well, too. So,  
 4 I think that first action comes back around to General  
 5 Counsel.  
 6 MR. BATHERSON: Okay.  
 7 MS. ROBERSON: I mean, if you're telling me --  
 8 if you think I'm wrong, tell me.  
 9 MR. BATHERSON: No, I mean, I know that we did  
 10 the Office and Ms. Blaine did particularly substantial  
 11 work on the initial cut with Mr. Tontodonato on the  
 12 Policy Statement 5 together, because it resulted from a  
 13 change to our legislative mandate and added specific  
 14 language. And, so, we -- you were right, we were  
 15 involved in what does that mean.  
 16 MS. ROBERSON: Mm-hmm.  
 17 MR. SULLIVAN: And, so, in the interest of a  
 18 plan for a plan, again, I'd be satisfied if in the  
 19 respective work plans they just brought us back  
 20 something, whoever it was, somebody put some thought into  
 21 what needs to be done in order to ultimately get to the  
 22 point where we would have something that we could vote  
 23 on.  
 24 MS. ROBERSON: Mm-hmm.  
 25 MR. SULLIVAN: And then based on all the other

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1 work we need to do, we'll -- we'll either tell them it's  
 2 a priority or -- or it's not.  
 3 MS. ROBERSON: Okay. And, unfortunately, I'm  
 4 looking at you.  
 5 MR. BATHERSON: Thank you.  
 6 MS. ROBERSON: Okay. Thank you.  
 7 Any more questions for Mr. Stokes before he  
 8 sits down? Mr. Santos?  
 9 MR. SANTOS: No. Thank you.  
 10 MS. ROBERSON: Mr. Sullivan?  
 11 MR. SULLIVAN: No.  
 12 MS. ROBERSON: Thank you, Mr. Stokes.  
 13 MR. SULLIVAN: We did have the one issue that  
 14 I think was in the General Manager's realm. That was  
 15 the --  
 16 MS. ROBERSON: Come on up, Mark.  
 17 MR. SULLIVAN: -- looking at the issue of the  
 18 staff saying that they -- they're not free to go talk to  
 19 Board members.  
 20 MR. WELCH: Yeah, so, just a point of  
 21 clarification, I quickly went through the Towers Watson  
 22 briefing over lunch. I didn't see a specific question on  
 23 that. I did see the question that they were -- staff was  
 24 uncomfortable about putting things up the chain of  
 25 command. Was that what you were referring to?

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1 MR. SULLIVAN: I'm not sure what they put in  
 2 their report. I know they said it in the briefing that  
 3 they gave us in this very room. They said that the staff  
 4 members did not feel that they could go and approach  
 5 Board members with their concerns.  
 6 MR. WELCH: Okay, that may have been something  
 7 that came out of a focus group that they were -- they  
 8 were mentioning, but I think in either respect, I think  
 9 it boils down to communication -- the communication in  
 10 leadership areas, which are two of the areas that Towers  
 11 Watson is going to recommend that we have followup  
 12 actions on. So, I think it will -- it will be covered by  
 13 the results to action workshops.  
 14 MS. ROBERSON: So -- so let me -- let me offer  
 15 a path forward, because when I talked to him, it's kind  
 16 of unclear what leads and what follows. I mean, this is  
 17 important, but it's -- what they weren't able to tell us  
 18 yet, and I think it's one of the things they're going to  
 19 work with us on starting in July, is whether this was a  
 20 result, whether this was a symptom or the disease -- or  
 21 the disease itself.  
 22 They -- so, what they told us is looking at  
 23 everything they have is they're going to work with us to  
 24 identify the handful or fewer things that they think will  
 25 be the thread through all the issues they saw. So, my

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1 recommendation is we -- because I don't really know if --  
 2 what Mark can do now, unless the Board members have a  
 3 solution. I think we need to use that outside expertise  
 4 to help us weave our way through this. That would be my  
 5 opinion. But that's open to other Board members,  
 6 obviously.  
 7 MR. SULLIVAN: Sounds like a -- like a  
 8 reasonable thing to do. I just don't know what their --  
 9 what their time frame was. I know they also started  
 10 talking about coming back with another assessment in  
 11 three years, so I'm hoping we don't have to wait  
 12 something -- some period of time measured in years to go  
 13 try to figure out more in-depth if there -- if there  
 14 seems to be a lot of staff members who feel this way, why  
 15 do they feel that way and what, if anything, can we do  
 16 about it.  
 17 MS. ROBERSON: To my understanding -- you  
 18 correct me, Mark -- is over the next, I believe their --  
 19 their activity extends another six months. I think their  
 20 contract actually involves them working with us to do  
 21 this in the next few months.  
 22 MR. WELCH: Right.  
 23 MS. ROBERSON: I'm assuming at three years  
 24 they're coming back to see if not just our efforts but  
 25 their efforts have been successful. So, I think it's

