

HEARING ON THE NOMINATION OF ALLISON
MACFARLANE AND RE-NOMINATION OF KRIS-
TINE L. SVINICKI TO BE MEMBERS OF THE
NUCLEAR REGULATORY COMMISSION

HEARING
BEFORE THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED TWELFTH CONGRESS
SECOND SESSION

JUNE 13, 2012

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ONE HUNDRED TWELFTH CONGRESS
SECOND SESSION

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**HEARING ON THE NOMINATION OF ALLISON
MACFARLANE AND RE-NOMINATION OF
KRISTINE L. SVINICKI TO BE MEMBERS OF
THE NUCLEAR REGULATORY COMMISSION**

WEDNESDAY, JUNE 13, 2012

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The Committee met, pursuant to notice, at 10 a.m. in room 406, Dirksen Senate Office Building, Hon. Barbara Boxer (Chairman of the Committee) presiding.

Present: Senators Boxer, Inhofe, Carper, Lautenberg, Cardin, Sanders, Udall, Gillibrand, Barrasso, Sessions, Alexander, and Boozman.

Also present: Senator Blumenthal.

Senator BOXER. We will proceed. And because we know Senators have schedules, we will withhold our opening statements and allow you to do your introductions. So we will start with Senator Blumenthal, please, introducing the nominee for Chairman.

**OPENING STATEMENT OF HON. RICHARD BLUMENTHAL,
U.S. SENATOR FROM THE STATE OF CONNECTICUT**

Senator BLUMENTHAL. Thank you, Madam Chairman and Ranking Member Inhofe. I am very, very honored today to introduce Allison Macfarlane, President Obama's nominee to be a Commissioner, in fact, Chairman of the Nuclear Regulatory Commission. I want to thank the Chairwoman and members of the Committee for giving me this opportunity.

Dr. Macfarlane is a native of Connecticut; she was born in Hartford, raised in Avon, went to Avon High School, which is an area just a few miles north and west of Hartford, our capital. And I would like to say that is her most important distinction, but actually, as you know, she is a geologist of national, indeed, international stature, and I think supremely well qualified to head the Nuclear Regulatory Commission at this critical point in its history and our nation's.

She is a remarkable scholar and leader, and a person of genuine vision and courage, and she has been an Associate Professor of Environmental Science and Policy at George Mason University since 2006, but she has been in a variety of academic positions at Harvard, Stanford, and other universities before the one that she has now.

She has also served on the Blue Ribbon Commission established by the President, 15-member commission which produced a report very recently that addresses one of the principal challenges for the NRC in coming years: to develop an integrated nuclear waste facility management program and make sure that we move from spent pools to dry casks in as many of our nuclear facilities as possible. This issue is extraordinarily important to Connecticut because of our Connecticut Yankee and our Millstone plants, where some of our fuel is still stored in pools and where we have a substantial amount of nuclear waste, and the interest of Connecticut in this issue is very, very profoundly significant.

Dr. Macfarlane is not only a person of academic and scholarly distinction, but she is also a person of great collegiality and integrity, and I am very proud to introduce her to this Committee and to support her for this profoundly important position, and I hope that members of the Committee—I know they will—will be as impressed as I am by her personal, her professional, and her academic distinctions and her qualifications for this profoundly important position.

Thank you very much, Madam Chairwoman.

Senator BOXER. Thank you, Senator.

And Senator Sessions is going to reintroduce Hon. Kristine Svinicki, Commissioner.

Senator SESSIONS. Thank you, Chairman Boxer and Ranking Member Inhofe and members of the Committee.

It is a delight for me to be able to introduce you this morning Kristine Svinicki. She is no stranger to the Committee, having appeared before us at least five other times in the last several years. I have personally known Kristine for more than 7 years, time enough for me to show and learn what an impressive and good person she really is. Let me tell you a few things about her.

She was born and raised in Jackson, Michigan, a mid-sized town in the southern part of the State. Her Grandfather Svinicki came to America from Eastern Europe to work in the iron mines of Michigan. Kristine is the youngest of seven children of Amol and Jane Svinicki. Her father was an Army veteran of World War II. Although her father never spoke about his war experiences, as so often is the case, Kristine and her siblings were surprised and very moved to learn, after his death, of his multiple commendations for valor in combat, including two bronze stars, of which he never talked.

After the war, Amol Svinicki was the first of his family to go to college, attending Illinois Institute of Technology in Chicago, studying architecture. Kristine was raised to understand that her parents valued education above all else, so although she lost both of her parents to illness by the time she was 20, she knew that they would want her to finish her college degree, which she did, graduating from the University of Michigan with a Bachelor of Science in Nuclear Engineering, appropriately, in 1988. Since then, Kristine has been a true public servant, applying her many talents and keen intellect to the benefit of a nation that she loves so dearly, approaching now three decades of public service.

After college she worked for the State of Wisconsin at the Public Service Commission, where she learned a lot about destruction reg-

ulation of electric power companies. From there she took a position with the U.S. Department of Energy at their Idaho Operations Office, working on nuclear waste programs associated with the Department of Energy's Idaho Nuclear Laboratory. She eventually transferred to DOE's headquarters in Washington. She came to Capitol Hill as a Brookings Institute legislative fellow in 1997. She decided to continue working on the Hill as a permanent staff.

I came to know Kristine when she was hired as a staff member of the Senate Armed Services Committee in 2005 by Senator John Warner, then Chairman of the committee. Chairman Boxer and Inhofe will probably recall that Senator Warner gave her an especially warm introduction when her first confirmation hearing occurred here in 2007. He referred to Kristine as "one of the extraordinary persons" that he had served with in his three decades in the Senate.

Kristine's work also supported me in my role as Chairman of the Strategic Forces Subcommittee and Armed Services. Her knowledge of nuclear security and nuclear defense issues, which we dealt with, for which she was the lead staffer, was acknowledged and appreciated by the staff members on both sides of the aisle, and her work was highly regarded. I was very impressed. She was one of the best I have ever worked with. I valued her opinion greatly.

In fact, she was still working on the Armed Services Committee staff when she was nominated in 2007 by President Bush to serve on the Nuclear Regulatory Commission, and her nomination was strongly supported by the Senators serving on the Armed Services Committee on both sides of the aisle. She was confirmed in 2008 by unanimous consent. As a Commissioner, she has demonstrated a strong commitment to understanding the practical effects of NRC regulation at the facilities that they regulate. For example, she has visited approximately half of the nuclear power plants in the United States. She takes a practical, as well as a theoretical approach to her work.

The NRC has seen its share of controversy in the past several years, and through it all Kristine has exhibited tremendous character, professionalism, and courage. Although members of her family were not able to travel to Washington, DC, to be here today, she has the enthusiastic support of her siblings spread across the country, as well as her many nieces and nephews, some of whom are tuned into the Webcast, I am sure cheering her on today. And I know her parents and grandparents would be very proud of her today, as I am and as are many of her fellow supporters and friends. She has earned the respect of many employees at the NRC who wish her success today and very much want to see her return to the Commission for another term.

Thank you very much, Madam Chairman.

**OPENING STATEMENT OF HON. BARBARA BOXER,
U.S. SENATOR FROM THE STATE OF CALIFORNIA**

Senator BOXER. Thank you very much, Senator.

So now the Senators are welcome to go on to their next activity, and I am sure that the nominees are extremely grateful to both of you for your wonderful introductions, and we thank you very much.

We will do our opening statements, and then we will hear from, first, Dr. Macfarlane and then Hon. Kristine Svinicki, and then we will do some questions.

Today we consider the nomination of Dr. Allison Macfarlane as Chairman of the NRC and the renomination of Kristine Svinicki to the NRC.

The NRC has one critical mission; it is the key Federal agency charged with ensuring safety at the nation's 104 commercial nuclear reactors. Safety. That is the mission.

Nothing underscores the important role played by the NRC more than the Fukushima disaster. That disaster in Japan was a wake up call to each of us that safety at our nuclear power plants can't be taken for granted and must reflect the lessons of Fukushima.

I want to remind everyone here today what happened in Japan about a year ago. A magnitude 9.0 earthquake struck off the coast, triggering a tsunami that's reported to have reached 45 feet high and stretched up to 6 miles in length.

The Fukushima Daiichi nuclear plant was hit hard. It lost power, multiple hydrogen gas explosions tore apart reactor buildings, containment structures were damaged, three nuclear reactors melted down, and radiation poured out into the environment. People's lives were uprooted by evacuations to avoid the threat of radiation poisoning. Many of those men, women, and children have yet to return to their homes, and some may never get back.

As I reflect on the Fukushima disaster, I think about communities in my home State of California. Those communities are right close to two nuclear facilities, the San Onofre Nuclear Generating Station and the Diablo Canyon Nuclear Power Plant. Nearly 8.7 million people live within 50 miles of San Onofre and almost 500,000 people live within 50 miles of Diablo Canyon.

The thought of those families facing an unimaginable accident even a fraction of what the people of Japan faced during the Fukushima disaster makes me even more vigilant about safety when it comes to nuclear power. Much more work needs to be done by the NRC in the aftermath of Fukushima. As I review the activities of the NRC, I feel that within the leadership of the current Chairman, we would be even further behind on safety than we are.

I am impressed by the President's nominee, Dr. Macfarlane, who brings to this position the critical experience, the intelligence, scientific background, and integrity that we need so much at the NRC.


I ask unanimous consent to place in the record statements of support for Dr. Macfarlane, including one from the Union of Concerned Scientists, which stated, "We expect her to be a strong advocate for practical steps to enhance nuclear power safety, and security."

In addition, I would like to place in the record the Nuclear Energy Institute letter urging us to "confirm Dr. Macfarlane expeditiously."

[The referenced documents follow:]

Union of Concerned Scientists

May 24, 2012

 [Subscribe for news](#)

UCS Gives Thumbs Up to Macfarlane as New NRC Chair

Statement by Lisbeth Gronlund, Union of Concerned Scientists

WASHINGTON (May 24, 2012) – This afternoon the White House nominated Allison Macfarlane, a nuclear waste expert, to replace Gregory Jaczko as chair of the Nuclear Regulatory Commission. Below is a statement by Lisbeth Gronlund, co-director of the Global Security Program at the Union of Concerned Scientists.

“The Union of Concerned Scientists applauds President Obama’s decision to nominate Allison Macfarlane as chair of the Nuclear Regulatory Commission. Professor Macfarlane is a scientist with a long history of working on complex technical public policy issues. She was receptive to public feedback during her tenure on the Blue Ribbon Commission on America’s Nuclear Future, and understands the importance of openness to the commission’s effectiveness. We expect her to be a strong advocate for practical steps to enhance nuclear power safety and security.”

The Union of Concerned Scientists is the leading U.S. science-based nonprofit organization working for a healthy environment and a safer world. Founded in 1969, UCS is headquartered in Cambridge, Massachusetts, and also has offices in Berkeley, Chicago and Washington, D.C.



News Release

Nuclear Energy Institute FOR IMMEDIATE RELEASE

- Contact: 202.739.8000
- For Release: May 24, 2012

NEI Comments on Impending Nomination of Allison Macfarlane as NRC Chairman

WASHINGTON, D.C.—The Nuclear Energy Institute's president and chief executive officer, Marvin Fertel, made the following remarks in reaction to the White House's announcement today that it intends to nominate Allison Macfarlane to be a commissioner on the U.S. Nuclear Regulatory Commission and to serve as chairman of the commission.

"The nuclear energy industry congratulates Professor Macfarlane on her selection by the president. She has been an active contributor to policy debates in the nuclear energy field for many years.

"Given the importance of having a fully functioning, five-member commission to carry out the NRC's safety mission, the nuclear energy industry urges the administration to submit her confirmation paperwork as expeditiously as possible. It would not serve the public interest to have her nomination linger with the term of Commissioner Kristine Svinicki set to expire at the end of June. We urge the Senate to confirm both Commissioner Svinicki and Professor Macfarlane expeditiously.

"The NRC must continue to be an effective, credible regulator if the nation is to maximize nuclear energy's role in achieving America's economic growth and energy security."

June 18, 2012

Senator Barbara Boxer
 Senator James Inhofe
 Senate Committee on Environment and Public Works
 410 Dirksen Senate Office Building
 Washington, DC 20510-6175

Dear Chairman Boxer and Ranking Member Inhofe:

On behalf of the Union of Concerned Scientists and the Natural Resources Defense Council, we urge you to confirm Dr. Allison Macfarlane as Chair of the Nuclear Regulatory Commission (NRC). The NRC's primary responsibilities are to protect public health and safety, promote the common defense and security, and protect the environment. We feel that Dr. Macfarlane's background has prepared her well for advancing these objectives.

Dr. Macfarlane is an accomplished scientist with a strong background in public policy and a particular expertise on the back end of the nuclear fuel cycle giving her strong qualifications to lead the Commission at this particular juncture. She has a history of working on complex, technical public policy issues and a track record of taking strong, informed positions on nuclear safety policy. She is professional and collegial, and will work well with the other commissioners and the NRC staff. Dr. Macfarlane understands the importance of a transparent and accountable NRC, and we believe that she can play a vital role in helping to improve the regulatory effectiveness of this institution, and thus the public's confidence in it.

The importance of the NRC's ability to regulate an aging fleet of reactors effectively was highlighted by the meltdown and breach of containment of three reactors at the Fukushima Dai-ichi nuclear power plant last year. The Fukushima disaster caused governments around the world to reassess the safety of nuclear power and to question their ability to protect the public from the combined effects of natural and man-made events such as those that struck Japan on March 11, 2011.

In the United States, the NRC appropriately convened a "Near-Term Task Force" to study the accident and recommend improvements to our domestic regulatory requirements to make new and existing reactors safer. We think Dr. Macfarlane can move that work forward and do so in a way that inspires public confidence, particularly in light of her attention to public involvement and consensus building during her tenure on President Obama's Blue Ribbon Commission on America's Nuclear Future.

For these reasons, we urge you to swiftly confirm Dr. Macfarlane's nomination.

Respectfully,



/s/
 Christopher E. Paine
 Director, Nuclear Program
 Natural Resources Defense Council
 1152 15th St., NW

/s/
 Lisbeth Gronlund
 Director, Global Security Program
 Union of Concerned Scientists
 2 Brattle Square

Washington, D.C. 20005
(202) 289-6868

Cambridge, MA 02138
(617) 547-5552



June 18, 2012

Chairman Barbara Boxer
Senate Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510-6175

Ranking Member James M. Inhofe
Senate Committee on Environment and Public Works
456 Dirksen Senate Office Building
Washington, DC 20510-6175

Dear Chairman Boxer and Ranking Member Inhofe:

We write to express our support for the President's nomination of Dr. Allison Macfarlane to chair the Nuclear Regulatory Commission (NRC). Founded in 1981, the Project On Government Oversight (POGO) is a nonpartisan independent watchdog that champions good government reforms. POGO's investigations into corruption, misconduct, and conflicts of interest achieve a more effective, accountable, open, and ethical federal government. Thus, we are deeply concerned with how the NRC operates, and we have worked for decades to strengthen its independent oversight and openness.

We are pleased that Dr. Macfarlane exhibits an apparent independence from the industry she will be regulating, which gives us confidence in her appointment. She also shares our interest in better governance on the Commission. In her prepared statement at your Committee's nomination hearing on June 13, Dr. Macfarlane indicated that she is committed to "openness, efficiency and transparency" in the NRC. She is correct in stressing that "protecting the safety of the American people and the environment" should be the key mission of the Commission.¹

Dr. Macfarlane's impressive combination of scientific and policy expertise will be assets to the NRC. We therefore urge you to confirm her as Chair.

Sincerely,

A handwritten signature in black ink that reads "Danielle Brian".

Danielle Brian
Executive Director

cc: Members of the Senate Committee on Environment and Public Works

¹ Prepared Statement of Dr. Allison Macfarlane, Senate Committee on Environment and Public Works, June 13, 2012. http://epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=45f7dafa-eadf-4041-bd9e-122707bcd629 (Downloaded June 18, 2012)

PSR supports the nomination of Allison McFarlane as chair of the Nuclear... <http://www.psr.org/news-events/press-releases/psr-supports-the-nominat...>

PSR supports the nomination of Allison McFarlane as chair of the Nuclear Regulatory Commission

June 19, 2012
Topic: [Nuclear Power](#) [NRC](#) [Energy](#)

FOR IMMEDIATE RELEASE

CONTACT: Morgan Farnell, Public Policy Program Manager, 202.587.0232

Washington, D.C. The Nuclear Policy Institute (NPI) today announced its endorsement of Dr. Allison McFarlane as chair of the Nuclear Regulatory Commission (NRC).

McFarlane has been nominated by President Obama to complete retiring Chairman Gregory Jaczko's term as chair of the NRC.

Dr. Catherine Thompson, PSR's executive director, called McFarlane "an accomplished scientist whose expertise in physics and nuclear waste issues will give her strong qualifications to lead the NRC."

"Her strong, articulate and informed support for dry cask storage of nuclear waste at nuclear sites and her critical analysis of the unsustainability of the Yucca Mountain waste site demonstrates her sensible and informed approach to nuclear safety policy. In her position as a member of the Blue Ribbon Commission on America's Nuclear Future, she exhibited an obvious commitment to public involvement, transparency, accountability, and consensus building, all critical elements much needed at the NRC. These elements describe an approach to management and an understanding of policy that will surely enable her to uphold the NRC's critical primary responsibilities: protecting public health and safety, promoting the common defense and security, and protecting the environment."

ABOUT THE NUCLEAR POLICY INSTITUTE (NPI)

The Nuclear Policy Institute is the largest non-partisan organization in the country covering both the health risks and threats to human survival posed by nuclear weapons, climate change, nuclear reactors and waste disposition of the environment. Founded in 1961 by physicians concerned about the impact of nuclear proliferation, PSR changed the 1985 Nobel Peace Prize with International Physicians for the Prevention of Nuclear War for building public pressure to end the nuclear arms race. For more information, go to <http://www.npi.org>

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1111 14th St, NW, Suite 300 Washington, DC 20005 Phone 202.587.0232 Fax 202.587.0232

CONVIO
REQUEST SUPPORT

Senator BOXER. So, Dr. Macfarlane, I look forward to hearing your views on the role of the NRC in ensuring the safety of the American people.

Regarding Commissioner Svinicki's nomination, it should come as no surprise that I am deeply troubled by this Commissioner's statements at her prior nomination hearing that she did not work directly on Yucca Mountain, which she clearly did. I also believe Commissioner Svinicki has not demonstrated the commitment to safety that the American people have a right to expect in this post-Fukushima era.

Just yesterday—just yesterday—I learned that Commissioner Svinicki actively opposed my reasonable request for an NRC investigation into how a redesign of the San Onofre nuclear plant occurred without proper oversight by the NRC. She did not support that request. Now, that plant is shut down, shut down due to unexplained deterioration of steam generator tubes containing radioactive material. Had Commissioner Svinicki's position prevailed, we would have seen stonewalling by the NRC. I want to thank Commissioner Ostendorff and Chairman Jaczko for not allowing the stonewalling to occur, and I ask unanimous consent to place in the record letters of opposition to Commissioner Svinicki's renomination.

Now, one of these was a letter written by 94 organizations who said, during her first term as an NRC Commissioner, Ms. Svinicki uniformly voted for nuclear industry interests at the expense of public health and safety.

And a letter that came from another set of concerned Americans said, "Since the Fukushima catastrophe began, Commissioner Svinicki voted against an advisory committee on reactor safety recommendation for measures to address accident risk posed by the hotter reactor cores and higher pressures associated with power-up rates, against measures to improve security screening for personnel gaining access to reactors, against measures to increase NRC enforcement direction, discretion for reactors that do not comply with fire regulations, and against measures to gather more information to enhance control of leaks of radioactive materials, and she voted in favor of adding further consideration of the cost of burden of NRC regulations to industry by requiring NRC staff to analyze the cumulative financial impact of all the regulations on licenses."

[The referenced documents follow:]



NUCLEAR INFORMATION AND RESOURCE SERVICE

6930 Carroll Avenue, Suite 340, Takoma Park, MD 20912
301-270-NIRS (301-270-6477); Fax: 301-270-4291
nirsnet@nirs.org; www.nirs.org

FOR IMMEDIATE RELEASE
April 30, 2012

Contact: Michael Mariotte
301-270-6477

94 ORGANIZATIONS URGE SENATE TO REJECT POSSIBLE RE-NOMINATION OF KRISTINE SVINICKI TO NRC

GROUPS CITE CONSISTENT PATTERN OF SUPPORTING NUCLEAR INDUSTRY INTERESTS AT THE EXPENSE OF PUBLIC HEALTH AND SAFETY.

Ninety-four national, regional and local organizations and small businesses today urged the Senate Environment Committee to reject the possible re-nomination of Kristine Svinicki to a second term at the Nuclear Regulatory Commission.

In a letter sent to Senate Environment Committee Chair Barbara Boxer (D-Calif.) and Ranking Member James Inhofe (R-Okla.), the groups said that "...during her first term as an NRC Commissioner, Ms. Svinicki uniformly voted for nuclear industry interests at the expense of public health and safety."

For example, the letter noted that Ms. Svinicki was the only member of the Commission who voted against implementation of critical post-Fukushima safety reforms under a framework that would ensure they be considered necessary for "adequate protection" of nuclear reactors—a standard that would enhance NRC enforcement of the rules.

While many of Ms. Svinicki's other pro-industry votes were unfortunately supported by a majority of the Commissioners, often against the stance of NRC Chairman Greg Jaczko, the letter stated that "Ms. Svinicki's positions have been the most egregious and extreme of all."

Most of the groups signing the letter rarely take a public position on NRC nominees. But, as the letter states, "The March 2011 nuclear disaster at the U.S.-designed reactors at the Fukushima Daiichi site has brought a new level of public attention and scrutiny to the manifest dangers of nuclear power. The ability of U.S. nuclear reactors—23 of which are virtually identical to those at Fukushima Daiichi with a dozen more using the same design concept—to withstand earthquakes, loss-of-power situations and other challenges both natural and man-made is of critical importance."

“Fukushima is a clear warning that the regulatory standards of the past are not adequate,” said Michael Mariotte, executive director of Nuclear Information and Resource Service, which coordinated the letter. “The NRC’s mission is to protect the public health and safety, and Fukushima shows the need for higher safety standards. But Ms. Svinicki’s record over the past five years indicates she will neither challenge the nuclear power industry nor support reforms that might improve nuclear safety.”

“Nuclear power is an inherently dangerous technology. We need NRC Commissioners who understand that basic fact and will act accordingly. Ms. Svinicki has proven herself to not be that kind of Commissioner, and therefore she has not earned a second term. The American people deserve better,” added Mariotte.

President Obama has indicated he intends to re-nominate Ms. Svinicki for a second term at the NRC, over the opposition of some lawmakers, including Senate Majority Leader Harry Reid and Vermont Senator Bernie Sanders. However, this re-nomination has not yet taken place, thus the letter to the Senate was copied to President Obama as well. The groups signing the letter encouraged the White House to rethink its position and not move forward with the nomination.

Separately, more than 9,000 e-mails to the Senate have been sent in the past week by individuals opposed to a second term for Ms. Svinicki.

The letter with signers is available here:

<http://www.nirs.org/reactorwatch/licensing/svinickiboxerletter42712.pdf>

This press release is available here:

<http://www.nirs.org/reactorwatch/licensing/svinickipr43012.pdf>

April 30, 2012

Hon. Barbara Boxer
Chair, Senate Environment and Public Works Committee
United States Senate
Washington, DC 20510

Hon. James Inhofe
Ranking Member, Senate Environment and Public Works Committee
United States Senate
Washington, DC 20510

Dear Senators Boxer and Inhofe,

We are writing to urge you to do everything in your power to oppose the confirmation of Kristine Svinicki to a second term as a Commissioner of the Nuclear Regulatory Commission.

The purpose of the Nuclear Regulatory Commission is to regulate the nation's nuclear power industry in order to protect the public health and safety. Yet during her first term as an NRC Commissioner, Ms. Svinicki uniformly voted for nuclear industry interests at the expense of public health and safety.

The March 2011 nuclear disaster at the U.S.-designed reactors at the Fukushima Daiichi site has brought a new level of public attention and scrutiny to the manifest dangers of nuclear power. The ability of U.S. nuclear reactors—23 of which are virtually identical to those at Fukushima Daiichi with a dozen more using the same design concept—to withstand earthquakes, loss-of-power situations and other challenges both natural and man-made is of critical importance.

Yet on March 9, 2012, Ms. Svinicki, alone among the five current NRC Commissioners, voted against the implementation of all of the first three post-Fukushima safety measures recommended by NRC staff through the use of a regulatory framework that concludes that they are necessary for the adequate protection of nuclear reactors.

This follows a long pattern of similar votes that gives the appearance Ms. Svinicki is far more concerned about the economic health of the nuclear power industry than the protection of the American public:

March 15, 2011: The Commission voted 4-1¹ (with only Chairman Jaczko voting to disapprove) to approve a staff proposal to ignore a recommendation by NRC's Advisory Committee on Reactor Safeguards to ensure that safety measures that are assumed to address the hotter reactor cores and higher pressures associated with 'power up-rates' would work to prevent a meltdown in the event of an accident. The ACRS believed that the possibility that a fire or earthquake could breach the containment of the nuclear reactor needed to be considered.

¹ SECY 11-0014

June 10, 2011: The Commission voted 4-1² (with Chairman Jaczko disapproving) to reject a request to further extend the NRC's enforcement discretion policy for nuclear reactors that do not comply with the NRC's fire protection regulations. The path chosen by the majority of the Commission allows some nuclear power plants to go longer than eight years without identifying their fire-related safety deficiencies and taking steps to mitigate them. Many U.S. reactors are still not in compliance with fire protection regulations established by the NRC after the near-catastrophic fire at the Browns Ferry complex in 1975.

November 8, 2011: The Commission voted 3-2 (with Chairman Jaczko and Commissioner Ostendorff voting to approve) to disapprove a staff proposal that the Commission adopt an amendment to its Reactor Oversight Process³ to add a new performance measure related to leaks of radioactive materials from nuclear reactors.

December 15, 2011: The Commission voted⁴ (with Chairman Jaczko voting to support) to reject a recommendation made by the NRC's own Near-Term Task Force on Fukushima and the NRC staff review of that Task Force's recommendation to consider all the post-Fukushima safety upgrades to be mandatory for the "adequate protection" of nuclear power plants. The other four Commissioners said it was "premature" to approve this recommendation. Without it, all safety upgrades would be required to go through a cost-benefit analysis in order to justify implementation, and some may never be required as a result.

In each of these four votes, Ms. Svinicki was unfortunately in the majority, as most of the current NRC Commissioners seem more intent on thwarting the NRC Chairman's efforts to enhance nuclear safety than in meeting the responsibilities of their positions. But Ms. Svinicki's positions have been the most egregious and extreme of all.