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1 months, and that is a part of their current activity with  
 2 us.  
 3 MR. WELCH: That's correct. So, they're --  
 4 over the next several months, they'll be working with us  
 5 on these results to action workshops which will drill  
 6 down the -- drill down the data to some degree and  
 7 hopefully out of that we'll get a better understanding of  
 8 what was driving some of these questions and then we can  
 9 put plans into place to correct that.  
 10 MR. SULLIVAN: Okay, I understand this is just  
 11 a wait and see what happens.  
 12 MS. ROBERSON: No, we got to jump in there.  
 13 They're going to expect us to help.  
 14 MR. SULLIVAN: Oh, okay. It will happen.  
 15 MS. ROBERSON: Okay. Thank you. Anything  
 16 else? Did you have any comments, Mr. Santos?  
 17 MR. SANTOS: I would just reiterate that, yes,  
 18 there's a process and let's go through that. That's  
 19 fine. In the meantime, I'd even mention I have a reverse  
 20 door policy, so anybody is more than encouraged to come  
 21 see me. I'll try to visit often. And if you don't want  
 22 me there, shut the door in my face, but if not, I'm  
 23 coming in. There's -- there's nothing that -- that  
 24 should be standing in the way between staff and getting  
 25 access to -- to me. So, I just want to -- while I will

1 follow the formal process to get the experts to provide  
 2 feedback, in the meantime, anybody should feel free to  
 3 come see me.  
 4 MS. ROBERSON: And my experience is lots of  
 5 people do come to see you. Your door is always open.  
 6 So, I think they're right in saying, well, there must be  
 7 something else behind it, and their job is to help us  
 8 figure out what it is and solve it. So, are you  
 9 comfortable with that?  
 10 Anything else that we left off?  
 11 Thank you, Mr. Welch.  
 12 So, I'm going to start to my closing and I'm  
 13 going to come back around to the Board members one more  
 14 time for any closing comments they may have.  
 15 Mr. Sullivan?  
 16 MR. SULLIVAN: No thank you. I've said enough  
 17 today.  
 18 MS. ROBERSON: Okay.  
 19 Mr. Santos?  
 20 MR. SANTOS: You've circled back, and I'm very  
 21 encouraged that we had such what I consider a productive  
 22 public meeting, and I do look forward appropriately to  
 23 frequent public meetings that we can actually show the  
 24 stakeholders the business of the Board just beyond our  
 25 notational boards -- vote sheets, sorry. So, I want to

1 thank fellow Board members for what I think was a very --  
 2 very good meeting. Thank you.  
 3 MS. ROBERSON: Thank you both. And having  
 4 completed consideration of the business items on the  
 5 agenda and followup discussions on that list of items  
 6 that we wanted to have additional staff follow up, I'd  
 7 like to thank everyone for their participation in this  
 8 business meeting.  
 9 The Board will post the results of today's  
 10 votes on the Board's public website, and agenda items  
 11 that were tabled during this meeting will be addressed by  
 12 the Board's document processing and notational voting  
 13 procedures within 30 days of this meeting, unless further  
 14 table is agreed to by the Board.  
 15 This concludes the Defense Nuclear Facilities  
 16 Safety Board's business meeting. This meeting is  
 17 adjourned.  
 18 (Whereupon, the public meeting was adjourned at  
 19 2:38 p.m.)  
 20  
 21  
 22  
 23  
 24  
 25

1 CERTIFICATE OF REPORTER  
 2  
 3 I, LINDA METCALF, the officer before whom the  
 4 foregoing testimony was taken, do hereby certify that the  
 5 proceeding was digitally recorded by me and thereafter  
 6 reduced to typewriting by me or under my direction; that  
 7 said testimony is a true record of the event; that I am  
 8 neither counsel for, related to, nor employed by any of  
 9 the parties to the action in which this proceeding was  
 10 taken; and, further, that I am not a relative or employee  
 11 of any of the parties hereto, nor financially or  
 12 otherwise interested in the outcome of the action.  
 13  
 14  
 15  
 16 LINDA METCALF  
 17  
 18  
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