Given this record--and this is just a small sampling of votes taken by Ms. Svinicki that have been against the public interest—we believe she has not earned confirmation by the Senate for a second term. We trust you will agree and will take whatever measures are appropriate to prevent such confirmation.

Please contact Michael Mariotte, executive director of Nuclear Information and Resource Service at 301-270-6477 or nirsnet@nirs.org or Damon Moglen, Friends of the Earth, 202-783-7400, dmoglen@foe.org, if you have any questions or would like further elaboration on this issue. Thank you.

cc: President Barack Obama

² <http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2011/2011-0061vtr.pdf>

³ <http://www.nrc.gov/reactors/operating/oversight/rop-description.html>

⁴ <http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2011/2011-0137vtr.pdf>

Michael Mariotte
Executive Director
Nuclear Information and Resource Service

Jim Riccio
Nuclear Policy Analyst
Greenpeace

Erich Pica
Executive Director
Friends of the Earth

Tyson Slocum
Director
Public Citizen Energy Program

Marcia J. Cleveland
Director, Safe Energy Program
Physicians for Social Responsibility

Ken Bossong
Executive Director
SUN DAY Campaign

Paul Gunter
Beyond Nuclear

Susan Gordon
Director
Alliance for Nuclear Accountability

Regional, State and Local Organizations and Businesses

Patricia Birnie, Chair
GE Stockholders' Alliance
Tucson, AZ

Robert M. Gould, MD
President
SF-Bay Area Chapter
Physicians for Social Responsibility
San Francisco, CA

Rinaldo Brutoco
Founding President & CEO
World Business Academy
Santa Barbara, CA

Mary Beth Brangan, James Heddle
Co-Directors
EON, The Ecological Options Network
Bolinas, CA

Michael Welch, volunteer
Redwood Alliance
Arcata, CA

Grandmothers for Peace/San Luis Obispo County
Chapter
Molly Johnson, area coordinator
San Miguel, CA

Dan & Val O'Connell
SANEPlanet.org
Cayucos, CA

Philip M. Klasky
Bay Area Nuclear Waste Coalition
San Francisco, CA

Barbara George
Executive Director
Women's Energy Matters
Fairfax, CA

Susan Harvey
President
North County Watch
Templeton, CA

Gene Stone
Residents Organized For a Safe Environment (ROSE)
San Clemente, CA

Libbe HaLevy
Producer/Host, Nuclear Hotseat Podcast
Los Angeles, CA

Steve Zeltzer
No Nukes Action
San Francisco, CA

Carol Jahnkow
Director Emerita/Special Projects Consultant
Peace Resource Center of San Diego
San Diego, CA

Delia Horwitz, Owner
BRC
San Luis Obispo, CA

Gary Headrick
Founder, San Clemente Green
San Clemente, CA

Catherine Meyrick
President
Tallahassee Area Community

Canon City, CO	Mike Carberry Director Green State Solutions Iowa City, IA
Rocky Mountain Peace and Justice Center Boulder, CO	
Colorado Coalition for the Prevention of Nuclear War Denver, CO	David Kraft Executive Director Nuclear Energy Information Service Chicago, IL
Nancy Burton Director Connecticut Coalition Against Millstone Redding Ridge, CT	Carolyn Treadway No New Nukes Normal, IL
Barbara Backman Vice-President People's Action for Clean Energy Canton, CT	John Blair, president Valley Watch, Inc. Evansville, IN
Lucy Lee Grimes Evans Chair Sierra Club of Connecticut's Nuclear-Free Committee New Canaan, CT	William S. Linnell Spokesperson Cheaper, Safer Power Portland, ME
Alan Muller Executive Director Green Delaware Port Penn, DE	Max Obuszewski Baltimore Nonviolence Center Baltimore, MD
Bernard August Executive Director Committee Against Plutonium Economics Newark, DE	Dagmar Fabian Crabshell Alliance of Greater Baltimore, MD
Cara Campbell, Chair Ecology Party of Florida	June Sevilla Representative, Southern Maryland CARES Lusby, MD
Nancy O'Byrne Coordinator Pax Christi Florida St. Augustine, FL	Jeannette Bartelt Founder & CEO Green Earth Goods, LLC Frederick, MD
Norman K Hopkins Director The Amy H Remley Foundation Incorporated Crystal River, FL	Deb Katz Executive Director Citizens Awareness Network Shelburne Falls, MA
Barry J. White President Citizens Allied for Safe Energy, Inc. Miami, FL	Leo Waters, Treasurer Fair Environment Corp. Canton, MA
Glenn Carroll Coordinator Nuclear Watch South Atlanta, GA	Judi Poulson, Chair Fairmont, Minnesota Peace Group Fairmont, MN
	Mark Haim Chair Missourians for Safe Energy

Columbia, MO

Ed Smith
Safe Energy Director
Missouri Coalition for the Environment
St. Louis, MO

Chris Daum, President
Oasis Montana Inc.
Renewable Energy Supply & Design
Stevensville, MT

B. Bruce
Staff Ecologist
Western Nebraska Resources Council
Chadron, NE

Judy Treichel
Executive Director
Nevada Nuclear Waste Task Force
Las Vegas, NV

Peggy Maze Johnson
Citizen Alert
Las Vegas, NV

Lori Gold
Genesis Farm
Blairtown, NJ

Joellen Lundy, President
NJ Friends of Clearwater
Red Bank, NJ

Greg Mello
Los Alamos Study Group
Santa Fe, NM

Rose Marie Cecchini, MM
Coordinator
Office of Life, Peace, Justice & Creation Stewardship
Catholic Charities of Gallup Diocese
Gallup, NM

Alice Slater
Abolition 2000 NY Metro
New York, NY

Barbara Warren
Executive Director
Citizens' Environmental Coalition
Albany, NY

Judy Braiman, President

Empire State Consumer Project
Rochester, NY

Leah R. Karpen
PSR--Physicians for Social Responsibility
Asheville, NC

Wells Eddleman
Staff Scientist
NC Citizens Research Group
Durham, NC

Kris Cunningham
Laura Sorenson
Founders and Activists
SAFE CAROLINAS
Asheville, NC

Mali Lightfoot
Executive Director
Helen Caldicott Foundation
Asheville, NC

Terry J. Lodge
Convenor
Toledo Coalition for Safe Energy
Toledo, OH

Linda Musmeci Kimball
Director, Peace Center
Oxford Citizens for Peace & Justice
Oxford, OH

B. Geary
Organizer
Citizens Action for Safe Energy
Tulsa, OK

Nina Bell, J.D.
Executive Director
Northwest Environmental Advocates
Portland, OR

Lynn Sims
Don't Waste Oregon
Portland, OR

Titus North
Executive Director
Ted Robinson
Staff Attorney
Citizen Power
Pittsburgh, PA

Karen Barton

Coordinator
Bryn Mawr Peace Coalition
Bryn Mawr, PA

Ernest Fuller
Vice-Chairman,
Concerned Citizens for SNEC Safety
Six Mile Run, PA

Bob Riggs
LEPOCO (Lehigh-Pocono Committee of Concern)
Bethlehem, PA

Karen H. Prather, President
Concern About Radiation In the Environment (CARIE)
Corry, PA

Carl J. Romanelli
Chair Green Party of Pennsylvania

Richard Aston
Luzerne County Green Party, PA

Jay Sweeney
Secretary
Green Party Wyoming County, PA

Dr. Finian D. Taylor
Hilton Head for Peace
Hilton Head, SC

Sara Barczak
High Risk Energy Choices Program Director
Southern Alliance for Clean Energy
Knoxville, TN

Ann P. Harris
Board Director
We The People, Inc.
Rockwood, TN

Barbara O'Neal, Trudy Wallack and Linda Modica
Officers
Erwin Citizens Awareness Network, Inc.
Erwin, TN

Linda Cataldo Modica
Convenor

AEROJET ACTION
Jonesborough, TN

Donald B. Clark
Cumberland Countians for Peace & Justice
Pleasant Hill, TN

Network for Environmental & Economic
Responsibility
United Church of Christ
Pleasant Hill, TN

Louise Gorenflo
Solar Valley Coalition
Crossville TN

Cynthia Weehler
Spokesperson
Energía Mía
San Antonio, TX

Sarah M. Fields
Program Director
Uranium Watch
Moab, UT

Nancy Braus
Safe and Green Campaign
Brattleboro, Vermont

Charlie Higley
Executive Director
Citizens Utility Board of Wisconsin
Madison, WI

Marcia Halligan
Kickapoo Peace Circle
Viroqua, WI

Diane Farsetta
Executive Director
Wisconsin Network for Peace and Justice
Madison, WI

Christopher LaForge
Great Northern Solar
Port Wing, WI

Alliance for Nuclear Accountability ♦ Beyond Nuclear ♦ Friends of the Earth ♦ Greenpeace
♦ Natural Resources Defense Council ♦ Nuclear Information and Resource Service ♦
Physicians for Social Responsibility ♦ Public Citizen ♦ Sierra Club ♦ SUN Day Campaign

April 27, 2012

President Barack Obama
The White House
1600 Pennsylvania Avenue
Washington, DC
Submitted via FAX to (202) 456-2461

Re: Opposition to the Re-nomination of Kristine L. Svinicki as a Commissioner of the Nuclear Regulatory Commission

Dear President Obama:

We write to express our opposition to the re-nomination of Kristine L. Svinicki to the Nuclear Regulatory Commission (NRC). We respectfully oppose Commissioner Svinicki's re-nomination to the Commission for a number of nuclear safety-related reasons.

The paramount importance of the NRC's ability to regulate effectively was highlighted by the meltdown and breach of containment of three reactors at the Fukushima Dai-ichi nuclear power plant last year. The Fukushima disaster caused governments around the world to reassess the safety of nuclear power and to question their ability to protect the public from the combined effects of natural and man-made events such as those that struck Japan on March 11, 2011. In the United States, the Nuclear Regulatory Commission appropriately convened a "Near-Term Task Force" to study the accident and recommend improvements to our domestic regulatory requirements to better protect the public from existing and new reactors.

Unfortunately, Commissioner Svinicki consistently either voted against or temporized on incorporating the lessons of Fukushima into the regulation of nuclear reactors in the United States. On December 15, 2011, she voted to reject the recommendation of the Near-Term Task Force on Fukushima that post-Fukushima upgrades be made mandatory.¹ This vote is consistent with other important safety related votes. Since the Fukushima catastrophe began, she voted against an Advisory Committee on Reactor Safety recommendation for measures to address accident risks posed by the hotter reactor cores and higher pressures associated with "power up-rates," against measures to improve security screening for personnel gaining access to reactors,² against measures to increase NRC enforcement discretion for reactors that do not comply with fire regulations³ and against measures to gather more information to enhance control of leaks of radioactive materials,⁴ and in favor of adding further consideration of the costs or burden of NRC regulations to industry by requiring NRC staff to analyze the cumulative financial impact of all regulations on licensees.⁵

Additionally, Commissioner Svinicki voted to expedite approval of the AP1000 reactor design and to grant Southern Company a combined operating license for two new reactors at the Vogtle plant before Fukushima-related safety regulations are adopted and without requiring the company to comply with such

regulations when they are adopted.⁶ Finally and most troubling, in a series of votes last month she opposed specific safety enhancements recommended by the Near-Term Task Force. Her votes before the Fukushima accident demonstrate the same tepid perspective on making further reactor safety improvements.⁷

For these reasons, we urge you not to nominate Commissioner Svinicki for a second term as a commissioner of the Nuclear Regulatory Commission.

Respectfully,

Susan Gordon
Executive Director, Alliance for Nuclear Accountability

Paul Gunter
Executive Director, Beyond Nuclear

Damon Moglen
Director, Climate and Energy Program
Friends of the Earth

Jim Riccio
Nuclear Policy Analyst, Greenpeace

Christopher Paine
Director, Nuclear Program
Natural Resources Defense Council

Michael Mariotte
Executive Director, Nuclear Information and Resource Service

Catherine Thomasson, M.D.
Executive Director, Physicians for Social Responsibility

Tyson Slocum
Director, Energy Program
Public Citizen

John Coequyt
Senior Representative, Climate Change and Energy
Sierra Club

Ken Bossong
Executive Director, SUN Day Campaign

¹<http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2011/2011-0137vtr.pdf> Four Commissioners indicated in their comments that they believed it was premature to decide on the question of “adequate protection” or a change in the plant’s design basis, instead calling for more study of this question on a case-by-case basis. Chairman Jaczko did not rescind his support for all of the Task Force recommendations.

² SECY 11-0014 (<http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2011/2011-0014vtr.pdf>)

³ SECY 10-013 (<http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2011/2011-0061vtr.pdf>)

⁴ <http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2011/2011-0076vtr.pdf>

⁵ <http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2011/2011-0032vtr.pdf>

⁶ <http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2011/2011-0145vtr.pdf>

⁷ SECY 08-0184 (<http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2008/2008-0184vtr.pdf>);

SECY 09-0086 (<http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2009/2009-0086vtr.pdf>);

SECY-09-0183 (<http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2009/2009-0183vtr.pdf>);

SECY 10-0078 (<http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2010/2010-0078vtr.pdf>); and

SECY-10-0105 (<http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2010/2010-0105-vtr.pdf>).

Senator BOXER. What is key here to me is the safety of the people. Now, my two nuclear power plants happen to be located on or near earthquake faults and tsunami zones, and all I could tell you is this: the burden on the NRC should be taken seriously by every Commissioner. The safety of millions of people, women, men, children, rests on your shoulders. So for me, post-Fukushima, I will be supporting people who I believe will put the safety of the people ahead of the special interests. That is critical to me.

So, as we move on, I will be asking questions. The American people have a right to expect the best public servants in these critical positions.

I now turn to Ranking Member Inhofe for his opening statement.

**OPENING STATEMENT OF HON. JAMES M. INHOFE,
U.S. SENATOR FROM THE STATE OF OKLAHOMA**

Senator INHOFE. Thank you, Madam Chairman.

One of the Senate's most important responsibilities is to offer service and provide consent to the President's nominations, and that is what we are doing here today.

The nomination of Kristine Svinicki to continue to serve on the Nuclear Regulatory Commission is crucial, especially as the Commission enters a tumultuous time with the lack of transparent leadership, while continuing to make important decisions regarding nuclear safety. Five years ago she was confirmed by this Committee, as was stated in her introduction, and in the Senate by unanimous consent, and President Obama has taken the prudent step to re-nominate her to serve in another 5-year term.

Commissioner Svinicki's qualifications are stellar. Prior to her term on the NRC, she had many years of experience on Capitol Hill serving as staff on the Armed Services Committee, where I serve now as a second ranking member, and I enjoyed my service with her at that time.

In her current role as Commissioner, her contribution has been essential as the Commission has worked to unravel lessons learned from the Fukushima accident. Commissioner Svinicki's perspective was also crucial in finalizing the Commission's view of Vogtle and Summer nuclear plants, the first two new nuclear plant licenses in over 30 years. Her voting record at the NRC shows that she is a conscientious and objective policymaker, with a strong dedication to safety. Her demonstration, collaborated with her Commission colleagues, shows her to be a studious, thoughtful, and compelling, with an admirable capacity to produce bipartisan results.

We are considering also the nomination the nomination of Dr. Allison Macfarlane to complete the term of Chairman Jaczko. Given the numerous reports of Chairman Jaczko's failed leadership to the NRC, it was right of him to resign last month. I am glad it happened. By removing himself from the distraction of the agency, the Commission can once again focus on its mission of nuclear safety.

It is my expectation that Dr. Macfarlane can step into be a valuable member of the Commission. Although I have some concerns about perhaps a lack of background in management experience, that is something certainly that she will pick up quickly, as well as the areas of nuclear safety.

While she is obviously well informed on the back end of the fuel cycle, I hope that her previous research and publications won't inhibit her ability to be a fair judge of the licensing of nuclear waste repository.

Despite those modest concerns, I think we can all agree that the NRC functions most effectively as a full Commission. I am encouraged to hear from her individual meetings with my staff that she intends to treat her peers—both fellow Commissioners and the general staff—at the NRC as equals and a valuable knowledge base, and I am certainly expecting that that will happen. I had a chance to visit with Dr. Macfarlane, and I probably shouldn't say this in a meeting like this, but I said I would like to have kind of the same relationship as I do with Lisa Jackson, the Director of the EPA. She has always been very honest with me, and while we have disagreements, I am sure we will have the same relationship, and I look forward to it.

Thank you, Madam Chairman.

[The prepared statement of Senator Inhofe follows:]

STATEMENT OF HON. JAMES M. INHOFE,
U.S. SENATOR FROM THE STATE OF OKLAHOMA

Thank you, Chairman Boxer, for holding this hearing. One of the Senate's more important responsibilities is to offer advice and provide consent to the President's nominations.

The nomination of Kristine Svinicki to continue to serve on the Nuclear Regulatory Commission (NRC) is crucial, especially as the Commission enters a tumultuous time with a lack of transparent leadership while continuing to make important decisions regarding nuclear safety. Five years ago she was confirmed by this Committee, and in the Senate, by unanimous consent, and President Obama has taken the prudent step to re-nominate her to serve another 5-year term. Commissioner Svinicki's qualifications are stellar: Prior to her term on the NRC, she had many years of experience on Capitol Hill, serving as staff of the Armed Services Committee. She is a nuclear engineer dedicated to public service and has drawn praise from both Democrats and Republicans.

In her current role as Commissioner, her contribution has been essential as the Commission has worked to unravel lessons learned from the Fukushima accident. Commissioner Svinicki's perspective was also crucial in finalizing the Commission's review of the Vogtle and Summer nuclear plants, the first two new nuclear plant licenses in over 30 years. Her voting record at the NRC shows that she is a conscientious and objective policymaker with a strong dedication to safety. Her demonstrated collaboration with her Commission colleagues shows her to be studious, thoughtful, and compelling with an admirable capacity to produce bipartisan results.

We are also considering the nomination of Dr. Allison Macfarlane to complete the term of Chairman Greg Jaczko. Given the numerous reports of Chairman Jaczko's failed leadership at the NRC, it was right of him to resign last month. By removing himself as a distraction to the agency, the Commission can once again focus on its mission of nuclear safety.

It is my hope that Dr. Macfarlane can step in to be a valuable member of the Commission, although I have some concerns about her lack of management and nuclear safety experience. Additionally, I am concerned with her pre-conceived notions of spent fuel disposal. While she is obviously very well informed in the back end fuel cycle, I hope that her previous research and publications will not inhibit her ability to be a fair judge of the licensing of a nuclear waste repository.

Despite my concerns, I think we all can agree that the NRC functions most effectively as a full commission. I am encouraged to hear from her individual meetings with my staff that she intends to treat her peers—both fellow Commissioners and general staff at the NRC—as equals and as a valuable knowledge base. I sincerely hope she follows through on her statements, because that collegiality has been severely tarnished in recent years.

This Committee has a longstanding bipartisan tradition of considering nominations in a timely fashion. Nominees have historically been given an up or down vote by the Committee the week following the hearing. Therefore I am hopeful that a

vote will be quickly scheduled to avoid an unfortunate lapse in service by Commissioner Svinicki.

Commissioner Svinicki and Dr. Macfarlane, I look forward to hearing from you.

Senator BOXER. Thank you so much.

Senator Carper.

**OPENING STATEMENT OF HON. THOMAS R. CARPER,
U.S. SENATOR FROM THE STATE OF DELAWARE**

Senator CARPER. Thank you, Madam Chair.

I just want to start my statement with a question of Dr. Macfarlane. How do you pronounce your name?

Ms. MACFARLANE. Do you want an answer?

Senator CARPER. Yes.

Ms. MACFARLANE. Macfarlane.

Senator CARPER. Thank you.

We have never mispronounced Commissioner Svinicki's name. Actually, we have the potential to butcher names badly here, so I hope we will get your name right. Your name is misspelled, I would note that, Dr. Macfarlane.

I want to welcome both Commissioner Svinicki and Dr. Macfarlane to our Committee, and I look forward to today's hearing. Quite favorably impressed by the technical breadth and depth of our two nominees and by the set of skills that each one has already brought and would bring if confirmed to the Nuclear Regulatory Commission.

I am encouraged that the President would move quickly to nominate Dr. Macfarlane to serve as Commissioner and to chair the NRC. I am also pleased that he submitted the name of Kristine Svinicki to serve a full 5-year term on the Commission. Hopefully, we can make a decision on both of these nominees before June 30th of this year so that the Commission will have a full complement of Commissioner and new Chair leader.

I believe that it is important for us to have a fully functioning Commission because today the NRC is addressing some of the most pressing issues that the nuclear industry has faced in years. Clarity and leadership as we face the future are critical.

On this Committee's encouragement, the NRC is reviewing our domestic nuclear fleet and implementing lessons learned from the Japan Fukushima Daiichi crisis that occurred last year. We need to make sure that every precaution is being taken to safeguard the American people from a similar nuclear disaster here.

Just a few months ago the NRC approved the construction of four new nuclear reactors, an undertaking the United States has not witnessed in some 30 years. The events of destruction that disabled the Fukushima Daiichi plant last year are a reminder that adequate preparation and response planning are vital to minimize injury and death when it does happen. In no small part because of the hard work of the NRC, there have been no direct deaths from nuclear power plant radiation exposure in this country.

While I am a strong proponent of clean energy, my top priority for our nuclear power has been and remains public safety. The past 11 years I worked with the NRC, my colleagues, and the industry to ensure that we build and maintain a culture of safety in every one of our 104 nuclear power plants. I expect—and I believe the

public expects—the NRC to be a strong, independent, and effective regulator, a regulator that acts prudently, firmly, and decisively; a regulator that acts openly and transparently; and a regulator that produces results and is worthy of the public's confidence and that of both the executive and legislative branches of our Government.

In sum, the NRC must continue to work every day to ensure our nation's health, safety, and security, while also endeavoring to protect our environment.

Commissioner Svinicki has been a member of the Commission for almost 5 years now and has appeared before this Committee a number of times to answer questions since her nomination. Over the course of those years, I have had the opportunity to discuss a wide range of nuclear power issues with the Commissioner, and while I may not have agreed with her on every single one of them, I found her to be knowledgeable, hard working, and committed to safety, as well as to ensuring that the NRC remains a strong and impartial regulator.

And while I do not know Dr. Macfarlane, although I do know how to pronounce her name now, I welcome the opportunity to meet with her earlier this week for a wide ranging conversation of issues that have come and will come before the NRC, and by the conclusion of that meeting I am encouraged that her expertise, her experience, and past leadership on some of the most pressing nuclear issues facing our country could bring a valuable and unique perspective to the Commission on policy issues. I look forward to learning more about her and her views on nuclear policy and the NRC today in the days ahead.

At a time when there are so many challenges facing the nuclear industry, I hope that this proves to be a productive hearing that will enable us to move forward through the nomination process for both Commissioner Svinicki and Dr. Macfarlane.

In conclusion, I believe that both of these nominees clearly have the potential to play important leadership roles that will help to strengthen the Nuclear Regulatory Commission and their critical work that it does for our nation in the coming years, and I hope that when the hearing is concluded my colleagues on this Committee will share that believe.

We want to thank you both for being here today and for your willingness to serve our country on this important Commission.

I notice there are two young men sitting over your right shoulder there, Dr. Macfarlane. One of them is younger than the other, your 10-year-old son Graham. Graham, welcome today. Thank you for sharing your mom. And to your dad, thank you for sharing your wife.

Kristine, I don't know if you have any of your family here, but in absentia, we wish them well.

Thank you both.

Senator BOXER. Senator Carper, thank you for recognizing the family of our soon to be, we hope, Chairman, because I didn't know she had her family here. I am very thrilled that you noted them.

Senator Alexander, you are next.

**OPENING STATEMENT OF HON. LAMAR ALEXANDER,
U.S. SENATOR FROM THE STATE OF TENNESSEE**

Senator ALEXANDER. Thanks, Madam Chairman, Senator Inhofe. Dr. Macfarlane, Commissioner Svinicki, welcome. We are glad you are here.

I have been very impressed with President Obama's nominees to the Nuclear Regulatory Commission, and that includes Commissioner Svinicki, whom I know well. I do not know Dr. Macfarlane, but I am beginning to get to know her, and I have noticed her distinguished background. I too believe it is important for our country to have a full complement of members of the Nuclear Regulatory Commission, so I hope, Madam Chairman, we can make a prompt decision soon.

I would like to, rather than surprise you with the questions I am going to ask when my time comes, I would like to tell you about them in advance, because that will help express my concerns and my attitude as I look forward to talking with you.

First, and this will be especially for Dr. Macfarlane, is the management question. I have never seen anything in my public life, in and out of government over the last 40 years, as the dispute that has occurred among very well qualified members of the Nuclear Regulatory Commission, and without even getting very far into why that happened or how that happened, Dr. Macfarlane, if you are going to be the Chairman designee, I will be asking you about what you intend to do about that; what your manner and attitude will be in terms of leadership in an organization where you have well qualified colleagues and 4,000 or so employees.

Second, I will be asking about used nuclear fuel, nuclear waste; what are we going to do about it. And you may get some questions—especially Dr. Macfarlane will, maybe both of you will—about whether you are for or against Yucca Mountain. I won't be asking that. I will be asking whether or not you are against it should we not move ahead to find a repository and to find consolidation sites along parallel tracks, as recommended by the bipartisan Commission on Nuclear Waste, on which Dr. Macfarlane served.

Three, I will be asking about small nuclear reactors and your attitude toward that. That is an opportunity our country has; it has broad support here in the Congress. We are funding a jump start of it. The Nuclear Regulatory Commission's nurturing of that process over the next 3 or 4 years will make a difference whether the United States is able to move ahead with it successfully. I will be asking about that.

Two other things. One is the MOX fuel. TVA, as a Federal agency, has volunteered to use it, and the Nuclear Regulatory Commission will have to qualify it and then license the reactor. This is all a part of the United States' effort to take nuclear weapons that were intended to blow us up and turn them into fuel that we can use to heat our homes, and we have invested a lot of money in it in the United States, and this would be a beginning use of this fuel, which, if it works properly, could even reduce the cost of fuel at our civilian nuclear plants.

And finally, I will be looking for a general attitude toward nuclear energy and its importance in the United States. Senator

Boxer mentioned Japan, which is a concern for all of us. Of course, the Nuclear Regulatory Commission has an exemplary safety record; never a death at a civilian reactor in the United States, no one even hurt in Three Mile Island, which is our most celebrated accident.

We would like to continue that, and I think one reason why support for nuclear power has continued in the United States, despite the pictures of Fukushima, is because we understand it pretty well and because the Nuclear Regulatory Commission has done such a good job over the years of safety in so many different ways. In fact, other parts of our energy industry, such as drilling for oil offshore, could take a lesson from the shared responsibility that nuclear power plants have with each other for making sure that they are safe.

My own view is, particularly as I look at Japan—I was speaking to one of the former Ambassadors the other day—Japan has closed its plants. That gets rid of 30 percent of its power for the nation's second or third largest economy. That is a terrible blow. They are having manufacturing on weekends and thermostats are up, and the emperor was running around the palace with a candle to set a good example. That is not the way you build a vibrant, strong, prosperous economy. We need lots of clean, low cost, reliable electricity. Thirty percent of Japan's has been nuclear; 20 percent of ours is.

The former Ambassador said two of the Japanese plants will be opening soon. He hoped that two by two by two they would come back for the welfare of the Japanese people. They don't even have the advantage of cheap natural gas over there that we have here.

So I will be looking for your general attitude about the next 20 or 30 years of nuclear power. Mine is that we will probably need 100 new plants, partially to replace the ones we have and partially to keep our air clean and to meet the demand for electricity in a country that uses 25 percent of all the electricity in the world. But I wouldn't ask you to endorse that idea; I simply will be asking you about whether you are prepared to envision a future where nuclear power is a significant part of our base load electricity.

I know the TVA, where I am from, is putting pollution control equipment on its coal plants. We can operate them in the future and produce about a third of its power from electricity, but it plans to make 30 to 40 percent of its electricity from nuclear power. TVA is the largest public utility.

Right south of that is the Southern Company. They are the largest private utility. They have about the same idea; they are going to make about a third of their electricity from coal plants with pollution control equipment, and then they are going to make about a third of it with nuclear power. So I will be asking do you envision a future in which you can regulate that kind of large percentage of our electricity coming from nuclear power.

So I welcome you here. I thank you for the opportunity to do this, and I thank the Chairman for having the hearing.

Senator BOXER. Thank you so much, Senator.

Senator Sanders.

**OPENING STATEMENT OF HON. BERNARD SANDERS,
U.S. SENATOR FROM THE STATE OF VERMONT**

Senator SANDERS. Thank you, Madam Chair.

Welcome to Dr. Macfarlane and Commissioner Svinicki. Thanks for being with us.

Let me begin by expressing a little bit, for a change, of disagreement with Senator Inhofe. That happens every once in a while. I think he referred to Chairman Jaczko as "having exercised failed leadership." Let me respectfully disagree. I happen to think, while I have had disagreements with Chairman Jaczko, I think he has done a good job, and I will tell you what I am upset about. I am upset about the level of personal attacks that have been waged against him from this Committee and within the NRC itself. And I happen to believe that those attacks, personal attacks, were a smoke screen for a philosophical divide that existed within the NRC and exists there today.

Now, in this Committee we have fundamental philosophical differences; no great surprise. But I hope and believe that it is not necessary to wage personal attacks against each other to disguise our philosophical differences, and I fear very much that has been the case within the NRC. So I happen to believe that Commissioner Jaczko has been a strong defender of the most important task of the NRC, and that is to protect the safety and the well being of the American people. And sometimes he has cast a lone vote; he has been outvoted 4 to 1. But I think he has tried to do his job with dedication and sincerity.

Let me express a few words about——

Senator INHOFE. If you would yield on that point. As I told the Chairman——

Senator BOXER. Could you stop the clock and allow Senator Inhofe to ask a question?

Senator INHOFE. Yes. It is not even a question, but we had a whole hearing on Chairman Jaczko and on some of the alleged treatment of employees, disagreements with the Commission, and the failure to share things with the Commission. So I think it would be a good idea, anyone who is interested in this subject and the statements that the Senator made, go back and get the script of that hearing. I think it is pretty revealing.

Senator SANDERS. Well, I think it is, in all due respect, not revealing. I think he was subject to McCarthyite tactics, and I hope we don't see a repetition of that.

In terms of some of my concerns about Commissioner Svinicki, she was one of the three members of the NRC who voted in secret—in secret—to recommend to the Department of Justice that it weigh in on Entergy's side in litigation with the State of Vermont over the future of the Vermont Yankee Nuclear Power Plant.

In my very strong opinion, the role of the NRC is not to represent Entergy or any other nuclear power company against Vermont or against any other State; it is to ensure the strongest safety standards possible at nuclear plants. That is its job; not to be an advocate for nuclear energy, not to be an opponent of nuclear energy, but to do everything possible to protect the safety of the American people from potentially a very dangerous technology.

Not only do I believe that Commissioner Svinicki's vote was wrong on the merits, but I am concerned that she voted without having reviewed the major Supreme Court ruling that defines the role States have in regulating nuclear plants. This is a very big issue.

Everybody agrees that the function of the NRC is to protect the safety of the American people; that is its job; it is not to be a proponent of nuclear power, and in the case of Vermont, against the wishes of the people of Vermont, who did not want to see that plant extended.

In terms of Fukushima reforms, Commissioner Svinicki has, consistent with an industry request, required that Fukushima reforms be subject to a cost-benefit test that could water down their effectiveness. Commissioner Svinicki's votes do not require new reactors comply with all Fukushima reforms. Too often she defers to industry-led voluntary initiatives instead of voting for NRC mandated safety requirements. That concerns me very much.

Another very, very important issue that I hope we deal with in the near future has to do with the issue of transparency at the NRC. And I will be speaking to Dr. Macfarlane about this in my questioning as well.

Commissioner Svinicki, along with some of her colleagues, does not disclose stakeholder meetings and will not agree to public meetings for NRC votes. Very important issue.

More broadly, I am concerned that Commissioner Svinicki appears to be a promoter of nuclear power, and interestingly, my friend and colleague, Senator Inhofe, seems to agree with me. And I would like to present to the record an article appearing in a publication called Energy Guardian on April 20th, 2012, and let me quote from that article. It is an interview with Senator Inhofe. He said in that article, entitled Inhofe Says Second Svinicki Term: Good for Nuclear Energy, "I happen to be on the pretty extreme side in wanting to do more quicker, and I think she has that tendency too." Well, frankly, I do not want to see somebody on the extreme side of any issue being on the NRC. It is one thing for elected officials who go before their constituents; they have whatever position they want. But that concerns me very much.

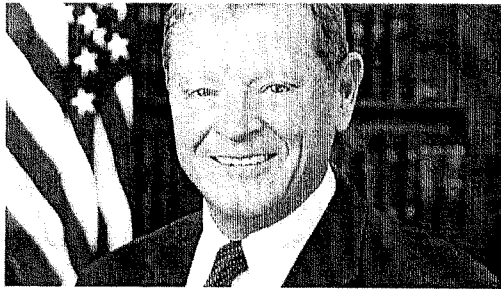
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ENERGY GUARDIAN

News: Inhofe says second Svinicki term good for nuclear energy



U.S. CONGRESS:

NUCLEAR (/CATEGORIES/NUCLEAR) NUCLEAR (/CATEGORIES/NUCLEAR)

By Edward Folker ([@edward-folker](#)) on April 20, 2012

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The White House decision to nominate Nuclear Regulatory Commissioner Kristine L. Svinicki to a second term was met with resistance from some Democrats. But the top Republican on the Senate Environment and Public Works Committee applauded the decision, telling *EnergyGuardian* it is a victory for those who want to keep nuclear energy moving forward.

Sen. James Inhofe, R-Okla., has been pushing for Svinicki, a Republican, to get another four years on the commission as a counterweight to Chairman Gregory Jaczko, a Democrat whose aggressive management has at times angered his colleagues and stirred criticism from Republicans.

"The balance is important. I happen to be on the pretty extreme side in wanting to do more, quicker, and I think she has that tendency too," Inhofe said during a brief interview after the White House announced its decision Thursday.

The partisan split will be on display at her nomination hearing before the Senate Environment and Public Works Committee. Chairman Barbara Boxer, D-Calif., has long been critical of Svinicki and opposes a second term for her, in part based on her record at the commission.

Boxer also contends Svinicki misled the committee at her confirmation hearing in 2007 over her past work on the Yucca Mountain waste dump, which the administration has canceled.

Here is more of what Inhofe told EnergyGuardian about Svinicki.

EnergyGuardian: What is your reaction to the White House planning to re-nominate Kristine Svinicki to the Nuclear Regulatory Commission?

Inhofe: We really need to have her on board, and she is a real anchor on that commission.

EnergyGuardian: Why is that?

Inhofe: First of all, she has the background. Others do too, but she has a background that goes back on both sides. She has been a legislative (aide) in Sen. Larry Craig's office, and that's very helpful, and I think she's as knowledgeable as anyone else.

And, of course, the balance is important. I happen to be on the pretty extreme side in wanting to do more, quicker, and I think she has that tendency too.

EnergyGuardian: How much is she seen as a proxy for those who want to open up Yucca Mountain?

Inhofe: I don't see her as a proxy. I see her as someone who is so knowledgeable that people don't question her abilities. That makes her opinion a lot stronger. Her demeanor is kind of that way, she's very quiet. I'm a real fan.

EnergyGuardian: What would have been the impact if she had not come back, if the administration had sent up someone more like Chairman Jaczko?

Inhofe: It would not be good for the future of nuclear energy. We're at the point now where we want to get...we have applications that need to be processed, and hopefully we'll be able to do that.

EnergyGuardian: Has anyone put a hold on an NRC nominee?

Inhofe: I'm trying to remember if there's ever been a hold on one of these. I'm not sure there has been. It would not have been good.

Tags:

[James Inhofe \(/tags/james-inofoe/\)](#) [Kristine Svinicki \(/tags/kristine-svinicki/\)](#) [NRC \(/tags/nrc/\)](#)
[nuclear power \(/tags/nuclear-power/\)](#)

Senator SANDERS. We need Commissioners who are thoughtful and safety conscious. Commissioner Svinicki has given multiple speeches over the past several years that cite a “nuclear renaissance,” a term nuclear advocates use in the hopes of building dozens of new plants with billions and billions of dollars of Government support. In those speeches she has stated that the NRC’s job is “to enable commercial energy activities to proceed” provided certain requirements are met. I disagree. I believe, again, that the NRC’s job is to protect the public and be a strong and fair regulator, without bias in favor of or against the nuclear industry.

We have before us today another nominee, Dr. Macfarlane, to be Commissioner and Chair of the NRC, as well, and I look forward to hearing more about her view. My hope is she will make strong commitments to us today that ensure the NRC can move forward aggressively toward transparency and openness as a good starting point for reform.

However, I want to be clear, and I want to make this point as clear as I possibly can, that if the NRC does not move forward to reform its voting process to be open and transparent, I will be introducing NRC reform legislation to mandate a transparent public voting process. The current situation is opaque. The public does not understand how NRC members are voting, and that has got to change.

I would hope, Dr. Macfarlane, that if you are confirmed you will lead the NRC in that direction. If not, I will be offering legislation to mandate that we do that.

Madam Chair, thank you very much.

Senator BOXER. I would yield the remainder of the time to Senator Inhofe if he would like to respond.

Senator INHOFE. No, just a quick response.

The article, and I think it was an accurate article, when I was mentioned, but keep in mind the context of that. I think, rather than extreme, I should have used the word impatient. I am ready for nuclear energy, it said. We have to have it in our mix, and it seems to me, in the years I have been on here, that it takes so long to get anything done. So that was the context in which I—

Senator SANDERS. Well, let me just respond. It is one thing to be impatient, but I do not want to see, in this country, a nuclear accident. I want to see the Commission do everything possible to protect the safety of the American people.

Senator INHOFE. I agree, I agree, I agree.

Senator SANDERS. And impatience, by the way, Senator Inhofe, is not one of the qualities we want in those Commissioners. I want them to be patient; I want them to be thoughtful. I want them to go the extra 10 miles. Nuclear power cannot be 99.99 percent safe. That is the problem we have with that technology. So impatience or extreme is not a quality that I would like to see on the Commission.

Senator BOXER. All right.

Senator Sessions.

**OPENING STATEMENT OF HON. JEFF SESSIONS,
U.S. SENATOR FROM THE STATE OF ALABAMA**

Senator SESSIONS. Thank you, Madam Chairman.

Let me make a couple points about professionalism of this nominee, Kristine Svinicki. Her record shows that she is dedicated to the safe operation of nuclear plants and collegial work. In the past 4 years, while on the NRC, Kristine Svinicki voted on 135 or so significant policy or rulemaking matters; in over 90 percent of the votes she voted to approve the recommended action of the Nuclear Regulatory Commission professional staff and voted with the majority well over 90 percent of the time during that period.

Let me also mention this concern that was raised about her testimony that she did not disclose involvement in a paper concerning Yucca Mountain when she testified last time. Her involvement in the Yucca project was fully evaluated during her confirmation process in 2007, 2008. She was fully forthcoming in her written questionnaire and written responses to questions about her involvement in nuclear waste issues early in her career and testified before the EPW Committee. She was unanimously confirmed.

Ironically, the technical paper that her opponents claim she was hiding from the Senate during her confirmation process was actually the first of her articles listed in her Senate EPW questionnaire submitted 5 years ago. So I don't want to use McCarthyite phrases, but we need to be careful about somebody of her integrity and ability in suggesting motives that aren't there.

Also, I would note that the paper that was referred to, that she coauthored as a young engineer working in the Clinton Department of Energy, it was very short, less than 3 pages, and briefly described the Yucca Mountain site and described the potential waste acceptance and disposal process. She left this particular DOE waste program in 1997, during the Clinton administration time, long before Secretary Abraham, under the Bush administration, recommended Yucca Mountain to President Bush in 2002.

I would also note and am pleased to learn that just this week Ms. Svinicki was awarded the 2012 Presidential Citation by the American Nuclear Society, an organization of 11,000 engineers, scientists, and educators. When she was issued the award, the ANS president said, "Commissioner Svinicki has demonstrated leadership and adherence to the highest professional conduct while serving on the Commission. She combines an unshakable demeanor with proven technical and professional qualifications, and we support her nomination to a second term on the Commission." The award specifically recognized her "courageous leadership, dedication to public service, unwavering commitment to a regulatory framework that enables facilities to operate safely and securely with nuclear technology."

Also, I would note that Mr. David Lochbaum, who is the Nuclear Safety Project Director of the Union of Concerned Scientists, basically anti-nuclear and take very liberal views, said this about her, according to the EE newsletters: She in no way is a "industry puppet" and her views have stayed consistent since he first met her more than a decade ago. "I don't agree with some of the positions she takes, but I think they are sincere views. I don't think that the

industry is getting to her or she is reading their script.” Mr. David Lochbaum, concerned scientist.

So I just would make that point, and I know that we have a good record here that she would operate under.

And Dr. Macfarlane, I did enjoy very much meeting with you; it was a good conversation. I note that you are taking over a very important task, and if appointed Chairman, as the President indicated he will do, which is his prerogative, that you will be undertaking to supervise 4,000 employees, a supervisory role you have never had before, and it would be a real step for you. I hope that you can handle that effectively. So it raises that concern with me and the other issues that I might question you about as we go forward. But I have enjoyed meeting with you.

I think the President does have—I think there is a situation that has occurred with regard to the controversy at the Committee, and I am supportive of the idea that we need to move forward. I will support—I will not seek to block your confirmation, and I think it will be the right thing for us to do, to do both of these nominations and move them together, although I would express that your background is not the kind of background I would normally look for in a Chairman of the NRC.

Thank you, Madam Chairman.

Senator BOXER. Thank you, Senator.

Senator Lautenberg.

**OPENING STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM THE STATE OF NEW JERSEY**

Senator LAUTENBERG. Thank you very much, Madam Chairman, and thanks for bringing us together to consider the nomination of Dr. Allison Macfarlane and renomination of Kristine Svinicki to the Nuclear Regulatory Commission.

Nuclear energy, everyone knows, has been critical to meeting our nation’s energy needs, and it is an emissions-free energy source that provides one-fifth of America’s electricity. My State of New Jersey, our four nuclear power reactors provide the State with more than half of its electricity. But as we saw in Japan last year, there are also many reasons to be cautious. In order to operate plants safely, the United States must have an effective policy for disposing and storing spent nuclear fuel, and right now most nuclear power plants store more than 1,000 tons of nuclear waste in spent fuel pools onsite. It is not a sustainable situation.

In New Jersey, nuclear waste is stored onsite at our four nuclear reactors, and some of it is in dry cask storage, but most is in spent fuel pools, which rely on a steady supply of water and electricity. In Japan, when the tsunami knock the power out, we saw rescue workers desperately spraying water from fire hoses into the spent fuel pools. More than half a year later there are still serious concerns about the safety of spent fuel at Fukushima and one thing is clear: we have to find better and safer ways to store nuclear waste to ensure that a disaster like the one that took place in Japan never happens here. That means finding more secure ways to store fuels onsite, finding agreeable places to store national spent fuel, and making sure that these sites have long-term viability.

We have now heard from the President's Blue Ribbon Commission, which made a number of recommendations that could provide the path forward, and I look forward to hearing from the two nominees on how they plan to approach the Commission's proposals and fill their mandate. If confirmed, these nominees will hear from industry interests that may oppose strong safety regulations, and we have to be particularly careful about proposing a particular company or organization. Let the question be, is this safe enough; are we doing what we can to protect the public? That is where the interest must lie. But don't forget companies that are accountable to shareholders often have to focus, or have focused, on short-term costs and quarterly profits.

In contrast, the NRC must be accountable to the people, must stay focused on ensuring the safety of this generation and the next. So I expect both of these nominees, if confirmed, to always err on the side of safety. Relaxing regulations could harm the public and would do the industry no favors. Just look at Japan. They were not prepared to withstand last year's disaster, and last month they shut down the last of their 54 nuclear reactors.

I find it shocking that they are able to get by after shutting 54, all of their nuclear reactors, and still have the society functioning, but that is life, and we have to evaluate how much of our energy ought to be created in nuclear facilities. Nuclear energy has been critical to our nation's energy needs in the past, but we have to take the necessary precautions now in order for that to be true in the future.

Thank you, and I wish each of you luck in continuing your service to the country. Thank you.

Senator BOXER. Senator BARRASSO.

**OPENING STATEMENT OF HON. JOHN BARRASSO,
U.S. SENATOR FROM THE STATE OF WYOMING**

Senator BARRASSO. Thank you very much, Madam Chairman.

I would first like to also welcome our two distinguished nominees who are here with us today. Congratulations to both of you on your nominations.

Madam Chairman, the Nuclear Regulatory Commission has gone through a very dark period recently. The Commission has experienced a crisis of leadership at the top of the agency; incidents of harassment of staff, outbursts of rage, and withholding of information from fellow commissioners by Chairman Jaczko. It has hurt the agency's image.

Throughout it all, the other four NRC Commissioners and the staff have persevered as they always have, ensuring that the mission of the agency—nuclear safety—is not compromised.

Today we should be pleased to have this opportunity to work toward strengthening the leadership of this agency by ensuring the agency has a full complement of Commissioners. I believe that Commissioner Svinicki is eminently qualified to continue her distinguished career on the Commission. She has shown leadership and expertise that have earned her the praise from fellow Commissioners, both Democrat and Republican. Despite delays in getting her re-nominated by this Administration, I and many of my col-

leagues on this Committee will work to ensure that she is swiftly confirmed.

With regard to Dr. Macfarlane, who has yet to serve on the Commission, I believe that we do need to look at what are the qualifications that we seek in a nominee to serve out the rest of Chairman Jaczko's term. She has a long career, distinguished career in academia; has served on the Blue Ribbon Commission on America's Nuclear Future. It is our job as the Senate Environment and Public Works Committee to explore her positions on what she sees as the future of nuclear power; that is, what are her views on uranium production, which is very important to my home State of Wyoming, where uranium is in abundance. We need to explore her views on nuclear power plant permitting and the long-term storage of nuclear waste.

If we are to have a true, all out, all of the above energy strategy that the President has talked about, we must continue with building new power plants and developing a long-term place to store nuclear waste. These are all essential to the future of nuclear power in America.

As I have stated, there has been a crisis of leadership at the top of the Commission. We need to find a leader of the Commission who doesn't try and run the Commission with a top-down command and control approach; someone who is not afraid to reach out and utilize the years of technical expertise that the other distinguished Commissioners offer; someone who has a demonstrated record as a successful manager, knows how to take a large, complex organization with different personalities and backgrounds and get it working toward a common goal without compromising ethics.

At a time when there is a void of leadership at the very top of the NRC, we need the best, most qualified person that we can find. When it comes to the issue of nuclear safety in America's energy future, the public expects no less.

We have great challenges ahead of us in the next few years to secure America's energy future. With the need to address America's demand for clean, safe, domestic, affordable energy, we need to work together to strengthen the Commission. As the Ranking Member of the Subcommittee on Clean Air and Nuclear Safety, I pledge to work with my colleagues to accomplish this goal.

I would like to say, once again, congratulations to both of you on your nomination by President Obama. I would also like to read to you both quotes from both industry and from labor which describe the qualities that they have seen, both industry and labor, that both have seen from Commissioner Svinicki during her tenure. The American Nuclear Society says, "Commissioner Svinicki combines an unshakable, unshakable demeanor, with proven technical and professional qualifications, and we support her nomination to a second term as NRC Commissioner."

The American Federation of Labor-Congress of Industrial Organizations, the AFL-CIO, says, "We believe a review of Ms. Svinicki's qualifications and her previous service at the NRC demonstrate that she is precisely, precisely the kind of public servant that gives all Americans confidence in the safe operation of our Nation's nuclear energy industry."

And the International Brotherhood of Electrical Workers stated, "Through her dedication and leadership, Commissioner Svinicki has demonstrated the right kind of approach to technical and legal issues before the agency that is critical to ensure the safe operation of our nation's nuclear energy industry."

This all high praise, very well earned. So, Commissioner Svinicki, I trust that you will commit to continue to serve the public interest and work collegially with your current colleagues and your prospective new colleague in the same exemplary way.

And Ms. Macfarlane, I trust that you will work with this fine Commissioner, and her colleagues as well, in hopes that you will earn similar respect and praise.

Thank you, Madam Chairman.

Senator BOXER. Thank you so much, Senator.

Senator Carper. Oh, Cardin. We already heard from Senator Carper.

**OPENING STATEMENT OF HON. BENJAMIN L. CARDIN,
U.S. SENATOR FROM THE STATE OF MARYLAND**

Senator CARDIN. I am glad to give Senator Carper more time. That is fine.

Madam Chairman, I know that we are anxious to hear from our witnesses, but first let me thank both of our participants today for their willingness, one, to continue in public service; the other to put herself in a very important position for our country. So we thank you for your willingness for public service. And we know this is not just your commitment, it is a family commitment, so we thank your families for being willing to share you with your country.

I just want to make one observation and will ask that you focus either in your presentations or in the questions as to the storage issue of spent fuel. I think it is important for the Commission to make decisions. Inaction, causing policies to be formed because of inaction, is not, I think, the best interest of our country, and I very much want to focus on safety. That is a critically important part of your responsibility, but also how we move forward with nuclear energy in this country. I think we need to have that right balance, and the Commission must act in order to give us the guidance to do that. The failure to act can cause policies to move in a certain direction that perhaps is not in the best interest of our country.

One of the areas that had been the most difficult, I think, for all of us to get a grip on is how do we deal with the spent fuels. Can we safely store long-term, onsite, the spent fuels, whether they are in pools or whether they are in cask storage? And I think it is important for us to get your views as to how you see the future of nuclear energy in America based upon the storage capacities and where we need to be looking at from the point of view of our nation from the safety and the need for nuclear energy.

Once again, I thank you very much for your willingness to step forward. This is a very important assignment, and we very much look forward to your testimony and your service.

Thank you, Madam Chair.

Senator BOXER. Thank you.

Senator Udall.

**OPENING STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM THE STATE OF NEW MEXICO**

Senator UDALL. Thank you, Madam Chair. I am just going to be brief and ask that my full statement be put in the record. But I want to also echo what other members have said in terms of safety.

The buck really stops with the NRC when it comes to safety, and I hope that you hear that message from us. It is tremendously important that you have that as a focus, and when you look at regulating, that you highlight that. And we don't have to look any further than Japan to see what happens if safety goes wrong. The articles I have been reading about Japan, as Senator Lautenberg said, 54 plants have been shut down. Their businesses are talking about moving overseas. Their economy is collapsing. They are having serious problems. So safety inter-reacts with all the other issues that are out there and the vital issues that we all share here about our economy and our economic development.

With that, let me just thank Dr. Macfarlane for your service on the BRC, on the Blue Ribbon Commission. I know that you traveled to New Mexico; you took a great interest in that Blue Ribbon Commission that is looking at where do we go on the waste that is stored around the country, and how do we thread the balance between interim sites or consolidated sites, as we are calling them, and these long-term depositories that we are studying, and we very much appreciate that Blue Ribbon Panel's recommendations.

And our Chairman, Chairman Boxer, has been already on top of this, and this Committee has. We have had hearings on your report and we believe—Senator Carper was the Chairman of the Subcommittee that looked into that—that our Committee has the jurisdiction on that, and we intend to weigh in and take your recommendations seriously and come up with legislation.

So, with that, thank you, Madam Chair.

[The prepared statement of Senator Udall was not received at time of print.]

Senator BOXER. Thank you very much.

At this time we are going to actually get to our nominees. But I want to thank colleagues, because I thought we are just laying things out on the table here, and I thought Senator Sessions was extremely honest about what is happening and how it will play out. So thank you for that.

Now, I would like to turn to Dr. Allison Macfarlane, who has been nominated to be Chairman, and we are very honored that you are with us today, and we look forward to hearing from you.

**STATEMENT OF ALLISON MACFARLANE, PH.D.,
ASSOCIATE PROFESSOR, GEORGE MASON UNIVERSITY**

Ms. MACFARLANE. Thank you. Chairman Boxer, Ranking Member Inhofe, and members of the Committee, it is an honor to appear before you today as President Obama's nominee for the position of member of the Nuclear Regulatory Commission.

Before continuing, I want to thank my husband, Hugh Gusterson, and my son, Graham, who are here with me today, for their unwavering support and encouragement.

I am also pleased to be at the table today with Commissioner Kristine Svinicki. If confirmed, I look forward to working with

Commissioner Svinicki and Commissioners Apostolakis, Magwood, and Ostendorff. They are all talented individuals engaged in the high calling of public service, and I look forward to forging a collegial relationship with them, if confirmed.

Over the last week and a half, I have had the opportunity to meet some of the talented staff of the NRC, who have provided me with a number of briefings on some of the important issues before the NRC. While I was aware of the staff's reputation, these briefings have reinforced my observations about both the quality of the NRC staff and their level of commitment to the mission of the Commission, and that mission boils down to a simple concept: protecting the safety of the American people and the environment.

The NRC's main mission is to protect public health and safety, promote common defense and security, and protect the environment, and my background has prepared me for all of these mission areas.

My background is as a scientist and a public policy scholar. We are trained to be objective, analytical, and to treat our peers as equals. I note that academics over the years have made important contributions to nuclear safety. Among those are former Chairs Shirley Jackson, Nils Diaz, and Dale Klein, and now Commissioner Apostolakis, with whom I share an MIT connection.

I earned a doctorate in geology from the Massachusetts Institute of Technology in 1992. Geology, as you are aware, plays an important role in the safety of a variety of nuclear facilities. Recent history in Japan, as many of you have mentioned this morning, has reminded us of the relevance of geology in reactor safety.

I have worked at both public and private institutions, including Harvard, Stanford, MIT, Georgia Tech, and George Mason University, and I have contributed to nuclear policy debates since 1996 and have served on National Academy of Science panels reviewing nuclear energy programs and nuclear weapons issues. Most recently I was honored to serve on the President's Blue Ribbon Commission on America's Nuclear Future, another area where my primary background had a role.

I make this commitment to you today: if confirmed, I will devote all my energies to serving on the NRC with the attributes that I consider important to good governance: openness, efficiency, and transparency. I will make a strong commitment to collegiality at all levels. An agency endowed with the public trust, such as the NRC, requires a respectful working environment to assure its integrity.

I am absolutely committed to working with all interests: industry, the public, Government agencies, and especially Members of Congress. I will solicit a wide range of opinions, ask questions, examine the facts objectively, and reach decisions based on those facts. And I will work to ensure that the NRC remains the global standard among regulatory agencies and continues to be a top ranked workplace for its employees.

Thank you, and I would be happy to answer your questions.

[The prepared statement of Ms. Macfarlane follows:]

Prepared Statement of Dr. Allison Macfarlane
Senate Committee on Environment and Public Works
June 13, 2012

Chairman Boxer, Ranking Member Inhofe and members of the Committee.

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I earned a doctorate in geology from the Massachusetts Institute of Technology in 1992. Geology, as you are aware, plays an important role in the safety of a variety of nuclear facilities. Recent history in Japan has reminded us of the relevance of geology to reactor safety. I have worked at both public and private institutions including Harvard, Stanford, MIT, Georgia Tech, and George Mason. I have contributed to nuclear policy debates since 1996, and have served on National Academy of Science panels reviewing nuclear energy programs and nuclear weapons issues. Most recently I was honored to serve on the President's Blue Ribbon Commission on nuclear waste, another area where my primary background had a role.

I make this commitment to you today: If confirmed, I will devote all my energies to serving on the NRC with the attributes that I consider important to good governance – openness, efficiency and transparency. I will make a strong commitment to collegiality at all levels. An agency endowed with the public trust such as the NRC requires a respectful working environment to assure its integrity.

I am absolutely committed to working with all interests – industry, the public, government agencies, and especially members of Congress. I will solicit a wide range of opinions, ask questions, examine the facts objectively, and reach decisions based on those facts. And I will work to ensure that the NRC remains the global standard among regulatory agencies and continues to be a top-ranked workplace for its employees.

Thank you, and I would be happy to answer your questions.

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**Environment and Public Works Committee
Confirmation Hearing for Dr. Allison Macfarlane
June 13, 2012
Responses to Follow-up Questions from
Senator Barbara Boxer**

1. Describe your approach to working with and managing people and the experience you would rely on in the job as Chairman of the Nuclear Regulatory Commission?

My approach is to operate in a collaborative and collegial manner, always reaching out to the others for input and ideas. If confirmed and designated Chairman, I intend to meet regularly with individual commissioners, seek their thoughts on major issues facing the NRC, and benefit from their expertise. I would also plan to engage the very competent staff at the NRC.

In the past, I have worked with people with diverse backgrounds and views, for example, as a member of the Blue Ribbon Commission on America's Nuclear Future. I worked there to forge consensus on the issues we tackled. I have also had a variety of other managerial positions within my university and I sit also on several boards of directors.

2. Describe some of the radioactive materials released by the Fukushima Dai'ichi plant, the length of time that they stay radioactive, and their potential to harm human health and cause damage to such industries as agriculture and fishing.

Two isotopes of greatest concern are cesium (Cs) and iodine (I). Iodine can affect the thyroid glands, possibly causing cancer in the future. Cesium can replace potassium, especially if lodged in the soil, taken up by plants, consumed by animals, and concentrated up the food chain.

I understand that Tokyo Electric Power Company (Tepco), the owner-operator of the Fukushima plant, has recently released an update of radiation emitted from the accident. They claim that 500 petabequerels (PBq) of I-131 was released to the air, whereas 10 PBq of Cs-137 was released into the air, along with 10 PBq of Cs-134. There were also reported releases into the sea at the site, including an estimated 11 PBq of I-131, 3.6 PBq of Cs-137, and 3.5 PBq of Cs-134. Releases into the sea, if ingested by marine life, and if concentrated up the food chain, could result in doses of radiation to those who consume the fish at the top of the chain.

I-131 has a half-life of 8.04 days. A radionuclide is considered fully decayed after 10 half-lives have passed, so within 3 months of releases, the I-131 threat was

gone. Cs-137, on the other hand, has a half-life of 30.17 years, so it will be around for 300 years, while Cs-134 has a half-life of 2.065 years, so it will remain a threat for 20 years or so.

3. Will you commit to review the current Internal Commission Procedures to ensure that the Commission conducts its work with the utmost openness and transparency?

If confirmed, I intend to conduct business as transparently as possible. I understand that the NRC reviews its procedures at least every two years and I would look forward to participating in such reviews, if confirmed.

4. Will you commit to review whether there are any opportunities to expedite the Near-term Japan Task Force recommendations?

Yes, if confirmed, I will.

5. The NRC is currently investigating problems at the San Onofre nuclear Generating Station. Do you commit to work with me on assuring the safety of the plant and people who live near the facility in connection with NRC's current investigation and review?

Yes, if confirmed, I will work to ensure the safety of the San Onofre plant and the people living nearby. These are essential elements of the NRC mission. I will ensure that your office is kept informed of the investigation and review.

**Environment and Public Works Committee
Confirmation Hearing for Dr. Allison Macfarlane
June 13, 2012
Responses to Follow-up Questions from
Senator James Inhofe**

1. Do you believe the other four NRC commissioners, soon to be your colleagues, are committed to protecting public health and safety?

I am confident that all four commissioners are committed to protecting public health and safety.

2. Do you believe the NRC should cease new plant licensing and license renewals until all Fukushima lessons have been implemented?

My understanding is that the NRC has decided that there is no reason to cease issuing new plant licenses and license renewals until all Fukushima lessons learned have been implemented. If confirmed, I would be committed to ensuring that the NRC carries out the Near-Term Task Force recommendations.

3. Do you believe NRC's regulatory framework is broken?

I am not aware of discussion about NRC's regulatory framework being "broken."

4. During the Spring of 2011, we learned that Chairman Jaczko had been operating the agency under Emergency Authorities delineated in Section 3 of the Reorganization Plan of 1980. We had a number of discussions with him about this matter and found that he believes: (a) he did not need to declare that he assumed these powers despite the clearly stated requirements of the law and (b) that such authority somehow automatically descended upon him whenever the Commission's Operations Center went into so-called "monitoring mode." Other explanations we received from the Chairman did not square with a plain reading of the law.
 - a. Will you commit to work with your colleagues to reach a better and collective understanding of the procedures by which we will know when the exercise of such authorities is declared, exercised, and terminated?

If confirmed, I would follow the law and commission procedures, and I would work with the other commissioners to reach a collective understanding of the

Chairman's authorities and the commission procedures. I would consult with NRC's Office of General Counsel as I proceeded.

- b. Will you be transparent in your decision to use the Emergency Authority granted to the Chairman of the NRC if a situation calls for such action?

Yes, I would be transparent about exercising such authority.

- 5. I have noticed that there have been an extraordinary number of delays in the time it has taken to bring certain matters before the Commission to a vote and to closure. In fact, the procedures the NRC has established and published were violated often. The Office of the Secretary has a valuable role in the functioning of the Commission and must be given leave to conduct the ministerial affairs of the agency.
 - a. Will you commit to vote in accordance with the Commission's Internal Commission Procedures?
 - b. Do you believe the chairman is bound to act in accordance with the Commission's Internal Commission Procedures?

If confirmed, I would act in accordance with Internal Commission Procedures.

- 6. Your predecessor's strongly held beliefs prevented him from effectively managing the agency as evidenced by his repeated attempts to enforce his will rather than work collegially with the Majority and respecting the agency staff's recommendations. Will your personal beliefs be a similar stumbling block to your ability to manage?

If confirmed, I will, to the best of my ability, solicit a wide range of views, and make judgments based on facts, not personal beliefs. I will work closely with my fellow commissioners to reach collegial decisions in a timely manner.

- 7. The Reorganization Plan of 1980 states that the NRC chairman "shall be governed by the general policies of the Commission." As Chairman, would you respect and adhere to the general policies of the Commission?

If confirmed, I will respect and adhere to the general policies of the Commission.

- 8. The Reorganization Plan of 1980 states that the Chairman and Executive Director "shall be responsible for insuring that the Commission is fully and

currently informed." As Chairman, will you interfere or seek to influence the flow of information between Commissioners and the agency staff?

I believe that the Commission best operates when all commissioners are fully and currently informed. If confirmed, I would endeavor to ensure an open flow of information within the Commission.

**Environment and Public Works Committee
Confirmation Hearing for Dr. Allison Macfarlane
June 13, 2012
Responses to Follow-up Questions from
Senator Jeff Sessions**

1. Please list all the conference panels, meetings, public rallies, or other public events that you have attended at which nuclear energy or nuclear waste issues were discussed.

During my career I have attended many events related to nuclear energy or nuclear waste and do not have an exhaustive record or recollection of every single one. The following list represents my best efforts to reconstruct as complete and exhaustive a list as is possible. To the extent that I discover any additional panels, meetings, rallies, or other public events at which nuclear energy or nuclear waste issues were discussed, I will provide those names to the Committee as well.

In addition to the list below, I have regularly attend(ed) the following meetings: The MIT Security Studies Seminar Series, the Belfer Center for Science and International Affairs multiple speaker series, History of Science Department, and Department of Earth and Atmospheric Science, at Harvard University, the Center for International Security and Cooperation multiple speaker series at Stanford University, the Nuclear Engineering Department and the Energy Resources Group at University of California, Berkeley, Princeton University multiple speaker series, Georgia Tech multiple speaker series, University of Toronto seminar series, University of Michigan seminar series, Oberlin College seminar series, Johns Hopkins School of Advanced International Studies seminar series, the Peace Studies Program at Cornell University, the Bulletin of the Atomic Scientists nuclear energy workshops and Doomsday workshops, the Carnegie Conferences, seminar series at Brookings, the Carnegie Endowment for International Peace, the Monterrey Institute, the Center for Strategic and International Studies, the Center for International and Security Studies at Maryland, the Elliott School at George Washington University, the National Republican Club/National Defense University, the Federation of American Scientists, the Union of Concerned Scientists, Brookings Institution, the Partnership for Global Security, the Watertown, Massachusetts RAB, Society for Risk Analysis, Massachusetts, Los Alamos National Laboratory public hearings, meetings of the Society for the Social Studies of Science, the American Geophysical Union, the Geological Society of America, the American Association for the Advancement of Science, and the Summer Symposia on Science and Global Affairs.

My Blue Ribbon Commission public meetings were:

Full Commission Meetings

- Washington - March 25, 2010- March 26, 2010
- Washington - May 25, 2010 - May 26, 2010
- Kennewick, WA - July 14, 2010- July 15, 2010
- Washington- September 21, 2010 - September 22, 2010
- Washington - November 15, 2010 - November 16, 2010
- Augusta, GA - January 6, 2011 - January 7, 2011
- Carlsbad, NM- January 26, 2011
- Washington - February 1, 2011 - February 2, 2011
- Washington - May 13, 2011
- Washington - December 2, 2011

Reactor and Fuel Cycle Technology Subcommittee

- Washington - October 12, 2010
- Washington - August 30, 2010 - August 31, 2010
- Idaho Falls - July 12, 2010 - July 13, 2010

Disposal Subcommittee

- Washington - July 7, 2010
- Washington - September 1, 2010
- Finland - October 21, 2010 - October 22, 2010
- Sweden- October 23, 2010 - October 26, 2010

Regional Public Meetings with State Regional Governments

- Denver, CO - September 13, 2011
- Boston, MA - October 12, 2011
- Washington - October 20, 2011

Events I have attended and at which spoken about nuclear energy or nuclear waste include:

- 4/12 School of Foreign Service, Georgetown University, Washington, DC
- 4/12 Nautilus, Seoul, South Korea (workshop)

- 4/12 Elliott School, George Washington University, Washington, DC
- 4/12 Teaching the Fuel Cycle Workshop, Elliott School, George Washington University, Washington, DC
- 3/12 Burden of Choice, Heyman Center for the Humanities, Columbia University, New York NY
- 3/12 Radioactive Waste Management Committee, 45th meeting, Nuclear Energy Agency, Paris, France
- 3/12 Fukushima: Lessons Learned? Workshop Oberlin College, Oberlin, OH
- 2/12 Federation of American Scientists, Global American Business Institute, Washington DC
- 2/12 American Association for the Advancement of Science, Vancouver, Canada (annual conference)
- 2/12 Platts 8th Annual Nuclear Energy Conference, Bethesda, MD
- 2/12 Keystone Center Energy Board Meeting, Keystone, CO
- 1/12 Bulletin of the Atomic Scientists' Doomsday Symposium, Washington, DC
- 12/11 Tokyo Democratic Party, the Diet, Tokyo, Japan
- 12/11 Japan Association of Science, Technology and Society, Tokyo University, Tokyo Japan
- 12/11 Japan Atomic Energy Commission, Tokyo, Japan
- 12/11 Joint-Fact-Finding Process, Graduate School of Public Policy, Tokyo University, Japan
- 11/11 Society for the Social Studies of Science, Annual Meeting, Cleveland, OH
- 10/11 American Academy of Arts and Sciences, Stanford, CA
- 10/11 National Journal Policy Summit, National Press Club, Washington, DC
- 10/11 Elliott School of International Affairs, George Washington University, Washington, DC
- 10/11 Harris School of Public Policy, University of Chicago, Chicago, IL
- 5/11 School of Advanced International Studies, Johns Hopkins University, Washington DC
- 12/10 Vision Series Lectures, George Mason University, Fairfax, VA
- 12/10 Nuclear Futures Workshop, UC Berkeley, CA

- 11/10 Bulletin of the Atomic Scientists Annual Meeting, Washington, DC
- 11/10 The STS Circle, Kennedy School of Government, Harvard University, Cambridge, MA
- 9/10 STEP Symposium, Princeton University, Princeton, NJ
- 4/10 School of Public Policy, George Mason University, Fairfax, VA
- 3/10 Environmental Science and Policy, George Mason University, Fairfax, VA
- 3/10 ANS Lecture, Nuclear Science & Engineering, MIT, Cambridge, MA
- 2/10 The Future of Nuclear Energy, Princeton University, Princeton, NJ
- 2/10 American Association for the Advancement of Science, Annual Meeting, San Diego, CA
- 2/10 Platts Nuclear Energy Conference, Bethesda, MD
- 2/10 Georgia Institute of Technology, Atlanta, GA
- 1/10 GEEI School of Advanced International Studies, Johns Hopkins, Washington, DC
- 12/09 Kettle Run High School, Nokesville, VA
- 11/09 School of Advanced International Studies, Johns Hopkins, Washington, DC
- 11/09 Nuclear International Research Group, University of Toronto, Toronto, Canada
- 11/09 Society for the Social Study of Science, Annual Conference, Crystal City, VA
- 10/09 Nuclear Power – Back on the Table Conference, Penn State, State College, PA
- 8/09 PAGES Summer School, Nuclear Engineering Department, UC Berkeley, CA
- 6/09 Institute for Energy and the Environment, Summer School, Takoma Park, MD
- 6/09 Fresh Energy, St. Paul, MN
- 4/09 58th Pugwash Conference on Science and World Affairs, The Hague, Netherlands
- 4/09 21st Annual Environment Virginia Conference, Virginia Military Institute, Lexington, VA
- 4/09 Carnegie Conference, Washington, DC
- 4/09 Roanoke Valley Governor's School, Roanoke, VA

- 3/09 Center for International Security Studies at Maryland, University of Maryland, College Park, MD
- 3/09 Meridian Institute, Washington, DC
- 3/09 Nuclear Energy in a Carbon-Constrained World Course, Princeton University, Princeton, NJ
- 2/09 Mason Energy Roundtables, GMU, Fairfax, VA
- 1/09 Al Gore Summit, New York, NY
- 11/08 Partnership for Global Security, Washington DC
- 11/08 Center for Strategic and International Studies, Washington DC
- 6/08 Senate Briefing, Washington DC
- 5/08 Carnegie Endowment for International Peace, Washington, DC
- 5/08 Science Symposium, St Olaf College, Northfield, MN
- 4/08 Committee on Energy and Water, US House of Representatives, Washington, DC
- 4/08 Symposium, Lake Forest College, Lake Forest, IL
- 1/08 Center for International and Security Studies, University of Maryland, College Park, MD
- 1/08 School of Foreign Service, Georgetown University, Washington, DC
- 7/07 Toward a Plan B for High-Level Waste, George Mason Univ., Arlington, VA
- 6/07 California Energy Commission, Sacramento, CA
- 6/07 Center for Science and Global Security, Princeton University, Princeton, NJ
- 4/07 Department of Earth & Atmospheric Sciences, SUNY Albany, NY
- 3/07 Technology and Culture Forum, MIT, Cambridge, MA
- 2/07 Nuclear Waste Technical Review Board, Arlington, VA
- 2/07 Waste Management Symposium, Tucson, AZ
- 1/07 Keystone Center Energy Board, Keystone Colorado
- 12/06 Science, Technology and International Affairs Program, Georgetown University, Washington, DC
- 11/06 Materials Research Symposium, Nuclear Waste Management Symposium, Boston, MA
- 11/06 Future of Nuclear Energy Conference, Bulletin of the Atomic Scientists, Chicago, IL

- 11/06 Keystone Joint Fact-Finding on Nuclear Energy, Washington, DC
- 10/06 Department of Geology, University of Maryland, College Park, MD
- 9/06 Geological Society of Washington, Washington, DC
- 7/06 Nevada Nuclear Projects Board, Reno NV
- 5/06 American Geophysical Union Conference, Baltimore, MD
- 5/06 Lifetime Learning Group, Newton, MA
- 5/06 High-Level Nuclear Waste Management Conference, Las Vegas, NV
- 4/06 Capitol Hill Briefing, organized by AAAS, Washington, DC
- 3/06 Technology and Policy of Weapons Course, MIT, Cambridge, MA
- 11/05 Nuclear Policy Research Institute, Airlie, VA
- 9/05 Technology Review Magazine's Emerging Technologies Conference, Cambridge, MA
- 7/05 Plutonium Workshop, University of Cambridge, Cambridge, UK
- 3/05 Nuclear Engineering Department, MIT, Cambridge, MA
- 3/05 School of Foreign Service, Georgetown University, Washington, DC
- 3/05 School of Computational Sciences, George Mason University, Fairfax, VA
- 2/05 Ford School of Public Policy, University of Michigan, Ann Arbor, MI
- 2/05 Belfer Center for Science and International Affairs, Harvard University, Cambridge, MA
- 11/04 Radioactive Waste Management Course, University of Michigan, Ann Arbor, MI
- 11/04 Technology Policy Course, Kennedy School of Government, Harvard, Cambridge, MA
- 11/04 Knight Fellows Program Seminar Series, MIT, Cambridge, MA
- 10/04 Scientific Integrity Roundtable, Harvard University, Cambridge, MA
- 9/04 Student Pugwash, MIT, Cambridge, MA
- 9/04 Technology and Culture Forum, MIT, Cambridge, MA
- 7/04 16th Summer Symposium for Science and World Affairs, Beijing, China
- 4/04 Environmental Politics Course, Georgia Institute of Technology, Atlanta, GA
- 2/04 Great Decisions, Atlanta, Georgia
- 11/03 School of Earth and Atmospheric Science, Georgia Tech, Atlanta, GA
- 11/03 American Anthropology Association National Meeting, Chicago, IL
- 9/03 Program on Science and Global Security, Princeton University, Princeton, NJ
- 4/03 Earth, Atmospheric & Planetary Sciences, MIT, Cambridge, MA
- 4/03 Peace Studies Program, Cornell University, Ithaca, NY
- 2/03 School of Earth and Atmospheric Science, Georgia Tech, Atlanta, GA

- 2/03 Sam Nunn School of International Affairs, Georgia Tech, Atlanta, GA
- 1/03 Western Hemisphere Project, MIT, Cambridge, MA
- 1/03 Congressional Briefing
- 10/02 Geological Society of America meeting, Denver, CO
- 9/02 World Energy Policy in the 21st Century, University of Maryland, College Park, MD
- 7/02 International Professional Meeting of Independent Technical Security Analysts, Chicago, IL
- 7/02 Workshop on Radiological Hazards Posed by Nuclear Power Plants, SSP, MIT
- 4/02 Congressional House staffers, Washington, DC
- 11/01 Society for Risk Analysis, New England, Cambridge, MA
- 11/01 Institute for Science and Interdisciplinary Studies, Hampshire College, Amherst, MA
- 11/01 Society for the Social Studies of Science Conference, Cambridge, MA
- 10/01 Swords to Solar Flares: Earth Science and the Cold War Workshop, Cornell U, Ithaca, NY
- 9/01 Center for International Studies, MIT, Cambridge, MA
- 9/01 Department of Nuclear Engineering, MIT, Cambridge, MA
- 9/01 Managing the Atom, BCSIA, Harvard University, Cambridge, MA
- 7/01 13th Summer Symposium for Science and World Affairs, Berlin, Germany
- 7/01 Security Studies Program, MIT, Cambridge, MA
- 6/01 Sino-American Transparency Project, Beijing, China
- 2/01 Japan-US Nonproliferation Workshop, Harvard University, Cambridge, MA
- 11/00 Managing the Atom Group, BCSIA, Harvard University, Cambridge, MA
- 10/00 Plutonium 2000: International Conference on the Future of Plutonium, (conference) Brussels, Belgium
- 10/00 Harvard Museum of Natural History, Harvard University, Cambridge, MA
- 8/00 12th Summer Symposium for Science and World Affairs, Moscow, Russia
- 8/00 New Jersey Governor's School for Science, Drew University, NJ
- 7/00 International Workshop on Interim Storage of Spent Fuel, Tokyo University, Tokyo, Japan
- 5/00 American Geophysical Union meeting, Washington,
- 4/00 Managing the Atom Group, BCSIA, Harvard University, Cambridge, MA
- 3/00 IANUS Group, University of Darmstadt, Darmstadt, Germany
- 3/00 German Physical Society Conference, Dresden, Germany
- 3/00 Civil Plutonium Workshop, ISIS Conference, Washington, DC
- 3/00 Security Studies Program, MIT, Cambridge, MA

- 2/00 German Reactor Safety Commission Hearing, Bonn, Germany
- 2/00 Japan-US Nonproliferation Workshop, Harvard University, Cambridge, MA
- 1/00 Plutonium Workshop, Jülich, Germany
- 11/09 Ethics and Science Class, MIT, Cambridge, MA
- 10/99 Geological Society of America National Meeting, Denver, CO
- 8/99 GLOBAL '99, Jackson Hole, WY
- 8/99 Social Science Research Council - MacArthur Foundation, New Delhi, India
- 7/99 11th Summer Symposium for Science & World Affairs, Shanghai, China
- 6/99 American Geophysical Union, Boston, MA
- 3/99 Living with Nuclear Technologies: Our Enduring Nuclear Legacy, University of Wyoming
- 3/99 Environmental Earth Science Department, Eastern Connecticut State University
- 3/99 US- Japan Nuclear Non-Proliferation Dialogue, Tokyo, Japan
- 2/99 Harvard University – Tokyo University Joint Meeting, Harvard University, Cambridge, MA
- 7/98 Landau Network-Centro Volta and UNESCO School on Science for Peace, Como, Italy
- 6/98 Center for International Security and Arms Control, Stanford University, Stanford, CA
- 5/98 Social Science Research Council - MacArthur Foundation, San Salvador, El Salvador
- 3/98 Geophysics Department, Stanford University, Stanford, CA
- 2/98 Center for International Security and Arms Control, Stanford University, Stanford, CA
- 9/97 INESAP International Meeting, Shanghai, China
- 7/97 9th Summer Symposium for Science and World Affairs, Cornell University, Ithaca, NY
- 6/97 21st Actinides Separations Conference, Charleston, SC
- 5/97 Center for Science and International Affairs, Harvard University, Cambridge, MA
- 4/97 Defense and Arms Control Program, MIT, Cambridge, MA
- 2/97 Japan - CSIA Workshop, Kennedy School, Harvard University, Cambridge, MA
- 2/97 Anthropology Department, MIT, Cambridge, MA
- 2/97 Bunting Institute, Radcliffe College, Cambridge, MA
- 7/96 8th Summer Symposium on Science and World Affairs, Beijing, China

2. Please provide copies (written, audio, or video) of all speeches you have made concerning nuclear energy, nuclear safety, spent nuclear fuel, Yucca Mountain, nuclear waste, or other issues of relevance to the work of the Nuclear Regulatory Commission.

Enclosed please find a CD that contains a copy of pertinent speeches for which I have been able to locate a written record. To the extent that I identify text for any additional speeches, I will provide that text to the Committee.

3. Please provide a list of all organizations (with an interest in nuclear energy, nuclear waste, nuclear safety, or related matters) of which you are, or have been, a member?

As indicated on my Committee questionnaire, I have been a member of the Blue Ribbon Commission on America's Nuclear Future, the Bulletin of the Atomic Scientists, Keystone Center Energy Board, National Academy of Sciences, and the Keystone Center.

I have also held professional memberships with the American Nuclear Society, the American Geophysical Union, the Geological Society of America, and the Society for the Social Studies of Science. In the past I have been a paid member of the Natural Resources Defense Council and the Sierra Club, and participated in the Resident Advisory Board discussions in Watertown, Massachusetts.

4. Do you support expansion of nuclear power generation in the United States, at the present time, in a manner that would ensure that nuclear energy remains a significant component – in the range of 20% or greater – of the Nation's electric generation mix?

It is not the role of the NRC to determine the overall national energy policy. That being said, I do believe that a diverse supply of energy, including nuclear power, is necessary for the security and continued growth of the United States. I have written and said as much in the past and I continue to believe this to be the case.

5. Has any member of your immediate family received funding, either directly or indirectly, from organizations opposed to licensing Yucca Mountain as a repository for spent nuclear fuel or from organizations opposed to licensing new nuclear reactors? If so, please describe.

I consider my immediate family to consist of my husband, my sister, and my mother. To the best of my knowledge, they have not received funding from organizations opposed to licensing Yucca Mountain or new nuclear reactors.

6. The law of the land – the Nuclear Waste Policy Act – established Yucca Mountain in 1987 as the designated site for the nation’s geologic repository. You have stated that “it was clearly a mistake for Congress to select only one site to characterize” and that Congress did so because Nevada was “politically weak” at that time.
 - a. Do you stand by these words?

I am not certain from where the first quote originates; the second quote comes from my co-edited volume, *Uncertainty Underground*, chapter 6. My analysis presented in chapter 6 notes that a number of political reasons existed for the selection of the Yucca Mountain site, among them, that Nevada had “a small population and two recently elected senators, it was outranked by Texas and Washington, which were represented by long-serving congresspeople who had acquired far more power and influence than had Nevada’s delegation in the Capitol.” I noted these as a few of the potential reasons why the 1987 amendments to the Nuclear Waste Policy Act reduced the requirement of the simultaneous characterization of three geologically distinct sites to only Yucca Mountain.

- b. Would you agree that the law has not changed – that Yucca remains the only lawful repository for spent nuclear fuel?

I recognize that the Nuclear Waste Policy Act as amended in 1987 called for the characterization of only the Yucca Mountain site in Nevada.

- c. Wouldn’t you agree that, if Congress had maintained 3 possible sites, the federal government would have spent a great deal more of the taxpayer’s money than the \$14 billion spent on Yucca, without achieving an operational repository?

I cannot speculate how much would have been spent and whether we would have an operational repository if Congress had continued consideration of three sites.

- d. If confirmed, will you follow and implement the statutes of this nation, as written, not as you would like them to be?

If confirmed, I would work with my fellow commissioners to faithfully fulfill the mission of the NRC and would follow the law.

7. You stated 2003, as part of a Senate field hearing, that you are “not against nuclear power” and that it is a “viable source of energy...as long as the problems are solved, and one of the problems is nuclear waste.” What are other “problems,” besides waste, that would not make nuclear power a “viable source of energy?” Do you believe that, as the laws and regulations of the nation and NRC currently exist, that license for new nuclear reactors can be issued?

I have written that nuclear energy is an important part of the energy diversity in the United States. Nonetheless, the NRC issued two reactors licenses this year for the construction of four new reactors in Georgia and South Carolina, demonstrating that licenses for new reactors can be issued under the laws and regulations as they currently exist.

8. You stated at the 2003 Senate field hearing that “DOE has underestimated...the future infiltration of water into [Yucca] mountain from precipitation, because they have not adequately accounted for the effects on the climate...from the extreme carbon dioxide levels that the planet will likely experience in only 100 years.” You also state that DOE has not “adequately accounted for the effects of increasing CO2 levels on climate warming.” Do you continue to have these concerns?

In my 2003 Senate testimony, I discussed analyses completed by MaryLynn Musgrove and Daniel Schrag of Harvard University. The studies were completed about ten years ago, prior to DOE submitting the license application to construct a repository at Yucca Mountain.

Knowledge changes with time, more evidence comes to light, and I have not reviewed either the DOE’s license application, nor the NRC’s technical analyses, both of which post-date my analyses. I would have to analyze both of these documents to see if the questions raised during my testimony were addressed.

9. Do you support the idea, endorsed by the Blue Ribbon Commission, of establishing a new federal corporation to focus solely on nuclear waste management? In your view, what should be the purpose, role, jurisdiction, and authority of such a federal corporation?

As a Commissioner on the Blue Ribbon Commission, I stand by our findings and recommendations, including the recommendation to “establish a new organization to implement the waste program.” As discussed in the BRC report, this organization should manage the consolidated storage of spent nuclear fuel, the transportation of commercial spent fuel, and disposal of spent fuel and high-level waste, as well as conduct non-generic research, development, and demonstration activities related to these functions. The new organization would

be tasked with finding suitable sites and transportation routes, and in doing so interacting with affected units of federal, state, local, and tribal governments. It would be overseen by Congress and regulated by the NRC based on standards set by the EPA, working with the NRC.

10. In a December 2004 article in MIT Technology Review entitled "A New Vision for Nuclear Waste" which discusses concerns with Yucca Mountain, you are quoted as saying, "If it goes on for another 50 years, it doesn't matter. It could go on for 100 or 200 years, and it's probably for the better....We've got plenty of time to play with it." Could you explain what you meant by this statement in 2004, and do you stand by that statement today?

I do not recall giving that quote. To the extent that I did make any such statement, I cannot recall the context in which it was given.

11. Probabilistic Analysis:

- a. Are you familiar with the NRC guidance to the staff on the use of Probabilistic Risk Assessment (PRA) (60 Fed. Reg. 42628), which states that this kind of analysis should be increased in all NRC regulatory matters?

I am aware that Commissioner Apostolakis convened a Risk Management Task Force and the NRC staff is now evaluating the Task Force's report.

- b. You have criticized this approach. For example, in Chapter 6 in the book you edited, *Uncertainty Underground*, you contend that DOE erred by using "probabilistic" analysis to review the Yucca project. How would you approach this issue as a member of the NRC – would you seek to revise existing NRC guidance regarding probabilistic assessment?

I would approach all issues that I address at the NRC, if confirmed, in the same manner: by assessing the current state of knowledge on the issue, objectively examining the facts, seeking the thoughts and input of my fellow commissioners as well as NRC staff, and making a final decision based on that information.

**Environment and Public Works Committee
Confirmation Hearing for Dr. Allison Macfarlane
June 13, 2012
Responses to Follow-up Questions from
Senator John Barrasso**

1. The NRC has been in turmoil under the leadership of the current chairman. What experience or experiences do you have that demonstrate your effectiveness as a manager?

There is an exceptional structure in place at the NRC to manage the day-to-day operations and oversee the dedicated and talented employees of the agency. I note that the NRC is consistently ranked among the top government agencies in staff satisfaction. If confirmed, I view my role as one of leadership in continuing the mission of the NRC, while being accountable to you and the people of the United States.

My background reflects a broad array of functions and opportunities that I've had throughout my career that demonstrate leadership skills that will serve me well at the NRC. As the Principle Investigator on numerous grants, I was solely responsible for managing the budgets, contracting with different entities, selecting staff, and making executive decisions. I also have chaired positions on academic committees, which involved making difficult decisions on senior positions at large academic institutions, and have served in a leadership role as a Commissioner on the Blue Ribbon Commission and on panels for the National Academy of Sciences. Finally, as Chair of the Science and Security Board of the Bulletin of Atomic Scientists, I was required to call and chair regular meetings, regularly interact with the Governing Board, work with the editorial staff, and evaluate personnel.

Based on these experiences, I understand the need for a chairman to operate in a collegial manner, reaching out to the other commissioners on the matters facing the agency. In past leadership positions, I have worked with people from a variety of viewpoints and demonstrated effective leadership as we worked to forge consensus on the issues we tackled, and I look forward to hopefully being able to do so yet again as a part of the NRC.

2. As a follow up to Senator Sessions' questions during your confirmation hearing, what is the largest organization you have managed in terms of people who have reported to you?

As noted above, I have led a variety of different organizations, and in this capacity have worked with many employees who have reported directly to me. My management and interpersonal skills will allow me to effectively harness the talents and experience of NRC's corps of outstanding officials.

3. During your confirmation hearing, Senator Sessions asked you what was the largest budget you have ever managed. Your response was unclear. Please provide additional details regarding the largest budget you have ever managed, including the size of the budget, and your fiduciary responsibilities in managing the budget.

As noted above, I have served in various leadership positions on Boards and committees during which I had budgetary oversight, and this includes my time on the Board of the Bulletin of the Atomic Scientists, which was responsible for overseeing a budget of over a million dollars.

4. How would you characterize your management style?

I work collegially with those under my leadership.

5. Do you believe Yucca Mountain is unsuitable as a permanent nuclear waste repository?

I have not examined all the recent evidence on Yucca Mountain, including the Department of Energy's license application and the NRC's technical review of that application and would have to do so to reach a judgment about its current suitability.

6. My home State of Wyoming has an abundance of domestic uranium, yet the permitting of these sites has met with bureaucratic delay and red tape. In your opinion, does licensing and developing uranium production domestically, as opposed to relying on foreign uranium, make America more or less secure?

The role of the NRC is to ensure public health and safety, not to make policy. If confirmed, I would endeavor to carry out that mission. Together with my fellow commissioners, and the NRC staff, I would continue ongoing efforts to ensure that NRC regulatory processes are as efficient as possible, consistent with its safety mission.

7. If confirmed, will you ensure that uranium licensing is done more expeditiously while maintaining your agency's high standards for safety?

If confirmed, I would work to ensure that the NRC addresses all business in an effective and efficient manner as possible as long as that does not compromise safety.

8. Do you think the NRC should have a specific process for Section 106 Consultations for dealing with cultural sites on or near licensed uranium recovery operations? If so, what would the process be?

If confirmed, I would work to thoroughly review and analyze all of the issues involved in uranium recovery licensing and operations. I would welcome an opportunity to discuss this issue with you and hear your concerns.

9. At the annual briefings on uranium recovery with the Commission, stakeholders are limited to 5 minutes in addressing their issues. Would you be willing to allow stakeholders additional time to address the Commission at briefings to the Commission on uranium recovery issues?

I place a high priority on public involvement. If confirmed, I would work to understand how these briefings are structured, and if possible and agreeable to my fellow commissioners, be willing to consider adding more time to all stakeholders at these meetings.

**Environment and Public Works Committee
Confirmation Hearing for Dr. Allison Macfarlane
June 13, 2012
Responses to Follow-up Questions from
Senator Lamar Alexander**

1. DOE is building a facility in South Carolina that is scheduled to start producing mixed oxide fuel (MOX) fuel assemblies in 2018 by blending weapons plutonium with uranium. TVA is expected to be one of the first nuclear utilities to use MOX. TVA expects MOX fuel to cost less than uranium fuel, and to be safe. Can you assure me NRC will work expeditiously to approve the licensing of MOX fuel? Can you provide a timeline for the record?

Although I am familiar with MOX fuel technology, I have not yet received a briefing on the status of the MOX Fuel Fabrication Facility and thus cannot speculate on license approval or timing.

**Environment and Public Works Committee
Confirmation Hearing for Dr. Allison Macfarlane
June 13, 2012
Responses to Follow-up Questions from
Senator Tom Udall**

1. The U.S. Court of Appeals for D.C. recently struck down the NRC's "waste confidence" rule extending the amount of time we can store nuclear fuel on site at reactors.
 - a. How do you think the Commission should respond to that decision?
 - b. What do you think this decision means for future NRC regulation of spent fuel at reactor sites and for approving additional nuclear power plants?

My understanding is that the Office of the General Counsel and the NRC staff are evaluating the effect of the court's decision. If confirmed, I look forward to participating in Commission deliberations on this important matter.

2. Will you continue to improve U.S. nuclear plant safety following the disaster in Japan, including specifically fire safety requirements that have been waived numerous times over many years?

If confirmed, I will endeavor to carry out the mission of the NRC, ensuring public health and safety. In doing so, I would look forward to learning more about the issue of fire safety requirements at nuclear power plants. I would be happy to discuss this issue with you further, if confirmed.

3. There are reports that significant radioactive risks still remain at Fukushima, especially at the damaged spent fuel pools. Do you believe there are still serious risks at the Fukushima site today, and does the NRC have independent information about the site, beyond what is provided by TEPCO?

I am aware of discussion of significant risks at Fukushima in the press, especially with regards to the spent fuel pools and seismic stability. As a nominee, however, I do not have access to all agency information. If confirmed, I look forward to reviewing the information compiled by NRC staff and will be happy to discuss this issue with you further after completing this review.

4. In New Mexico, the NRC is actively involved with the URENCO LES uranium enrichment facility. Will you ensure that NRC continues to be as responsive as possible as this facility continues to ramp up production?

If confirmed, I will work to ensure that the NRC carries out its mission as effectively and efficiently as possible without compromising safety.

5. New Mexico has proposals for in-situ leach uranium mining, which is regulated by the NRC, in areas that are still cleaning up from uranium mining contamination from decades ago. Will you ensure that NRC fulfills its role in ongoing cleanups and that any new mining will not contaminate New Mexico's scarce water resources, especially in already impacted areas?

I am aware that New Mexico faces the dual challenge of cleaning up old uranium mining contamination while opening new uranium recovery facilities. NRC regulates in situ uranium recovery facilities in addition to uranium milling and waste disposal from uranium recovery operations. Part of NRC's mission is to protect public health and safety and the environment. If confirmed, I will ensure that the NRC fulfills its mission to protect public health and safety, and the environment to the best of my ability.

Questions regarding the NRC's regulation of the government supported U.S. Enrichment Corp. (USEC):

6. USEC continues to be the recipient of large federal subsidies and special treatment from the Department of Energy, while competing with the URENCO facility in New Mexico, which my constituents believe is unfair.
 - a. Will you ensure that NRC exercises its full safety regulatory authority over this financially struggling facility, particularly in light of recent arrangements by DOE, where it is "immediately tak[ing] ownership of the systems, equipment and IP" at the American Centrifuge Plant?

If confirmed, I will endeavor to learn more about NRC's regulation of USEC and ensure, to the best of my ability, that it is regulated properly to maintain safety.

- b. USEC is granting IP rights to DOE to provide to 3rd parties, will you ensure the NRC regulates this properly?

If confirmed, I will endeavor to learn more about NRC's regulation of USEC and ensure, to the best of my ability, that it is regulated properly.

- c. Will you ensure that NRC investigates whether USEC has the necessary financial assurances to operate with an adequate margin of safety, despite posting large operating losses in recent reporting periods?

If confirmed, I will endeavor to learn more about NRC's regulation of USEC and ensure, to the best of my ability, that it is regulated properly to maintain safety.

- d. Will you make sure the NRC acts objectively despite the significant ongoing political pressure to keep these facilities operating, particularly in light of the June 2011 centrifuge crash and subsequent investigations?

If confirmed, I will endeavor to learn more about NRC's regulation of USEC and ensure, to the best of my ability, that it is regulated properly to maintain safety.

- e. Has the NRC conducted a foreign ownership review associated with Toshiba's involvement with USEC?

As a nominee, I do not have access to all of the NRC's information about USEC, but if confirmed, I will strive to develop a thorough understanding of the current situation.

**Environment and Public Works Committee
Confirmation Hearing for Dr. Allison Macfarlane
June 13, 2012
Responses to Follow-up Questions from
Senator John Boozman**

1. Last year, the NRC Inspector General found that the current Chairman has threatened to withhold his administrative approval of Commissioner travel funds for official business as a way to gain support for policy issues.
 - a. In your view, what is the Chairman's role in approving travel funds for his colleagues for official business?

According to the NRC's Internal Commission Procedures, "Commissioners approve requests for official travel (domestic and foreign) for themselves and their immediate staff." The Chairman is informed of foreign travel to "ensure adequate coordination and to avoid scheduling conflicts."

- b. Should the Chairman involve him or herself in anything more than an administrative check for funds availability?

The Chairman should follow the guidelines in the Internal Commission Procedures and adhere to the applicable regulatory and statutory provisions.

- c. Do you believe that approval can be withheld on the basis of non-related policy disagreements?

It is my understanding that Internal Commission Procedures do not provide for withholding travel funds based on unrelated policy differences.

- d. Should the Commissioners be given a role in approving travel funds for the Chairman's official travel requests?

According to the NRC's Internal Commission Procedures, "Commissioners approve requests for official travel (domestic and foreign) for themselves and their immediate staff." The Chairman is informed of foreign travel to "ensure adequate coordination and to avoid scheduling conflicts." I believe that under the current Procedures, each Commissioner is responsible for him or herself.

- e. Do we need legislation to make such a change?

It is my understanding that the NRC recently changed its Internal Commission Procedures so that each Commissioner is now responsible for his or her own travel approvals.

**Environment and Public Works Committee
Confirmation Hearing for Dr. Allison Macfarlane
June 13, 2012
Responses to Follow-up Questions from
Senator Mike Crapo**

1. As a member of the Blue Ribbon Commission you participated in a multi-year review of our Nation's policies on the back-end of the nuclear fuel cycle and development of a comprehensive set of recommendations. As an independent regulatory agency, the NRC has a critical role in assuring that spent nuclear fuel and high-level radioactive waste is managed safely, securely, and in an environmentally sound manner. Are there BRC recommendations that fall into NRC's scope that you think should be a priority for Commission action?

If confirmed, I look forward to hearing from BRC staff and working with my fellow commissioners on these issues. The BRC, in its final report, made a few recommendations that fall under the NRC's scope. For example, the BRC recommended that NRC continue its work "to develop a regulatory framework for advanced nuclear energy systems." In addition, the BRC supported a risk assessment approach to evaluating the safety of advanced nuclear energy systems.

The BRC report suggested that the NRC and Environmental Protection Agency (EPA) should begin working closely together to develop a process for establishing a new generic disposal facility standard as well as a regulatory framework and standards for deep borehole disposal of high-level nuclear waste.

The BRC recommended that a proposed NRC project, the Package Performance Study, concerning transportation packages, be re-assessed in light of recent developments and, if the proposed test has value independent from timing, licensing or other issues related to Yucca Mountain, NRC should fund and conduct such a test.

The BRC report suggested that the NRC should undertake studies to develop the technical basis for transport of higher burn-up spent fuel from reactors and to better understand how spent fuel stored for extended periods would perform when subsequently shipped.

2. The Blue Ribbon Commission briefly examined but did not take a stance on the issue of co-mingling defense and civilian nuclear waste under a new

nuclear waste management organization. Do you believe the disposal of defense wastes should remain the responsibility of the Department of Energy in order to ensure commitments made in state settlement agreements are properly preserved?

The Blue Ribbon Commission report noted that a number of issues require detailed re-examination before deciding on the commingling of defense and commercial wastes. I agree with this position. The issues requiring re-examination include the "shift in focus at DOE away from the production of materials for nuclear weapons to the cleanup and disposal of legacy wastes...the establishment of legally-binding site clean-up commitments that require DOE to remove defense wastes from some sites...the current lack of statutory authority to develop a repository at a site other than Yucca Mountain...successful development and operation of a geologic repository (WIPP)...and our recommendations to establish a new organization outside of DOE to develop and operate repositories."

3. In interviews and publication you have stated that the Yucca Mountain site is not suitable for the permanent disposal of spent nuclear fuel and high-level radioactive waste. As NRC Chairman, what would you do if either court decisions or congressional direction dictate that NRC must restart the Yucca Mountain licensing proceedings?

If either a court decision or congressional direction dictate that the NRC must restart the Yucca Mountain licensing proceedings, I would consult with my fellow commissioners and general counsel to ensure that all appropriate next steps are taken.

I also wish to reiterate that I have not examined all of the recent evidence and analysis on Yucca Mountain, including the Department of Energy's license application and the NRC's technical review of that application and I have no position on this issue.

4. Considering the tremendous amount of study devoted to Yucca Mountain over the past decades, isn't there significant value in utilizing the consent-based approach called for in the BRC report to complete the Yucca Mountain licensing review?

It is my understanding under existing law, the NRC does not select sites, but instead licenses sites for use.

**Environment and Public Works Committee
Confirmation Hearing for Dr. Allison Macfarlane
June 13, 2012
Responses to Follow-up Questions from
Senator Thomas Carper**

1. Currently, there is significant research and development into technologies that will allow us to have safer, waste reducing, proliferation resistant, and more cost competitive reactors. If you are confirmed, what will you do to ensure coordination with the Department of Energy and the private sector to help push these technologies along?

The mission of the NRC is to “license and regulate the Nation’s civilian use of nuclear materials to protect the public health and safety, promote the common defense and security, and protect the environment.” As such, the NRC does not promote technologies. I understand that the NRC is in contact with the DOE to better understand emerging technologies and prepare to regulate them.

2. Can you talk more about your work and your involvement in nuclear issues – as a citizen and informed participant in that discussion, what could the NRC do better? What ideas do you have to make the NRC better?

The NRC is a highly regarded organization internationally, and has an excellent and dedicated staff that work hard every day to maintain that reputation. I have spent most of my career analyzing policies and technical issues related to nuclear waste and energy from a scientific viewpoint. If confirmed, I will continually examine ways to apply my experiences working with external stakeholders, academics, and other regulatory bodies to improve the NRC.

[Note: A supplement to Ms. Macfarlane’s responses to questions for the record is available in Committee files.]

Senator BOXER. Thank you very much.
Commissioner Svinicki.

**STATEMENT OF HON. KRISTINE L. SVINICKI, COMMISSIONER,
U.S. NUCLEAR REGULATORY COMMISSION**

Ms. SVINICKI. Thank you Madam Chairman, Ranking Member Inhofe, and members of the Committee. I am grateful to President Obama for nominating me to an additional term of service on the Commission. If the Senate acts favorably on my nomination, I would be privileged to continue this work.

I congratulate Dr. Macfarlane on her nomination and extend my best wishes to her in this confirmation process.

I am grateful for and humbled by the kind introduction of Senator Sessions. I was very privileged to serve Senator Sessions and other members of the Senate Armed Services Committee, and learned much in those years of service.

When I arrived at the NRC in March 2008, I joined an agency already deeply active in the review of applications for the construction of new nuclear plants and new reactor designs, an agency continuing to adapt its security framework to post-9/11 realities, and an agency whose regulatory program is regarded as among the most informed and disciplined in the world. In approaching this work, I have researched the facts and history of issues, and have endeavored to understand fully the effect of proposed regulatory changes. I have also looked to the fundamental guidepost envisioned in the NRC's Principles of Good Regulation, of Independence, Openness, Efficiency, Clarity, and Reliability, in assessing the issues.

The tragic events in Japan in 2011 cast NRC's work into even sharper relief for the American public. Nuclear technology is unique, and its use demands an unwavering commitment to safety principles. When I last appeared before this Committee in March, the NRC had just issued a series of orders to nuclear power plant licensees requiring features to mitigate beyond design basis extreme natural events, requiring the installation of hardened venting systems, and requiring enhanced instrumentation for spent fuel pools.

The NRC is also requiring nuclear power plant licensees to undertake substantial reevaluations of seismic and flooding hazards at their sites. Since issuing these requirements 3 months ago, the NRC has been developing and communicating the specific guidance for implementing the requirements and has continued to hold public meetings on these topics. This work has benefited from the input of nuclear operators, nuclear safety and environmental interest groups, and the public.

Of course, none of this could be achieved without the hard work and commitment of the women and men of the NRC, and their sustained efforts to advance the NRC's mission of ensuring adequate protection of public health and safety and promoting the common defense and security. Their commitment over the last 4 years has inspired and impressed me. I would like to take this opportunity to convey my personal gratitude to each of them for welcoming me to the NRC in 2008 and supporting me in the contributions I have endeavored to make to our shared goals.

Madam Chairman, Senator Inhofe, and members of the Committee, thank you. I appreciate the opportunity to appear today and look forward to the Committee's questions.

[The prepared statement of Ms. Svinicki follows:]

**WRITTEN TESTIMONY
OF KRISTINE L. SVINICKI, COMMISSIONER
UNITED STATES NUCLEAR REGULATORY COMMISSION
BEFORE THE
SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

JUNE 13, 2012

Thank you Madam Chairman, Ranking Member Inhofe, and members of the Committee. I am grateful to President Obama for nominating me to an additional term of service on the Commission. If the Senate acts favorably on my nomination, I would be privileged to continue this work.

When I arrived at NRC in March of 2008, I joined an agency already deeply active in the review of applications for the construction of new nuclear plants and new reactor designs; an agency continuing to adapt its security framework to post-9/11 realities; and an agency whose regulatory program is regarded as among the most informed and disciplined in the world. In approaching this work, I have researched the facts and the history of issues, and have endeavored to understand fully the effect of proposed regulatory changes. I have also looked to the fundamental guideposts envisioned in the NRC's Principles of Good Regulation – Independence, Openness, Efficiency, Clarity, and Reliability – in assessing the issues.

The tragic events in Japan in 2011 cast NRC's work into even sharper relief for the American public. Nuclear technology is unique and its use demands an unwavering commitment to safety principles. When I last appeared before this Committee in March, the NRC had just issued a series of orders to nuclear power plant licensees requiring features to mitigate beyond design basis extreme natural events, the installation of hardened venting systems, and enhanced instrumentation for spent fuel pools. The NRC is also requiring nuclear power plant licensees to undertake substantial reevaluations of seismic and flooding hazards at their sites. Since issuing these requirements three months ago, the NRC has been developing and communicating the specific guidance for implementing these requirements and has continued to hold public meetings on these topics. This work has benefited from the input of nuclear operators, nuclear safety and environmental interest groups, and the public.

Of course, none of this could be achieved without the hard work and commitment of the women and men of the NRC and their sustained efforts to advance the NRC's mission of ensuring adequate protection of public health and safety and promoting the common defense and security. Their commitment has inspired and impressed me. I would like to take this opportunity to convey my personal gratitude to each of them for welcoming me to the NRC and supporting me in the contributions I have endeavored to make to our shared goals.

Madam Chairman, Senator Inhofe, and members of the Committee, thank you. I appreciate the opportunity to appear today and look forward to the Committee's questions.

**Environment and Public Works Committee Hearing
June 13, 2012
Follow-Up Questions for Written Submission**

Questions from:

Senator Barbara Boxer

- 1) *Will you commit to review the NRC's current Internal Commission Procedures to ensure that the Commission conducts its work with the utmost openness and transparency?*

The Internal Commission Procedures are reviewed by the Commission biennially. The next review of Internal Commission Procedures is scheduled for July 2013, and I will continue to strive to ensure that the Procedures adhere to the NRC's Principles of Good Regulation, which include the principle of openness.

- 2) *Provide a copy of all written exchanges (known as "COMs") on matters that you have brought to the attention of your fellow Commissioners during your appointment to the Commission.*

I have not formally introduced any COMs during my tenure on the Commission.

- 3) *Will you support a review of the adequacy of NRC's regulations (at 10 CFR 50.59) to provide assurance of the safety of modifications to nuclear power plants?*

On January 31, 2012, the licensee at San Onofre Nuclear Generating Station (SONGS) Unit 3 performed a rapid shutdown because of indications of a steam generator tube leak. The licensee subsequently identified unexpected wear caused by steam generator tubes rubbing. This was the first cycle of operation with new replacement steam generators. The licensee's evaluations of steam generator replacement designs were done in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 50.59, "Changes, Tests and Experiments," and did not require license amendments for the new designs, except for related aspects such as tube plugging thickness changes done under amendments. Following the steam generator tube leak at SONGS Unit 3, the question has been raised regarding how steam generator replacement could be performed without formal NRC review and approval of the design through a license amendment, giving the NRC the opportunity to identify and correct the deficiencies resulting in tube leak.

An NRC Augmented Inspection Team (AIT) was dispatched to evaluate the steam generator replacements in SONGS Unit 2 and 3. The NRC will review the AIT results and any associated lessons learned, and consider the NRC's overall licensing and inspection framework – including, but not limited to, 10 CFR 50.59. I support this review.

- 4) *The first recommendation of the NRC's near-term task force on enhancing reactor safety following Fukushima stated that the NRC should establish "a logical, systematic, and coherent regulatory framework for adequate protection" of public health and safety. Will you commit to take steps to expedite this recommendation? What specific steps could you undertake to expedite this recommendation?*

Enclosure

In the Staff Requirements Memorandum (SRM) for SECY-11-0093, "Near-Term Report and Recommendations for Agency Actions Following the Events in Japan," the Commission directed the NRC staff to provide options and a staff recommendation for disposition of Recommendation 1 in a notation vote paper within 18 months of the issuance of the SRM (February 2013). The Commission deliberately directed that Recommendation 1 should be pursued independent of activities associated with the review of the other Task Force recommendations. This timeframe is intended to allow the staff to take into account the cumulative lessons learned and stakeholder input from the review of other Task Force recommendations, and therefore, would enable the staff to present a full range of options for addressing this recommendation. I continue to support the Commission's selection of this timeframe and the benefits provided by this approach.

- 5) *Describe some of the radioactive materials released by the Fukushima Daiichi plant, the length of time that they stay radioactive, and their potential harm to human health and cause damage to such industries as agriculture and fishing.*

Reactor operations create many types of radioisotopes, either as a direct result of the fission process (fission products) or radiation impinging upon materials (activation products). Those radionuclides that are gaseous, volatile at high temperatures, or contained in particulates, can be released in a nuclear accident. Each radioisotope has a specific half-life, which is the time for half of the radioactivity to decay. Example radioisotopes that are often of most interest to studying human health effects of releases from reactor accidents include Cesium-137 (30 year half-life), Iodine-131 (8 days), Cesium-134 (2 years), and Strontium-90 (29 years). Specific to the Fukushima accident, there have been multiple estimates of the amount of radioactivity released. The operator, Tokyo Electric Power Company (TEPCO), provided its most recent estimate on May 24, 2012. This detailed information can be found at http://www.tepco.co.jp/en/press/corp-com/release/2012/1204659_1870.html.

On May 23, 2012, an initial evaluation of radiation exposure from the nuclear accident at Fukushima was published by an International Expert Panel convened by the World Health Organization (WHO), to be found at http://www.who.int/ionizing_radiation/pub_meet/fukushima_dose_assessment/en/. This study makes preliminary radiation dose estimates based on official information on the amount of radioactivity in air, soil, water, and food supplies after the accident. The WHO study concluded that in most of Fukushima prefecture, the estimated effective doses are within a dose band of 0.1 – 1 rem (1–10 mSv), except in two of the example locations where the effective doses are estimated to be within a dose band of 1-5 rem (10–50 mSv). For comparison, the average background radiation from natural sources in the U.S. is 0.31 rem.

In the aftermath of Fukushima, the Japanese closely monitored the uptake of radionuclides in the surrounding flora and fauna. This included assessments of the impacts of the event on the marine environment and surrounding agriculture. Where necessary, the Japanese took measures to restrict certain of these goods from entering the food chain.

- 6) *To what extent does the NRC consider all costs, including such things as the cost of evacuations, and long-term impacts to the environment and industries, from a potential release of radioactive material from a nuclear power plant when determining whether to require safety enhancements at nuclear power plants? Do you think the NRC adequately*

captures all related costs to public health and safety, defense and security, and the environment in determining whether to require safety measures at the nation's nuclear power plants? How would you assess the nuclear disaster at Fukushima in connection with these types of costs?

The NRC considers a broad range of costs and benefits when determining whether to require safety enhancements at nuclear power plants. The NRC's NUREG/BR-0184, "Regulatory Analysis Technical Evaluation Handbook," directs that a value-impact analysis consider a wide range of attributes that could be affected by the proposed regulatory action (e.g., a proposed safety enhancement at a nuclear power plant). One of these attributes, discussed in Section 5 of NUREG/BR-0184, considers changes to offsite property in various forms, including costs of evacuations and indirect impacts to tourism and other industries. This same analysis also considers interdiction measures, such as decontamination and cleanup costs.

In determining whether to require additional safety measures at nuclear power plants (beyond what is required to provide adequate protection), the NRC first determines whether a proposed safety enhancement provides a substantial increase in public health and safety. Assuming the safety enhancement does provide a substantial safety increase, the NRC then assesses whether the costs are justified, given the additional benefit of the enhancements. The NRC staff believes that the regulatory analysis guidelines, which are used to conduct the cost/benefit analysis, are comprehensive with regard to assessing costs and benefits.

In light of the recent events at Fukushima, the staff intends to submit to the Commission a paper on how economic consequences are addressed in regulatory analyses. This paper will provide a historical summary of "backfit" and regulatory analysis policy considerations, and discuss current staff practices. This paper will also provide options for the Commission's consideration regarding whether, and the extent to which, the NRC's regulatory framework should modify consideration of economic consequences of the unintended release of licensed nuclear materials to the environment.

- 7) *How do you document meetings and other activities that you conduct as an NRC Commissioner and how do you make this information available to the public. Do you agree that this information should be made available to the public, including a complete description of meetings with stakeholders?*

To foster an atmosphere of open and free communication within the agency and with the agency's stakeholders, I adopted the NRC's existing open door policy. Consistent with the open door policy and safety culture values, I strive to create an environment where any person or organization may raise concerns with me without the potential chill of that meeting being publicly advertised. I do maintain a record of my meetings on my professional calendar, which has been requested under the Freedom of Information Act (FOIA). In response to these requests, I have released my calendar fully, with the exception of personal privacy information protected under FOIA.

- 8) *Provide the NRC guidance for staff bonuses and awards for the two most recently completed fiscal years.*

Please see Attachments 1 and 2.

- 9) *Provide documentation of the individual amounts of bonuses and awards that you provided to each of your staff for the past two completed fiscal years. Describe whether these bonuses and awards conformed to the guidance on bonuses and awards.*

The appraisal period for my staff is based on Commissioner terms (July 1 – June 30) rather than fiscal year (FY). The bonuses and awards for the 2010 and 2011 periods of performance conformed to agency guidance (Attachment 1) and were processed by the NRC Office of the Chief Human Capital Officer (OCHCO). The bonuses and awards for the period of performance from July 1, 2011 to June 30, 2012, when they are issued, will conform to the OCHCO guidance issued on November 16, 2011 (Attachment 2), which imposed limits on the amounts agencies can spend on various types of awards beginning in FY 2012.

Bonuses and Awards for the Office of Commissioner Svinicki

Period of Performance	2010		2011	
	Bonus	Award	Bonus	Award
Staff Pay Plan				
Senior Level Service (SLS)	\$10,000	\$12,000	\$10,000	\$6,000
SLS	\$0	\$0	\$9,000	\$5,000
SLS	\$8,000	\$0	\$7,000	\$0
SLS	\$8,000	\$0	\$8,500	\$0
General Grade (GG)	\$3,000	\$0	\$5,000	\$0
GG	\$3,500	\$0	\$5,000	\$0

Senator Carper

- 1) *Currently, there is significant research and development into technologies that will allow us to have safer, waste reducing, proliferation resistant, and more cost competitive reactors. If you are confirmed, what will you do to ensure coordination with the Department of Energy and the private sector to help push these technologies along?*

The NRC's role is the regulation of commercial uses of nuclear material and not the development or promotion of nuclear technologies. Nevertheless, NRC maintains close contact with the Department of Energy and private industry so that we are aware of new and emerging technologies. This enables NRC to address regulatory policy issues in a timely manner and have our staff prepared to engage in pre-application and licensing reviews to ensure the safety and security of licensed designs.

- 2) *Now that you have almost five years with the Commission, could you please highlight for this committee how the NRC has addressed safety culture at U.S. nuclear plants and how the NRC continues to work to assure a culture of safety for the future?*

The NRC fosters continuous efforts to assure that a positive safety culture exists at nuclear power plants and will continue to do so. Over the last five years, the NRC has engaged in multiple activities to address safety culture at nuclear power plants in the United States.

In 2007, after safety culture was incorporated into the Reactor Oversight Process (ROP), the NRC performed the first supplemental inspection that included an independent safety culture assessment by the NRC. This procedure was developed to inspect the adequacy of safety culture at nuclear power plants that have degraded performance. The lessons learned from this inspection led to a significant revision in 2009 of the inspection procedures used by the NRC to evaluate indications of a licensee's safety culture. Subsequently, the inspection guidance used for the oversight of facilities that are shut down due to performance/operational concerns was improved to reflect these lessons learned.

The NRC encourages open communication with external stakeholders and observes activities involving plant safety culture. In 2010, the NRC observed the activities associated with a Nuclear Energy Institute (NEI) initiative on fostering a strong nuclear safety culture. This included observing safety culture assessment methods, as well as meetings at several sites, and providing feedback on our observations to the external stakeholders.

The Commission published a Safety Culture Policy Statement in the *Federal Register* on June 14, 2011. The Policy Statement communicates the Commission's expectations that individuals at nuclear power plants establish and monitor a positive safety culture commensurate with the safety and security significance of their activities. These expectations have been communicated to the industry and shared with other government entities through outreach activities.

Following the publication of the Safety Culture Policy Statement, the NRC restarted an effort to work with external stakeholders to develop a common language to describe the attributes of safety culture for use both by the NRC and the industry. In addition, the NRC is improving inspector training to include more aspects of safety culture and the Safety Culture Policy Statement.

- 3) *Since this is your second time being nominated for the NRC, what do you wish you knew then that you know now?*

As a Commissioner-nominee in 2007, I had an understanding of the NRC and its important missions derived principally from things I had studied and read. Over my term of service as a Commissioner, this conceptual understanding has been put to use in the day-to-day regulatory environment. I have applied myself to continued study of the regulatory programs and processes of the NRC, as well as its organization and administration. I have also continued to study the history of issues and the development of NRC's regulatory framework. I believe it was Admiral Rickover who first said, "Thoughts arising from practical experience may be a bridle or a spur." If I have the privilege of being confirmed by the Senate for another term, I will further apply this accumulated experience to the significant issues before the Commission.

Senator Tom Udall

- 1) *The U.S. Court of Appeals for D.C. recently struck down the NRC's "waste confidence" rule extending the amount of time we can store nuclear fuel on site at reactors.*

- a) *How do you think the Commission should respond to this decision?*
- b) *What do you think this decision means for future NRC regulation of spent fuel at reactor sites and for approving additional nuclear power plants?*

My understanding is that the Office of the General Counsel and NRC staff are evaluating the D.C. Circuit's waste confidence decision and its implications, and will be providing options for the Commission's consideration. A carefully review this analysis would underlie any view I would form on how the agency should respond to the decision.

- 2) *Will you continue to improve U.S. nuclear plant safety following the disaster in Japan, including specifically fire safety requirements that have been waived numerous times over many years?*

The Commission assures adequate protection of the public health and safety through inspections, including fire protection inspections, performed as part of the reactor oversight process. The NRC continues efforts to resolve fire safety legacy issues through the following activities:

- Sites reassessing their fire protection program and making plant modifications to voluntarily transition their licensing basis to the risk-informed fire protection regulation (10 CFR 50.48(c), referred to as "NFPA 805").
 - Four reactor units at two sites have transitioned as part of the pilot plant program.
 - Ten units at nine sites are currently undergoing license amendment reviews.
 - Thirty-four units intend to submit requests to transition over the next couple of years.
- Fifty-six reactor units, which are not transitioning to NFPA 805, are utilizing new regulatory guidance and risk-informed insights to evaluate their fire safety legacy issues. Exemption requests and plant modifications are utilized, as appropriate, to resolve these issues.
- Ongoing research, nationally (e.g., at the National Institute of Standards and Technology) and internationally, increases the level of knowledge and leads to development of tools to further reduce the risk of fires at nuclear power plants.

- 3) *There are reports that significant radioactive risks still remain at Fukushima, especially at the damaged spent fuel pools. Do you believe that there are still serious risks at the Fukushima site today, and does the NRC have independent information about the site, beyond what it provided by TEPCO?*

The Japanese government, in coordination with the facility owner Tokyo Electric Power Company (TEPCO), has made significant progress in addressing technical and health and safety issues at the Fukushima Dai-ichi facility that resulted from the earthquake and tsunami events of March 2011. By year end 2011, they had completed initial site stabilization activities required prior to pursuing plans for spent fuel removal and further site decommissioning. These initial efforts included more stable cooling of spent fuel pools (SFPs), stabilization of all reactors at the site in a state equivalent to cold shutdown, steady decreases in radiation levels, and greater control over the release of radioactive material at

the site. Onsite activities are currently working within Phase 1 of a three-phase decontamination and decommissioning plan for the site, consisting of preparation for spent fuel removal activities from the Unit 1 through Unit 4 SFPs. Spent fuel removal is scheduled to begin in late 2013. Phase 2 targets a period of up to 10 years, during which spent fuel will be removed from the four SFPs, and Phase 3 addresses the removal of fuel debris from the reactor vessels and final decommissioning activities, lasting from 30 to 40 years from beginning of Phase 1. This work is a complex undertaking, the risks of which must be carefully managed.

The NRC is aware that the Japanese public has expressed concern regarding the stability of the Unit 4 SFP, in particular, the stability of the Unit 4 SFP located at an elevation above ground level within the Unit 4 reactor building. The Unit 4 reactor building did suffer considerable damage from a hydrogen explosion at the site. NRC staff met with representatives of TEPCO and the Japanese Nuclear Industrial and Safety Agency (NISA) who shared information with the NRC staff regarding TEPCO's plan to install additional support (steel beams with a concrete fill) to further stabilize the Unit 4 SFP. NRC learned that TEPCO had performed the necessary calculations and analysis to conclude that in current condition, the Unit 4 SFP could withstand another design basis seismic event without the planned additional steel and concrete support. By August 1, 2011, TEPCO completed the installation of additional support to the Unit 4 SFP. Based upon TEPCO's reported actions and the independent review and acceptance of these actions by the Japanese Nuclear Energy Safety Organization on behalf of NISA, the NRC believes that the stability of the Unit 4 SFP has been enhanced by the additional steel and concrete reinforcing features.

Further, on February 7 and April 12, 2012, in response to concerns raised by interested Japanese stakeholders, TEPCO completed measurements within the Unit 4 reactor building at the elevation of the Unit 4 SFP and concluded that the Unit 4 reactor building was level. TEPCO also provided additional, summary information from further analyses and inspections at the site and concluded that the Unit 4 reactor building is capable of withstanding a future seismic event with ground motion at the site equivalent to the earthquake that occurred on March 11, 2011.

- 4) *In New Mexico, the NRC is actively involved with the URENCO LES uranium enrichment facility. Will you ensure that NRC continues to be as responsive as possible as this facility continues to ramp up production?*

Yes. The NRC has sought to be, and will continue to strive to be, as responsive as possible to licensing actions and inspections for the URENCO LES facility as it ramps up production.

- 5) *New Mexico has proposals for in-situ leach uranium mining, which is regulated by the NRC. Will you ensure that NRC fulfills its role in ongoing cleanups and that any new mining will not contaminate New Mexico's scarce water resources, especially in already impacted areas?*

Under the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978, NRC and its Agreement States have responsibility for regulatory oversight of uranium milling, which includes the process of in-situ recovery of uranium (otherwise known as in-situ leach). Regulation of uranium mining is the responsibility of other state and Federal agencies. Contamination resulting from the milling of uranium ore in New Mexico occurred at legacy mills that operated during the 1950s into the 1980s, prior to implementation of the statute and regulatory infrastructure needed to prevent contamination from the mill operations.

Since passage of UMTRCA, the NRC has worked with the U.S. Department of Energy, U.S. Environmental Protection Agency (EPA) and the State of New Mexico to address the contamination from these legacy mills. Progress has been made, but more needs to be done and the NRC is committed to supporting the restoration of these legacy sites.

Although NRC does not have regulatory responsibility for mining, NRC is cooperating with other state and Federal agencies in coordinated efforts to address contamination on Navajo Lands under a five-year plan, and is similarly working with EPA and the State of New Mexico on contamination from uranium mining activities in the Grants Mineral Belt, near Grants, New Mexico.

In terms of new uranium recovery mills that might be licensed by the NRC in New Mexico, the NRC implements generally applicable standards developed by EPA that now require measures such as liners for tailings impoundments to prevent groundwater contamination and strict restoration of groundwater in areas of in-situ recovery of uranium. Moreover, NRC shares regulatory oversight of protection of groundwater with EPA and state agencies under their underground injection control authority.

Companies are also required to maintain adequate financial assurance for decommissioning of conventional and in-situ recovery mills and to provide for decommissioning in a timely manner. These requirements are intended to protect against the potential for the formation of new legacy sites in New Mexico.

Questions regarding the NRC's regulation of the government supported U.S. Enrichment Corp. (USEC):

6) *USEC continues to be the recipient of large federal subsidies and special treatment from the Department of Energy, while competing with the URENCO facility in New Mexico, which my constituents believe is unfair.*

a) *Will you ensure that NRC exercises its full safety authority over this financially struggling facility, particularly in light of the recent arrangements by DOE, where it is "immediately tak[ing] ownership of the systems, equipment and IP" at the American Centrifuge Plant?*

Yes. NRC exercises its full regulatory authority over USEC. The NRC will continue to ensure that USEC's activities under NRC's purview continue to be performed safely and securely, in accordance with its NRC license and NRC regulations, and to ensure protection of public health and safety.

b) *USEC is granting IP rights to DOE to provide to 3rd parties, will you ensure the NRC regulates this properly?*

The NRC has no regulatory jurisdiction over this matter.

c) *Will you ensure the NRC investigates whether USEC has the necessary financial assurances to operate with adequate margin safely, despite posting large operating losses in recent reporting periods?*

Yes. As part of its regulatory process, the NRC routinely inspects licensees to ensure facilities are operated in accordance with NRC requirements. If, at the time of an inspection, the NRC determines that any part of licensee operations is not safe, the NRC

will evaluate the cause and take the necessary actions to have the licensee correct the deficiencies. The NRC can take enforcement actions and, if necessary, suspend the license. In the event of premature shutdown of the facility, the licensee's decommissioning financial assurance instrument can be accessed to decommission the facility if the licensee is unable to perform the activity.

- d) *Will you make sure the NRC acts objectively despite the significant ongoing political pressure to keep these facilities operating, particularly in light of the June 2011 centrifuge crash and subsequent investigations?*

Yes, the NRC will continue to carry out its regulatory mission objectively.

- e) *Has the NRC conducted a foreign ownership review associated with Toshiba's involvement with USEC?*

Yes. By letter dated March 30, 2010, USEC informed the NRC of negotiations concerning Toshiba's investment in USEC's American Centrifuge Project. Subsequently, USEC submitted a request for a Foreign Ownership, Control, and Influence (FOCI) determination related to this transaction. The NRC reviewed the information provided by USEC and, on the basis of its review, the NRC determined that the initial investment by Toshiba does not significantly impact the current FOCI status of USEC. Definitive agreements between USEC and the investor were provided to the NRC in June 2010. The NRC reviewed the definitive agreements between USEC and Toshiba and noted that the agreements stipulate that Toshiba will have the right to elect one member to the USEC Board. Based on the information provided by USEC, after the completion of the Phase 1 transaction, the Board of Directors would consist of 10 to 12 Directors, one of whom would be appointed by Toshiba. This Director would have no veto rights. The NRC required USEC to adopt resolutions to ensure that the Toshiba representative will not have access to classified and export controlled information. The NRC has confirmed that these resolutions have been adopted.

Senator Barrasso

- 1) *Is there any issue that you would like to clarify for the record with regard to accusations or statements made by fellow members of the Senate Environment and Public Works Committee?*

I have great respect for the Nuclear Regulatory Commission and its staff. I recognize that my positions on policy matters have not always gained universal support, but I have endeavored to assess all issues before the Commission objectively, based on facts and technical analyses. Although unanimity is not always achievable, I am committed to working collegially with my colleagues and believe that the Commission, as an institution, benefits from the diverse views of its members.

ATTACHMENT 1

U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)

MD 10.72	AWARDS AND RECOGNITION	DT-11-08
Volume 10, Part 3:	Personnel Management Performance Appraisals, Awards, and Training	
Approved By:	Gregory B. Jaczko, Chairman	
Date Approved:	July 18, 2011	
Expiration Date:	July 18, 2016	
Issuing Office:	Office of Human Resources Human Resources Policy and Programs Team	
Contact:	Alison Tallarico 301-492-2326	
EXECUTIVE SUMMARY		
Management Directive and Handbook 10.72 contain the program requirements and practices used to award and recognize NRC employees.		
Directive and Handbook 10.72 are being revised to reflect the following changes in policies and procedures:		
<ul style="list-style-type: none"> • The name of the Management Directive has been changed from "Incentive Awards" to "Awards and Recognition" to clarify the intent as well as the objectives of the program. • The directive and handbook now emphasize the expectation that cash awards based on performance ratings reflect meaningful distinctions in levels of performance. • Senior Level System (SLS) employees, except SLS Commissioner Assistants, are now allowed to receive the cash component of NRC's Distinguished and Meritorious Service Awards. • Employees receiving performance ratings of Fully Successful are now eligible to receive performance awards. • Employees receiving performance ratings of Outstanding, rather than Outstanding and Excellent, are now eligible to receive High Quality Increases. • The directive and handbook now include information on referral awards. Also, the referral award amount has been increased. • Time off may be used as a performance award. Also, the maximum amount of time that may be granted has been revised. • The amounts of NRC's Meritorious Service Awards have been increased. • NRC's Commendation Awards have been revised so that they may be granted to individuals as well as groups. 		

EXECUTIVE SUMMARY

- Higher award amounts may be approved for individual cash and time-off awards (see Exhibit 1).
- Procedural guidance on pay, awards, and incentives contained in the previous directive and handbook has been incorporated into a document, "General Procedural Guidance for Awards and Recognition," on the Office of Human Resources (HR) intranet Web site, <http://www.internal.nrc.gov/HR/award-guidance.html>.
- The NRC's Edward McGaffigan, Jr. Public Service Award has been established.

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I. POLICY

It is the policy of the U.S. Nuclear Regulatory Commission (NRC) to recognize and reward the individual or group achievements of its employees who, in connection with or related to official employment, contribute to meeting organizational goals or improving the efficiency, effectiveness, and economy of the agency and/or the Government, or that are otherwise in the public interest.

II. OBJECTIVES

- To improve agency and Government efficiency, economy, and effectiveness; support and enhance the NRC and national goals; and obtain maximum benefits for the Government.
- To express appreciation for the contributions that benefit the agency.
- To motivate employees to increase the quality, productivity, and creativity of their work.
- To motivate employees to improve agency operations.
- To provide an incentive for excellence.
- To celebrate individual and organizational successes.
- To reinforce not only NRC's core values but also its safety culture.
- To ensure that performance awards granted based on ratings of record make meaningful distinctions based on levels of performance. This will ensure the integrity of rating-based cash awards.

III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY**A. Chairman**

1. Provides personal leadership to the Awards and Recognition Program.
2. Approves awards for employees of the Chairman's immediate staff as well as other awards as indicated in Exhibit 1 of this handbook.
3. Approves exceptions to award scales and to the provisions of this directive for employees under the jurisdiction of the Chairman, the Commissioners, and Commission staff offices.
4. Submits award recommendations that are in excess of \$10,000 up to \$25,000 for individuals, or individuals as part of a group, to the Office of Personnel Management (OPM) for approval and in excess of \$25,000 for individuals, or individuals as part of a group, to OPM for Presidential approval.
5. Appoints the Senior Performance Official(s).

B. Commissioners

Approve awards as indicated in Exhibit 1 of this handbook.

C. Executive Director for Operations (EDO)

1. Approves awards as indicated in Exhibit 1 of this handbook
2. Approves exceptions to the provisions of this directive and to the award scales set forth in Exhibits 2 and 3 of this handbook.

D. Inspector General (IG)

1. Approves awards for employees of the Office of the Inspector General (OIG) as indicated in Exhibit 1 of this handbook, as well as other awards in accordance with the awards policies and procedures outlined in the "OIG Employee Recognition and Awards program" guidance.
2. Approves exceptions to the provisions of this directive and the awards scales set forth in Exhibits 2 and 3 of this handbook.
3. Establishes and maintains a system for funding and allocating funds or other appropriate recordkeeping procedures relating to incentive awards that are approved by the Inspector General.

E. Senior Performance Officials (SPOs)

Provides oversight of and guidelines for performance evaluation and awards for Senior Executive Service members.

F. Director, Office of Human Resources (HR)

1. Manages the agency's Awards and Recognition Program.
2. Ensures that personnel resources are available for the coordination of the awards ceremony to be held annually at headquarters.
3. Provides for technical review of and concurrence on proposed awards, as appropriate.
4. Submits an annual report to OPM on program activities and expenditures for the fiscal year.
5. Periodically evaluates the program and prepares reports, as required.
6. Provides appropriate information about the program to supervisors and other employees.

G. Office Directors and Regional Administrators

1. Recommend and/or approve awards as indicated in Exhibit 1 of this handbook.
2. Provide program support and active management participation in the activities of the Awards and Recognition Program, as appropriate.
3. Manage the distribution of awards within the funding provided for awards.

H. Office of the Chief Financial Officer (OCFO)

1. Establishes and maintains systems and associated payroll, attendance, or other appropriate recordkeeping procedures related to the Awards and Recognition Program.
2. Ensures that proper payment is issued promptly for approved cash awards.
3. Allocates funds to office directors and regional administrators for incentive awards.
4. Establishes procedures to ensure that funds are certified available before incentive awards are issued.

I. Managers and Supervisors

Recommend and/or approve awards as indicated in Exhibit 1 of this handbook.

J. Employees

Recommend employees for awards such as Employee of the Month or similar peer-recognized award programs, and actively disseminate information about vacancies and encourage individuals with needed skills to apply.

IV. APPLICABILITY**A. All NRC Employees**

The policy and guidance in this directive and handbook apply to all NRC employees, except where specifically excluded.

B. Administrative Law Judges, Experts, Consultants

The policy and guidance with regard to time off from duty do not apply to Administrative Law Judges, experts, or consultants who are excluded by regulation, or Administrative Judges who are excluded by agency policy.

V. HANDBOOK

Handbook 10.72 contains the program requirements and practices to award and recognize NRC employees.

VI. REFERENCES***Code of Federal Regulations***

Title 5, "Administrative Personnel"—

Part 451, "Awards."

Part 531, "Pay Under the General Schedule."

Part 534, "Pay Under Other Systems."

Nuclear Regulatory Commission

"Collective Bargaining Agreement Between U.S. Nuclear Regulatory Commission and National Treasury Employees Union," November 1, 2009.

NRC Management Directives—

10.67, "Non-SES Performance Appraisal System."

10.137, "Senior Executive Service Performance Management System."

10.145, "Senior Level System."

10.148, "Senior Level Performance Appraisal System,"

14.1, "Official Temporary Duty Travel."

HR Web site, General Procedural Guidance for Awards and Recognition:

<http://www.internal.nrc.gov/HR/award-guidance.html>.

United States Code

Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801 et seq.).

Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5301 note).

"Prohibition on Cash Awards to Certain Federal Officers" (Pub. L. 103-425, 108 Stat. 4369).

5 U.S.C. Chapter 45, Subchapter I, "Awards for Superior Accomplishments."

5 U.S.C. Section 5384, "Performance Awards in the Senior Executive Service."

5 U.S.C. Appendix 3, "Inspector General Act of 1978, as amended."

U.S. NUCLEAR REGULATORY COMMISSION DIRECTIVE HANDBOOK (DH)

DH 10.72	AWARDS AND RECOGNITION	DT-11-08
<i>Volume 10, Part 3:</i>	Personnel Management Performance Appraisals, Awards, and Training	
<i>Approved By:</i>	Gregory B. Jaczko, Chairman	
<i>Date Approved:</i>	July 18, 2011	
<i>Expiration Date:</i>	July 18, 2016	
<i>Issuing Office:</i>	Office of Human Resources Human Resources Policy and Programs Team	
<i>Contact:</i>	Alison Tallarico 301-492-2326	
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I. GENERAL INFORMATION

A. Use of the Awards and Recognition Program

1. The U.S. Nuclear Regulatory Commission (NRC) encourages supervisors at all levels to use the Awards and Recognition Program to motivate employees to make full use of their talents, skills, and ideas to improve the efficiency, economy, and effectiveness of Government operations. Supervisors should do the following:
 - (a) Encourage, recognize, and reward employees' excellence in performing their work; outstanding contributions to achieving NRC and Government goals; and exceptional improvements in the quality, productivity, and economy of NRC operations.
 - (b) Use management reviews and productivity measurement processes, when available, to identify and reward or recognize those who have exemplified NRC core values and contributed to organizational excellence, creativity, and improvements.
 - (c) Weigh all aspects of an employee's relevant background, including past recognition, when considering employees for merit selection (e.g., promotion, career reassignment, etc.).
 - (d) Take appropriate precautions to avoid the premature release of information on award nominations and to protect personal information.

2. Consistent with applicable law and regulation, NRC may grant a cash, honorary, or informal recognition award, or a time-off-from-duty award without charge to leave or loss of pay. Such recognition may be given to individuals or members of a group or team on the basis of the following:
 - (a) A suggestion, invention, superior accomplishment, or other personal effort that contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork;
 - (b) A special act or service in the public interest in connection with or related to official employment; or
 - (c) Performance as reflected in the employee's most recent rating of record.
3. Awards, with the exception of High Quality Increases and time off, may be granted to former employees and the legal heirs or estates of deceased employees for efforts or contributions made or performed before their death or separation. The term "employee" as used in this Management Directive (MD) refers to current and former employees, including those deceased, with the two exceptions noted.
4. Where provisions of the "Collective Bargaining Agreement Between U.S. Nuclear Regulatory Commission and National Treasury Employees Union" are in conflict with this directive and handbook, the provisions of the agreement govern with reference to bargaining unit employees.

B. Funding

1. Agency-level and Governmentwide recognition, including Presidential Rank Awards, NRC Distinguished Service and Meritorious Service Awards, suggestion, gainsharing, referral, and Senior Executive Service (SES)/Senior Level System (SLS) performance awards, will be funded centrally by the NRC. Special act or service, nonmonetary and informal recognition, and General Grade (GG) performance awards will be funded by individual offices. OIG employee awards, as enumerated in Exhibit 1, are funded by the OIG. Additional information on gainsharing can be found in Section V.E of this handbook.
2. A cash award is a lump-sum payment in addition to regular pay and does not increase an employee's rate of basic pay. It is expressed as a gross rather than net amount and is subject to tax withholding but is not subject to health or life insurance or retirement deductions. A cash award is not creditable for inclusion in the average pay computation for retirement benefits.
3. When an award is approved for an employee of another agency, the benefitting agency makes arrangements to transfer funds to the employing agency to cover the cost of the award. If the administrative costs of transferring funds would exceed the amount of the award, the employing agency may absorb the cost and pay the award.
4. Awards for time off cannot be converted to cash payments under any circumstances.
5. When performance awards are expressed as a percentage of basic pay, they are based on the rate of basic pay including locality-based comparability payments, special law enforcement, or special rates.

6. The total of an employee's basic salary, performance award, and rank stipend received in any calendar year may not exceed the annual rate of pay for Executive Level I. For SES employees, the total may not exceed the Vice President level if the SES performance appraisal system has been certified by OPM. If the SES performance appraisal system has not been certified by OPM, the cap is Executive Level I. The Chair of the NRC Executive Resources Board (ERB), after consultation with the Chief Financial Officer (CFO), recommends annually to the Commission the total dollar amount to be budgeted for SES performance awards. Up to 10 percent of the total SES payroll as of the end of the preceding fiscal year may be budgeted for performance awards. This limitation does not apply to SES rank awards. Consistent with OPM guidance, OIG budgets for its own SES performance awards.

C. Appeals and Grievances

1. Employees may not appeal or grieve the following:

- (a) A decision to not grant an award; or
- (b) The amount of an award.

However, this restriction does not affect any employee right or remedy under the provisions of the Office of the Special Counsel (appointed by the President), rights and duties of labor organizations, or equal employment opportunity rights and remedies.

2. If the NRC does not adopt an employee's suggestion, rejection may not be the subject of a grievance under NRC employee grievance procedures.

D. Annual Awards Ceremony

The Office of Human Resources (HR) coordinates an awards ceremony to be held annually at NRC headquarters to present awards and to publicize contributions recognized under the NRC Awards and Recognition Program.

E. Procedural Guidance

Please refer to HR's intranet site for Procedural Guidance for all types of awards included in this handbook. (See <http://www.internal.nrc.gov/HR/award-guidance.html>.)

II. AGENCY-LEVEL AND GOVERNMENTWIDE RECOGNITION

A. Presidential Executive Rank Awards

1. Types

- (a) The Presidential Rank Award of Distinguished Executive
 - (i) The Presidential Rank Award of Distinguished Executive is granted for sustained extraordinary accomplishment.
 - (ii) The evaluation criteria focus on the executive's leadership in producing results.

- (iii) The amount of the Distinguished Executive Award is equal to 35 percent of the recipient executive's annual salary.
- (b) The Presidential Rank Award of Meritorious Executive
 - (i) The Presidential Rank Award of Meritorious Executive is granted for sustained accomplishment.
 - (ii) The evaluation criteria also focus on the executive's leadership in producing results.
 - (iii) The amount of the Meritorious Executive Award is equal to 20 percent of the recipient executive's annual salary.
- 2. Eligibility
 - (a) All NRC SES career appointees are eligible for consideration for rank awards if they are on the NRC rolls as career SES employees by the deadline for submission of nominations.
 - (b) The performance for which a nomination is submitted will have been sustained over a minimum period of at least 3 years. Preferably, the nominee's performance over an even longer period should be taken into account. Performance must have been at the SES or equivalent level in the career or career-type Federal civilian service.
 - (c) The minimum 3-year period that is the basis for recognition, must have been as a career appointee, in the SES or constitute equivalent Federal civilian service, such as Senior Foreign Service or administratively determined executive classifications.
 - (d) A former SES career appointee who received appointment to an Executive Level position in the executive branch and met the criteria for eligibility to retain certain SES benefits also may be eligible for a rank award, so long as the executive elected to retain that benefit and also meets the other criteria for nomination.
 - (e) A reemployed annuitant who holds a career SES appointment is eligible as long as the individual meets the other criteria for nomination. However, careful consideration will be given as to whether the nomination is in the best interests of NRC's SES program because of the very limited number of awards that can be made.
 - (f) An individual who leaves the SES or who dies after being nominated but before receiving the award remains eligible unless NRC withdraws the nomination.
- 3. Limitations
 - (a) To provide for progression in awarding ranks, nominees for the Distinguished Executive Rank Award usually would have received the Meritorious Executive Rank Award in a previous year. However, at any time, it may be appropriate to confer the Distinguished Executive Rank Award without regard to progression when only the highest rank would serve as fitting recognition.

- (b) Any individual who receives a rank of either Meritorious Executive or Distinguished Executive will not be entitled to receive that same award during the following 4 fiscal years. There is no prohibition, however, against receiving one rank award, then the other, at a closer interval.

4. Criteria

- (a) A nominee must have demonstrated sustained extraordinary accomplishment for the Distinguished Executive Rank Award and sustained accomplishment for the Meritorious Executive Rank Award. Specific nomination criteria are described in the call for nominations that is issued annually. Please see HR's Procedural Guidance for the most recent criteria issued. (See <http://www.internal.nrc.gov/HR/award-guidance.html>.)
- (b) In meeting the criteria and in all other areas cited in support of the nomination, it must be clear that the nominee has demonstrated qualities of strength, leadership, integrity, industry, and personal conduct that have established and maintained a high degree of public confidence and trust. These are not awards to recognize long and faithful service.

5. Award Payment

- (a) Subject to aggregate pay limitations, recipients of a Distinguished Executive Rank Award may receive up to 35 percent of their salary and recipients of a Meritorious Executive Rank Award may receive up to 20 percent of their salary.
- (b) Any portion of the award that would cause total compensation to exceed the aggregate pay limitation can be deferred for payment during the following calendar year.

B. NRC's Distinguished Service Award

The Commission grants NRC's highest award for an individual on a highly selective basis for distinguished service and excellent achievements.

1. The NRC's Distinguished Service Award consists of the following:

- (a) A citation;
- (b) A certificate signed by the Commissioners;
- (c) A gold medal inscribed with the recipient's name;
- (d) A lapel ornament which is a miniature of the gold medal;
- (e) \$10,000 for recipients who are not Senior Level System (SLS) Commissioner Assistants or members of the SES; and
- (f) SLS Commissioner Assistants/SES members receive a lapel ornament, a gold medal, and a citation or scroll signed by the Commissioners.

2. Eligibility

- (a) All employees are eligible to receive the NRC's Distinguished Service Award. However, an individual may receive the Distinguished Service Award only once in their career, unless the previous award was received before 1988.
- (b) Employees nominated but not selected for this award may be considered for the NRC Meritorious Service Award, if appropriate.
- (c) The occasion of an employee's retirement, transfer, or long periods of service do not constitute sufficient basis for this award.

3. Criteria

This award is granted to an employee who has made unique or notable contributions that clearly distinguish job performance and achievements from those of other highly qualified competent employees in the same areas of work activity, with performance that exceeds the requirements for the Meritorious Service Award. Examples of these contributions include the following:

- (a) Outstanding activities in direction, leadership, or skill in devising or implementing the operation of a basic NRC program;
- (b) Outstanding service and activities in a scientific or technical field contributing to the advancement of nuclear regulatory safety and/or engineering;
- (c) Outstanding activities in nontechnical staff functions that provide a major contribution to the management, guidance, and support of NRC operational programs; and
- (d) Unique and/or notably creative service that is marked by exceptional success in meeting high-level responsibilities in a manner to reflect credit on NRC.

4. Nomination Procedures

- (a) The Director of HR, in consultation with the Chairman and the EDO, will coordinate the annual nomination and selection process.
- (b) Nominations are reviewed and approved in accordance with Exhibit 1 of this handbook.

C. NRC's Meritorious Service Award

NRC's second highest award for an individual is granted for meritorious and outstanding achievements or services of an unusual value that substantially contribute to the accomplishment of NRC's mission or assigned major work programs. Such achievements must have agencywide significance.

1. The NRC's Meritorious Service Award consists of the following:

- (a) A citation;
- (b) A certificate signed by the Commissioners;
- (c) A silver medal inscribed with the recipient's name;

- (d) A lapel ornament which is a miniature of the silver medal; and
- (e) \$7,500 for recipients who are not SLS Commissioner Assistants or members of the SES.

2. Eligibility

All employees are eligible. However, an employee may receive the Meritorious Service Award only once in his or her career, unless the previous award was received before 1988.

3. Criteria

The following are examples of achievements that should be considered for recognition:

- (a) Outstanding results in increased productivity, efficiency, or economy of operations substantially contributing to the accomplishment of NRC programs and mission;
- (b) Unusual initiative or teamwork in developing new and improved work methods and procedures that result in substantial savings in staffing, time, space, materials, and other expense items;
- (c) Performing assigned tasks in such an exemplary manner as to set a record of achievement that will inspire and motivate other employees to improve the quality and quantity of work productivity;
- (d) Unusual professional achievements in work advancing an understanding and/or participation in issuing licenses or environment and security requirements that regulate the conditions under which nuclear energy or source material is used and safeguarding the public's health and safety; and
- (e) Exercising unusual courage or competence while on official duty.

4. Nomination Procedures

- (a) The Director of HR, in consultation with the Chairman and the EDO, coordinates the annual nomination and selection process.
- (b) Nominations are reviewed and approved in accordance with Exhibit 1 of this handbook.

D. NRC's Meritorious Service Award for Equal Employment Opportunity (EEO) Excellence

An annual Meritorious Award for EEO Excellence will be awarded to recognize exemplary performance in the implementation of the NRC's EEO program. All NRC employees who have helped advance equal employment opportunity in the agency are eligible to receive this award, including managers, supervisors, EEO committee members, and EEO counselors.

1. The NRC's Meritorious Service Award for Equal Employment Opportunity Excellence consists of the following:
 - (a) A citation and certificate signed by the Commissioners;
 - (b) A silver medal inscribed with the recipient's name;
 - (c) A lapel ornament that is a miniature of the silver medal; and
 - (d) \$7,500 for recipients who are not SLS Commissioner Assistants or members of the SES.
2. Nomination Procedures
 - (a) Solicitation for this award will be consistent with the solicitation for other meritorious awards and will include input from the EEO Advisory Committees.
 - (b) Nominations for the award should be provided through the EDO to the Commission.
 - (c) The Commission will make the final selection based upon recommendations provided by the staff.

E. NRC's Edward McGaffigan, Jr. Public Service Award

The Edward McGaffigan, Jr. Public Service Award is an honorary one-time career tribute given to NRC employees or retirees who demonstrate extraordinary commitment to public service and who exemplify the integrity, professional dedication, and moral courage that Commissioner McGaffigan exhibited. The award will be considered annually but granted only when warranted by a nominee who meets the requirements for this award.

1. Eligibility

All NRC employees and retirees are eligible.
2. Criteria

This award seeks to recognize, encourage, and perpetuate the qualities and attributes associated with dedication to public service, including putting interests of the nation and health and safety of the public above a desire for personal advantage; pursuing and advancing sound public policy; and being an advocate for and having the moral courage to bring about change. Nominations will be evaluated on the basis of the totality of their careers in public service.
3. Nomination Procedures
 - (a) Nomination packages consist of a cover letter, nominating form, justification, and letters of endorsement. Packages should be submitted to HR during the month of September. A special selection committee will review nominations and submit its recommendations to the Commission. Please refer to HR's Procedural Guidance for additional instructions. (See <http://www.internal.nrc.gov/HR/award-guidance.html>.)

- (b) Nominations and approvals will be made in accordance with the information provided in Exhibit 1 of this handbook.

4. Award

The Edward McGaffigan, Jr. Public Service Award consists of a crystal obelisk engraved with the likeness of Commissioner McGaffigan and the recipient's name on the front. The obelisk will be accompanied by a citation signed by the current Chairman and Commissioners. The obelisk and citation will be presented in a ceremony befitting an award of this magnitude.

F. NRC's Commendation Award

This prestigious NRC honorary award is granted to individuals or groups for significant acts or achievements that materially aid or affect the successful accomplishment of NRC missions and programs. To be considered for this award, the employee's or employees' performance would exceed the requirements for recognition by a Certificate of Appreciation.

1. Eligibility

All employees are eligible.

2. Criteria

Examples of service or contributions that may be considered for recognition are—

- (a) Accomplishment of a particularly difficult or important project, assignment, operation, or study that reflects positively on the group or individual contributor, as well as the agency;
- (b) Outstanding success in working in support of programs to advance the licensing and regulatory aspects of the agency's mission leading to improved safety and safeguards, while upgrading the level of health and safety operations;
- (c) Superior accomplishment in fostering agency programs leading to improved efficiency, productivity, and administrative operations; or
- (d) Demonstration of unusual initiative or creativity in the development and improvement of methods, procedures, or devices resulting in substantial improvement in economy of operations.

3. Nomination Procedures

- (a) Nominations may be received at any time.
- (b) Nominations and approvals will be made in accordance with the information provided in Exhibit 1 of this handbook.

4. Award

The NRC Commendation Award consists of a certificate containing the citation and a lapel pin. Letters from other officials may also be presented.

G. NRC's Length-of-Service Recognition**1. Eligibility**

NRC length-of-service emblems are presented to employees, excluding consultants, in recognition of total creditable Federal service at 5-year increments beginning at the completion of 10 years of service.

2. Nomination

Employees who are eligible for career service recognition are identified by the employee's total creditable service anniversary date. Total creditable service is all creditable Federal service, including honorable military service.

3. Award

HR, OIG, or the regional personnel officer will prepare length-of-service certificates. The appropriate office will present the certificates, letters, and plaques for its employees.

H. NRC's Retirement Recognition**1. Plaque and Letter**

A plaque reflecting the employee's name and years of Federal service is presented to all employees retiring from Federal service, along with a letter from the Chairman, the IG, the EDO, the office director, or the regional administrator, as appropriate.

2. Pin

Employees will be issued a service pin based on the highest number of years of service, provided that the pin has not been issued previously.

I. Awards From Outside NRC

Each year NRC is invited to submit candidates for various awards made by both private entities and Government agencies. Please see HR's Procedural Guidance for more information. (See <http://www.internal.nrc.gov/HR/award-guidance.html>.) OIG submits candidates for outside awards for OIG employees.

III. PERFORMANCE AWARDS**A. Senior Executive Service (SES) Performance Awards (Bonuses)**

Performance or bonus awards are granted in recognition of high caliber work performed over the annual rating period. Bonuses cannot be substituted for Executive Rank Awards. Further information on eligibility, limitations, and procedures regarding SES performance awards may be found in MD 10.137, "Senior Executive Service Performance Management System."

B. Senior Level System (SLS) Performance Awards**1. Eligibility**

Within-band pay adjustments and performance-based cash awards are directly linked to performance for SLS employees based on a threshold eligibility of a performance rating of Fully Successful. Time-off awards may also be granted in lieu of, or in addition to, cash.

2. Limitations

- (a) It is not expected that every SLS employee will receive a performance-based increase each year. These increases are not employee entitlements and should be provided only for those employees whose performance warrants a performance-based increase, just as performance-based bonuses are awarded in the SES.
- (b) If an SLS employee moves from one band to another during the appraisal period and the supervisor recommends recognition of the employee's performance in the previous (lower) band, a one-time cash award would generally be appropriate rather than a performance-based increase to base pay.
- (c) A performance-based increase to base pay should be considered if performance in the new position warrants and the individual has been in the position for at least 120 days before the end of the appraisal period. A performance-based increase to basic pay cannot exceed the top of the pay band to which the position is assigned.
- (d) Individual adjustments to base pay that are based on performance can be made only once for each appraisal period.
- (e) SLS employees may receive a within-band increase of normally 3 percent to 5 percent.
- (f) Further information on SLS performance awards may be found in MD 10.148, "Senior Level Performance Appraisal System," Part III.

C. General Grade (GG) Performance Awards

Performance awards are lump-sum payments and/or time-off awards based on the employee's rating of record for the current appraisal period. Managers and supervisors may consider individual employee preferences as well as budget and workload in determining the type of award (i.e., cash or time-off).

1. Eligibility

- (a) Employees whose current rating of record is Fully Successful or higher may be considered for performance awards.
- (b) No employee who has received a High Quality Increase (HQI) Award may receive another performance award for the same period of performance.

2. Criteria

- (a) When considering employees for performance awards, the supervisor will consider employees rated Outstanding before considering those rated Excellent. The supervisor will consider those rated Excellent before considering those rated Fully Successful.
- (b) Managers should ensure that performance awards granted based on ratings of record make meaningful distinctions based on levels of performance.
- (c) There will be no automatic or mandatory awards solely on the basis of ratings.
 - (i) Awards are a prerogative of management.
 - (ii) Factors such as recency of promotion and availability of funds may also affect award decisions.
 - (iii) Award recommendations should be submitted at the same time that the rating of record is determined.
 - The rating will serve as sufficient justification for the award.
 - When the rating of record is more than 90 calendar days old, a written justification explaining the reason for the delay must accompany the recommendation.

D. High Quality Increase (HQI) Award

An HQI is an increase in an employee's rate of basic pay from one rate of the grade to the next higher rate of the same grade. It immediately raises the employee's basic rate of pay one step and has possible continuing benefits affecting life insurance and retirement computations.

1. Eligibility

- (a) HQIs may be granted only to employees on the General Salary Schedule who are covered by the GG performance appraisal system.
- (b) SES, SLS, Wage Grade, and Administratively Determined employees are not eligible.
- (c) There are no automatic HQI awards solely on the basis of performance ratings.
- (d) An employee may be considered for an HQI if the employee meets the following criteria:
 - (i) The employee's performance is rated Outstanding;
 - (ii) The employee's performance has been sustained at a high level for a sufficient time so that it is considered characteristic (not less than 6 months); and
 - (iii) The employee is expected to continue such performance in the future.

- (e) HQIs may not be granted to an employee in any of the following situations:
 - (i) The employee is in the maximum step of any grade;
 - (ii) The employee is not expected to remain for at least 60 days in the same or similar position at the same grade level, the employee has been promoted recently, or a promotion is imminent;
 - (iii) The employee's primary responsibility during the year was participation in a formal training program, such as the Nuclear Safety Professional Development Program;
 - (iv) The employee was granted an HQI in the prior 52-week period; or
 - (v) The employee was granted a performance award for the same period of performance.
- (f) An HQI may not be granted to resolve personnel problems.

2. Criteria

- (a) A recommendation for an HQI must be supported by the employee's most recent rating of record. In addition, when the appraisal is more than 90 days old, a written justification explaining the reason for the delay must accompany the recommendation.
- (b) Generally, no more than 90 calendar days should elapse from the time of the recommendation until the award is granted, unless to do so would be a disadvantage to the employee in that the HQI would cause the employee to be placed in a higher waiting period for the next within-grade increase (WGI). If the employee would be disadvantaged, it is acceptable to delay processing of the HQI until after the WGI to take advantage of his or her placement in the waiting period for the next WGI.

IV. SPECIAL RECOGNITION AWARDS

A. Awards for Special Acts or Services

- 1. When Special Acts or Services Awards are Appropriate
 - (a) Special acts or services awards are appropriate when an employee or a group of employees—
 - (i) Performs substantially beyond expectations on a specific assignment or aspect of an assignment or function;
 - (ii) Has a single scientific achievement, invention, act of heroism, or similar one-time special service; or
 - (iii) Has an achievement of a nonrecurring nature, either within or outside of job responsibilities.
 - (b) An award based on a special act or service may consist of either a lump-sum cash award and/or a time-off award.

- (c) Managers may consider individual employee preferences as well as budget and workload in determining the nature of the award.

2. Eligibility

All employees or groups of employees are eligible to receive this award. This includes SES and SLS employees.

3. Limitations on SES Special Act or Service Awards

- (a) For SES members, this award should be considered only under those limited circumstances in which a bonus would not be appropriate. A job-related superior accomplishment award may be used to recognize a nonrecurring contribution, such as an extraordinary effort on a project not anticipated in the annual performance plan or a scientific achievement that may have culminated after a significant period.
- (b) NRC is prohibited from using this award to circumvent either statutory or regulatory provisions concerning the following:
 - (i) Limitations on eligibility for SES performance bonuses;
 - (ii) The size of individual performance bonuses; or
 - (iii) The total amount of funds available to pay SES performance bonuses.

4. Criteria

- (a) Awards for special acts or services provide a prompt form of recognition and reward for specific achievements that contribute to the economy and efficiency of Government operations or directly increase effectiveness in carrying out Government programs or missions.
- (b) Awards must be for individual or team accomplishments that are clearly superior and beyond those normally expected.
- (c) The amount of the cash or time-off award must be commensurate to the tangible or intangible benefits of the employee's or the group's contribution or achievement.
- (d) Achievements may range from "going the extra mile" to significant contributions to science, engineering, management, or other areas of operations. The following are examples of such achievements:
 - (i) Producing exceptionally high quality work under tight deadlines;
 - (ii) Performing added or emergency assignments in addition to their regular duties;
 - (iii) Showing exceptional courtesy or responsiveness in dealing with clients or colleagues;
 - (iv) Exercising extraordinary initiative and creativity to address a critical need or a difficult problem or improve a product, activity, program, or service;
 - (v) Culminating a scientific achievement or developing an invention;

- (vi) Engaging in an act of heroism;
- (vii) Demonstrating special initiative and skill in carrying out a project or completing an assignment before deadline; and
- (viii) Making suggestions or taking actions that improve protection of public health and safety and the environment.

B. Employee-of-the-Month Award

NRC offices and regions may choose to recognize one employee each month for outstanding contributions or achievements under the Special Act Award category. The employee so honored should be identified in the office awards event. Exhibit 4 contains guidelines on the amounts of awards.

C. Instant Cash Awards

NRC no longer maintains separate procedures and forms for processing special act or service awards formerly categorized as Instant Cash Awards, which were previously utilized to quickly recognize one-time and short-term efforts by employees that resulted in service of an exceptionally high quality or quantity. However, NRC continues to emphasize the importance of providing immediate recognition for a job well done, and supervisors are strongly encouraged to nominate employees for special act or service awards for this purpose.

V. OTHER AWARDS AND PROGRAMS

A. Time-Off Awards

1. General

- (a) Time-off awards, alone or in combination with cash, are an alternative to lump-sum cash awards.
- (b) Time-off awards are granted without loss of pay or charge to leave.
- (c) Time-off awards do not convert to a cash payment under any circumstances.
- (d) Time-off awards carry no time limitations as to when they must be used.
- (e) Time-off awards cannot be transferred when an employee transfers from one Federal agency to another, or when an employee is assigned out of a covered position.

2. Eligibility

Any employee or group of employees having a full- or part-time work schedule may be eligible for time-off awards, except the following:

- (a) Administrative Law Judges;
- (b) Experts or consultants, who are excluded by regulation; or
- (c) Administrative Judges, who are excluded by agency policy.

3. Criteria

- (a) These awards are appropriate to recognize achievements in performance or special acts/services.
- (b) To the extent practical, managers should initiate the type of award that the individual employee is most likely to welcome and view as a meaningful incentive.
- (c) When determining whether a particular award should take the form of lump-sum cash or time off, managers may consider the following:
 - (i) An employee's general preferences;
 - (ii) The nature of the contribution;
 - (iii) The budget;
 - (iv) The workload; and
 - (v) Time off that is already available to the employee.

4. Limitations

- (a) Time-off awards are not to be used to circumvent statutory limitations placed on the granting of performance awards for SES members.
- (b) An employee may generally not receive more than 80 hours of time off from duty for a single contribution, including Outstanding performance. The total amount of time that should be granted to an employee during any leave year is 80 hours.
- (c) When an employee receives a combination of time off and cash, the overall value of the award in its combined form should not exceed the value to the organization of the contribution recognized. Thus, the award should be commensurate with the contribution of the employee and must comply with any awards limitations.

5. Award

- (a) Use of time off granted is subject to approval by the employee's immediate supervisor. Scheduling should be handled similarly to scheduling annual leave.
- (b) To determine the amount of time off to be granted, the recommending official and the deciding official consider the benefits realized by the Government and/or NRC from the employee's contribution. Exhibits 2 and 4 of this handbook provide general guidelines on amounts. Approval authorities are reflected in Exhibit 1 of this handbook.

B. NRC's Certificate of Appreciation

1. This award is presented to an employee or group of employees who have performed an assignment particularly well but where the assignment and performance do not warrant a higher level award. This award also may be granted to an employee in recognition of exemplary service upon transfer or termination of service at the discretion of the Chairman, the EDO, an office director, or a regional administrator.
2. This award provides a certificate, and also may include a personalized letter, to the recipient.

C. Nonmonetary and Informal Recognition Awards

Nonmonetary and informal recognition awards may be given to recognize significant individual or team contributions that would not merit formal recognition.

1. Eligibility

Any employee or group of employees may be eligible for a nonmonetary or informal recognition award.

2. Criteria

- (a) Informal recognition and nonmonetary items must not exceed nominal value. The value of the award should be commensurate with the contribution being recognized.
- (b) Nonmonetary awards should be items of nominal value that are customarily used or displayed in the workplace and, through suitable imprinting, are readily recognizable as an NRC award. Nonmonetary awards may include such items as appropriately inscribed coffee mugs, pens, flags, apparel, and desk sets, as well as commemorative medals and plaques.
- (c) Every item given in recognition reflects on the agency. It is therefore important to exercise care and good judgment in selecting items to be given as recognition. Items may be selected with preferences of the individual in mind but must preserve the integrity and credibility of the NRC awards program and constitute an appropriate form of recognition to be purchased with public funds and used in the public sector.

3. Limitations

Informal nonmonetary awards are not to be used as substitutes for performance awards for employees or to circumvent the statutory limitations placed on the granting of other types of awards.

D. Suggestion Program

The suggestion program is intended to recognize and reward employees, either individually or collectively, for suggestions that directly contribute to productivity, economy, or efficiency, or that directly increase effectiveness in carrying out NRC or Government programs.

1. Eligibility

An employee or group of employees may be eligible for an award if the suggestion is adopted in whole, in part, or in modified form.

2. Criteria**(a) Suggestions Acceptable for Consideration**

- (i) A suggestion that duplicates an idea, method, or device used elsewhere is eligible if the suggestion was not used by the organization concerned until suggested by the employee.

- (ii) A suggestion that concerns a matter already under study or in developmental stages may be eligible for an award if the evaluator considers the suggestion to be a unique innovation.
- (iii) A suggestion within the employee's job responsibilities may be eligible for an award if—
 - The suggestion is superior or meritorious enough to warrant special recognition; and
 - The employee who made the suggestion does not have the authority to put the suggestion into effect.
- (b) Suggestions Not Acceptable for Consideration

A suggestion that substantially duplicates the subject matter, procedure, or method of another suggestion previously approved, adopted, or being considered for adoption.

E. Gainsharing Program

1. Employees who obtain free airline tickets for official NRC travel by redeeming frequent flyer mileage credits are eligible to receive an award for 50 percent of the savings to the Government.
2. Gainsharing awards are subject to applicable income taxes and will be directly deposited to the same bank account that is used for the employee's pay.
3. A gainsharing award will not affect an employee's consideration for other agency incentive awards.
4. See NRC MD 14.1, "Official Temporary Duty Travel," Part 4, Section 4.3.3, for further information.

F. Referral Awards

Referral awards are cash awards intended to serve as both incentives and recognition for NRC employees who actively disseminate information about vacancies and encourage individuals with needed skills to apply. Eligible employees may receive a \$1,000 referral award for referring a successful candidate who is hired into a covered position.

1. Eligibility

Employees are generally eligible unless they—

 - (a) Have specific duties that include recruitment, such as Human Resources Specialists with recruiting responsibilities, or employees who serve as NRC representatives at recruitment events.
 - (b) Are the selecting official, a rating panel member or officially associated with the selection of the individual.
 - (c) Serve as a supervisor, member of the SES, or at the Executive Level.
 - (d) Are related to the selectee. For the purposes of this handbook, "relative" will have the same meaning as provided in 5 U.S.C. 3110.

2. Successful Candidates

Candidates referred must be non-NRC employees who enter on duty with the NRC.

3. Covered Position

Referral awards are provided for all NRC positions except the following:

- (a) Positions in student employment programs.
- (b) Temporary positions, which are time-limited appointments with not-to-exceed dates of 1 year or less. ("TERM Appointments," which are time-limited appointments having not-to-exceed dates exceeding 1 year, are considered "covered.")
- (c) Positions with the Nuclear Safety Professional Development Program.
- (d) Executive Level and SES positions.

EXHIBITS**Exhibit 1 Approval Authorities for Awards**

The Office of Human Resources (HR) provides technical advice on and review of all awards. The Office of the Inspector General (IG) provides technical advice on and review of Presidential Executive Rank Awards and NRC's Distinguished and Meritorious Service Awards for OIG employees.

AWARD	NOMINATING OFFICIAL	RECOMMENDING OFFICIAL	DECIDING OFFICIAL
Presidential Executive Rank Awards	Office Director or Regional Administrator, with Executive Resources Board (ERB), Performance Review Board (PRB), or Executive Director for Operations (EDO) review coordinated by HR	Commission	Office of Personnel Management (OPM)/ President
NRC's Distinguished and Meritorious Service Awards	Office Director or Regional Administrator	Agency panel	Commission
NRC's Edward McGaffigan, Jr. Public Service Award	Any NRC Employee	Office Director or Regional Administrator	Commission
NRC's Commendation Award	Supervisor	Office Director or Regional Administrator	Chairman or EDO
NRC's Length of Service Recognition	N/A	N/A	Chairman, IG, Commissioner, EDO, Office Director, or Regional Administrator, as appropriate

EXHIBIT 1 (CONTINUED)			
AWARD	NOMINATING OFFICIAL	RECOMMENDING OFFICIAL	DECIDING OFFICIAL
NRC's Retirement Recognition	N/A	N/A	Chairman, Commissioner, EDO, Office Director, or Regional Administrator, as appropriate
Awards from outside the NRC	Office Director or Regional Administrator	EDO, IG, ERB, or Office Director reporting directly to the Chairman	EDO or Chairman*
SES Performance Awards (Bonuses)	Supervising Executive	NRC or IG SES Performance Review Board	Commission or IG
Senior Level System (SLS) Cash Awards**	Commissioner or Supervising Executive	Performance Review Board; or IG Performance Review Board; Commissioner Assistants do not require panel review	Chairman, Commissioner, IG, or EDO, as appropriate
GG cash awards up to and including \$6,000 for individuals or individual members of groups	Supervisor	When required, normally the second-level supervisor	Chairman, Commissioner, IG, EDO, Office Director, Regional Administrator, or designee, as appropriate***

* Chairman is deciding official for OIG employees.

** Includes Special Act or Service Awards and Performance Awards. Special Act or Service Award limits are the same as those shown for GG cash awards below. Please note that only performance awards are reviewed by the PRB.

*** MD 10.67, "Non-SES Performance Appraisal System," provides that approval authority for performance awards may be delegated no lower than division directors or equivalent organization level.

EXHIBIT 1 (CONTINUED)			
AWARD	NOMINATING OFFICIAL	RECOMMENDING OFFICIAL	DECIDING OFFICIAL
GG cash awards from \$6,001 up to and including \$10,000 for individuals or individual members of groups	Supervisor	Office Director or Regional Administrator, or Deputy IG	Chairman, IG, Commissioner, or EDO
Cash awards from \$10,001 up to and including \$25,000 for individuals or individual members of groups	Supervisor, reviewed by Office Director or Regional Administrator	EDO, IG, or Office Director reporting directly to the Chairman	Chairman, with OPM concurrence
Cash awards over \$25,000 for individuals or individual members of groups	Supervisor, reviewed by Office Director or Regional Administrator	EDO, IG, or Office Director reporting directly to the Chairman	Chairman, with Presidential approval
High Quality Increase	Supervisor	N/A	Chairman, Commissioner, IG, EDO, Office Director, or Regional Administrator, as appropriate
Time-off awards up to 80 hours for a single contribution; generally no more than 80 hours per leave year	Supervisor	N/A	Chairman, Commissioner, IG, EDO, Office Director, or Regional Administrator, or designee, as appropriate

EXHIBIT 1 (CONTINUED)			
AWARD	NOMINATING OFFICIAL	RECOMMENDING OFFICIAL	DECIDING OFFICIAL
Time-off Awards over 80 hours	Supervisor	Office Director or Regional Administrator, Deputy IG	Chairman, IG, or EDO
Certificate of Appreciation	Supervisor	N/A	Chairman, Commissioner, IG, EDO, Office Director, or Regional Administrator, or designee, as appropriate
Nonmonetary Award and Informal Recognition	Supervisor	N/A	Chairman, Commissioner, IG, EDO, Office Director, Regional Administrator, or designee, as appropriate
Suggestion	Employee	Technical recommendation on adoption by official having jurisdiction over the function(s) to which the suggestion pertains	Chairman, Commissioner, EDO, Office Director or Regional Administrator, or designee, as appropriate, if adoption is recommended

**Exhibit 2 Scale for Performance Awards Other Than for Senior Executive
Service/Senior Level System Members**

The availability of cash awards is subject to funding constraints.

PERFORMANCE APPRAISAL SUMMARY RATING	AMOUNT OF CASH AWARD
Outstanding	Up to 15% of base salary
Excellent	Up to 10% of base salary
Fully Successful	Up to 5% of base salary

Performance award percentages are based on the rate of basic pay including any locality-based comparability payment, interim geographic adjustment, or special law enforcement adjustment.

An employee may receive cash, a combination of cash and time off, or time off in recognition of exceptional performance. When an employee receives a combination of time off and cash, the overall value of the award in its combined form should not exceed the value to the organization of the contribution recognized. Thus, the award should be commensurate with the contribution of the employee and is subject to any limitations for awards.

Time-off awards cannot be converted to cash but the cash value should be considered when recognizing performance. For comparison purposes, a 40-hour time-off award represents about 2 percent of an employee's total salary (not including benefits), and a 1-day time-off award represents about .4 percent of the salary.

In determining the award amount, consideration should be given to the difficulty of the job, caliber of the performance plan, actual performance, recent promotions, equity in comparison to other awards, and relative cash value of the award.

Managers may consider an employee's general preferences as well as the nature of the contribution, budget, workload, and time off already available to an employee when determining whether a particular award should take the form of lump sum cash or time off. To the extent practical, managers should initiate the type of award that the individual employee is most likely to welcome and view as a meaningful incentive. The authority of office directors and regional administrators is limited to \$6,000 or 80 hours of time off. For amounts exceeding \$6,000 or 80 hours, see Exhibit 1 of this directive handbook.

Exhibit 3 Award Scales for Suggestions and Special Acts or Services With Tangible Benefits

BENEFIT OF CONTRIBUTION TO THE AGENCY	AWARD
Up to \$10,000	10% of benefit
\$10,001 to \$100,000	\$1,000 plus 3% of benefit in excess over \$10,000
\$100,001 or more	\$3,700 plus 1% of benefit in excess over \$100,000*

* Awards exceeding \$10,000 up to \$25,000 require approval from the Office of Personnel Management. Awards exceeding \$25,000 require Presidential approval.

The minimum award for tangible benefits may be granted only when the benefits reach \$250.

When a contribution has both tangible and intangible benefits, the amount of the award is based on the total value of the contribution to the Government.

Exhibit 4 Award Scales for Suggestions and Special Acts or Services With Intangible Benefits

NATURE AND IMPACT OF CONTRIBUTION OR BENEFIT	RECOMMENDED CASH AWARD
One-time, short-term effort resulting in exceptional quality or productivity or Employee of the Month	Up to \$850
Substantial effort resulting in exercise of extraordinary initiative and creativity to address a critical need or a difficult problem, or to very significantly improve a product, activity, program, or service. Affects a broad area of science or technology or major NRC functions.	Up to \$5,000
Extended effort resulting in initiation of a new principle or a major procedure or in an innovative major improvement to the quality of a critical product, activity, program, or public service. Affects the broad NRC mission or improves the protection of public safety and the environment throughout the Nation and/or abroad.	Up to \$10,000

This exhibit serves as a general guide to help managers exercise their judgment and discretion.

When a contribution produces both tangible and intangible benefits, the award amount is based on the total value of the contribution to the Government.

Managers may consider an employee's general preferences as well as the nature of the contribution, budget, workload, and time off already available to an employee when determining whether a particular award should take the form of lump sum cash or time off. To the extent practical, managers should initiate the type of award that the individual employee is most likely to welcome and view as a meaningful incentive.

When an employee receives a combination of time off and cash, the combination should be commensurate with the contribution being recognized and any limitations for awards.

Time-off awards cannot be converted to cash but the cash value should be considered when recognizing the suggestion or special act or service. For example, an Employee of the Month Award of \$850 might correspond to about a 2-day time-off award.

Exceptions to the award scales must be approved by the Chairman or the Executive Director for Operations.

ATTACHMENT 2



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 16, 2011

MEMORANDUM TO: Those on the Attached List

FROM: Jennifer M. Golder, Budget Director *JM Golder*
Office of the Chief Financial Officer

Andrea Valentin, Associate Director *Andrea Valentin*
Human Resources Operations and Policy

SUBJECT: FY 2012 AWARDS

In June 2011, OPM and OMB issued guidance that imposed limits on the amounts agencies can spend on various types of awards. This is approximately a 50% reduction over the amount the NRC spent on performance and individual special act awards in FY 2011. The Chairman, with input from senior management, decided that the awards pool throughout the agency, GG, SLS, and SES, would each be reduced equally. Your office's FY 2012 allocation for non-SES/SLS awards is shown in Enclosure 1. This allocation is to be used for the following types of awards:

- Bargaining Unit Performance Awards
- Non Bargaining Unit Performance Awards
- Individual Special Act Awards

Enclosure 2 provides guidelines on the financial management of awards funds with respect to performance and individual special act awards. HQ's offices must submit their performance data back to HR no later than COB on Friday, December 2, 2011, if they wish it to be paid out by December 27, 2011. HR will make every effort to process the awards for payment the second pay period in December.

In addition, you will be receiving, by separate email, from the Office of Human Resources, a tool that you may use to assist your Office in determining your individual awards amounts.

- **Headquarter Offices** - Offices should submit their performance awards via a SF-52 and list of employees and award amounts to their HR servicing branch. In addition, an email from each PMDA Director or equivalent, certifying that the amount cited in Enclosure 1 has been appropriately distributed to bargaining and non-bargaining unit employees, should be sent to Dawn Powell and Angela Bolduc. Performance Awards will not be released for payment until HR receives this certification.

Enclosures:

1. Office Award Funding Allocations
2. Guidelines for Financial Management of Awards Funds
3. Additional Guidance on Agency Award Limitations

Attachment 2

- **Regional Offices** – Before your regional HR staff processes the performance awards, an email from the DRMA Director, certifying that the amount cited in Enclosure 1 has been appropriately distributed to bargaining and non-bargaining unit employees, should be sent to Dawn Powell and Angela Bolduc.

Given recent developments, we continue to discuss the use of nonmonetary awards for all GG employees. We will be issuing separate guidance on nonmonetary awards in the near future.

The following awards are not charged against your allocation. These bonuses and awards will continue to be paid from the NRC Central Allowance.

- The SES and SLS bonuses
- Presidential Distinguished and Meritorious Service
- Suggestion awards

Additionally, there is a direct affect on many aspects of the agency's awards program for FY 2012. The OPM/OMB guidance provides additional limitations on other aspects of the NRC awards program. Please refer to Enclosure 3 for additional information pertaining to agency limits on spending amounts.

As part of our on-going effort to keep employees informed on the status of awards, an EDO update will be going out within the next few days that details the information contained in this memorandum.

MEMORANDUM TO THOSE ON THE ATTACHED LIST DATED:

SUBJECT: FY 2012 AWARDS

Chairman Jaczko
 Commissioner Svinicki
 Commissioner Apostolakis
 Commissioner Magwood
 Commissioner Ostendorff
 Brooke D. Poole, Director, Office of Commission Appellate Adjudication
 James E. Dyer, Chief Financial Officer
 Edwin M. Hackett, Executive Director, Advisory Committee on Reactor Safeguards
 Margaret M. Doane, Director, Office of International Programs
 Stephen G. Burns, General Counsel
 E. Roy Hawkens, Chief Administrative Judge Atomic Safety and Licensing Board Panel
 Rebecca L. Schmidt, Director, Office of Congressional Affairs
 Eliot B. Brenner, Director, Office of Public Affairs
 Annette Vietti-Cook, Secretary of the Commission

R. William Borchardt, Executive Director for Operations
 Michael F. Weber, Deputy Executive Director for Materials, Waste, Research, State, Tribal, and Compliance Programs, OEDO
 Darren B. Ash, Deputy Executive Director for Corporate Management, OEDO
 Martin J. Virgilio, Deputy Executive Director for Reactor and Preparedness Programs, OEDO
 Nader L. Mamish, Assistant for Operations, OEDO
 Kathryn O. Greene, Director, Office of Administration
 Patrick D. Howard, Director, Computer Security Office
 Roy P. Zimmerman, Director, Office of Enforcement
 Mark A. Satorius, Director Office of Federal and State Materials and Environmental Management Programs
 Cheryl L. McCrary, Director, Office of Investigations
 Thomas M. Boyce, Director, Office of Information Services
 Miriam Cohen, Director, Office of Human Resources
 Michael R. Johnson, Director, Office of New Reactors

Catherine Haney, Director, Office of Nuclear Material Safety and Safeguards
 Eric J. Leeds, Director, Office of Nuclear Reactor Regulation

Brian W. Sheron, Director, Office of Nuclear Regulatory Research

Corenthis B. Kelley, Director, Office of Small Business and Civil Rights
 James T. Wiggins, Director, Office of Nuclear Security and Incident Response
 William M. Dean, Regional Administrator, Region I
 Victor M. McCree, Regional Administrator, Region II
 Cynthia D. Pederson, Acting Regional Administrator, Region III
 Elmo E. Collins, Jr., Regional Administrator, Region IV

E-Mail Mail Stops

Send a Hard Copy to O-16G4
 Send a Hard Copy to O-16G4
 Send a Hard Copy to O-16G4
 Send a Hard Copy to O-16G4
 Send a Hard Copy to O-16G4
 RidsOcaaMailCenter Resource
 RidsOcofMailCenter Resource
 RidsAcraAcnw_MailCTR Resource

RidsOipMailCenter Resource
 RidsOgcMailCenter Resource
 RidsAslbpManagement Resource

RidsOcaMailCenter Resource
 RidsOpaMail Resource
 RidsSecyMailCenter Resource
 RidsSecyCorrespondenceMCTR Resource
 RidsEdoMailCenter Resource
 RidsEdoMailCenter Resource

RidsEdoMailCenter Resource

RidsEdoMailCenter Resource

RidsEdoMailCenter Resource
 RidsAdmMailCenter Resource
 RidsCsoMailCenter Resource
 RidsOeMailCenter Resource
 RidsFsmeOd Resource (A)

RidsOiMailCenter Resource
 RidsOis Resource
 RidsHrMailCenter Resource
 RidsNroOd Resource (I)
 RidsNroMailCenter Resource (A)
 RidsNmssOd Resource

RidsNrrOd Resource (I)
 RidsNrrMailCenter Resource (A)
 RidsResOd Resource (I)
 RidsResPmdaMail Resource (A)
 RidsSbcrMailCenter Resource
 RidsNsirOd Resource (I)
 RidsNsirMailCenter Resource (A)
 RidsRgn1MailCenter Resource
 RidsRgn2MailCenter Resource
 RidsRgn3MailCenter Resource
 RidsRgn4MailCenter Resource

OFFICE AWARD FUNDING ALLOCATION

The awards funding for your office is provided below:

Office	Bargaining Unit		Non Bargaining Unit		Individual Special Act	Total Office Allocation
	FTE	Performance Awards	FTE	Performance Awards		
Commissioner Svinicki	0	\$0	2	\$2,706	\$295	\$3,001

Awards Methodology

The formula for Bargaining Unit (BU) performance awards is the average of 2 factors: 1) percent of office Bargaining Unit (BU) FTE on board as of September 30, 2011 against the agency (BU) FTE on board as of September 30, 2011 and 2) percent of BU office salary costs against total agency BU salary costs as of September 30, 2011. That average percent is applied to the total agency BU awards pool. The same formula applies for Non Bargaining Unit performance awards. ***Please note that Offices must spend all of the amounts allocated for performance awards on performance awards.***

There is a separate allocation for individual special act awards. Each office is receiving a pool for individual special act awards based on the same formula used to determine their performance award allocation. Individual special act awards can be granted to all GG employees as well as SLS employees in accordance with the criteria contained in MD and DH 10.72. If your office has an Employee of the Month or other type of similar award, these awards should continue to be processed as individual special act awards.

While offices **must** spend all of the monies allocated for performance awards on performance awards, each Office has the discretion to utilize their individual special act allocation for performance awards. However, Offices should carefully consider the impact of their decisions and seek to maintain sufficient funds to allow recognition throughout the fiscal year of performance warranting a special act award. In addition, given recent guidance regarding government spending and the ongoing discussion of agency non-monetary recognition, offices may want to consider setting aside a portion of their special act allocation for FY 12 non-monetary awards.

GUIDELINES FOR FINANCIAL MANAGEMENT OF AWARDS FUNDS

- Each allowance holder will receive a separate funding line on their financial plan for awards funding under a unique Budget and Reporting Number. Note, allowance holders may not execute funding changes to their allowances without requesting a financial plan change from the OCFO Budget Director. As a matter of policy, increases to approved offices' award allocations are not permitted.
 - Consistent with other agency salary and benefits funds, cash awards funds will not be assigned to existing agency programs on the Advice of Allowance and Financial Plan (AAFP) or in the agency accounting system (FAIMIS).
 - For consistency across the agency, the table on the following page provides the document numbering scheme for FY 2012 awards commitments. Only the fiscal year indicator (first two digits of document number) should change in future years. All commitments for monetary awards should be entered into FAIMIS with a budget object class (BOC) of 1153. Commitments for non-monetary awards should be entered in FAIMIS under (BOC) 2690.
- The general process for nominating and approving employees for awards is on the SF- 52, "Request for Personnel Action". Allowance holders must ensure that adequate cash awards funds have been certified as available before releasing approved nominations to the Office of Human Resources (HR) for processing. HR's approval of the award through the SF-50, "Notification of Personnel Action," creates an obligation of funds against the office's allowance. HR directs that the obligation and payment of the award occur by processing the award in the Federal Personnel Payroll System (FPPS).
 - HR's processing of the award includes identification of the appropriate office allocation. This information will be uploaded to FAIMIS and will be available in the monthly accounting reports for allowance holder reconciliation.
 - Allowance holders are reminded that amounts on the SF 52 are the gross amount of the award. Employees will receive the award amount less all applicable income taxes. Taxes will be reported on the employee's earnings and leave statements.

FY 2012 AWARDS REQUISITION NUMBERS

All awards commitments will be entered into FAIMIS with a transaction code of NQ. The first two digits in the document number indicate the fiscal year and should be changed in future years as appropriate. The remaining characters are alphas that primarily designate the office.

ACRS	NQ	12ACRSAWARD
ASLBP	NQ	12ASLBPAWARD
CAA	NQ	12OCAAAWARD
CSO	NQ	12CSOAWARD
FSME	NQ	12FSMEAWARD
IP	NQ	12OIPAWARD
NRR	NQ	12NRRAWARD
NSIR	NQ	12NSIRAWARD
OGC	NQ	12OGCAWARD
OIS	NQ	12OISAWARD
RES	NQ	12RESAWARD
R-II	NQ	12RG2AWARD
R-IV	NQ	12RG4AWARD
SECY	NQ	12SECYAWARD

Additional Guidelines on Types of Agency Award Limitations

HQIs. The OPM/OMB guidance limits the number of high quality increases the NRC may grant in FY 2012 to the number granted in FY 2010. After discussion and deliberation of how to implement this limitation in an equitable fashion among the various agency offices and in view of the salary and benefits challenges the NRC is faced with, the agency will suspend granting of HQIs for FY 2012.

Group Special Act Awards. Under the OPM/OMB guidance, group special act awards are limited to the total amount spent by the agency in FY 2010. OHR will be issuing separate guidance on group special act awards in the near future.

Time-Off Awards. Time off awards given in lieu of all or part of a cash performance award do not count towards the performance awards cash values. Because time off awards do not involve cash expenditures, they are not included in the OPM/OMB limits. However, the guidance specifically states that agencies should "refrain from increasing time off awards to compensate for the restrictions on cash awards." HR will monitor the time off awards granted and provide monthly updates to the Human Capital Council and quarterly updates to offices.

Suggestion awards. The OPM/OMB guidance limits the amount the NRC may spend on suggestion and invention awards to that spent in FY 2010. HR will monitor the amount spent on this program and provide monthly updates to the Human Capital Council and quarterly updates to offices. Since suggestion awards are mandatory based on the tangible and/or intangible benefit of the suggestion to the agency, in the event that this limit is reached prior to the end of FY 2012, we will contact OPM to discuss this matter.

Recruitment, relocation, and retention incentives. The amount spent on recruitment, retention and relocation incentives is frozen for both calendar years 2011 and 2012 at the total amount spent for all three types of incentive awards during the 2010 calendar year. HR will monitor the amount spent on this program and provide monthly updates to the Human Capital Council and quarterly updates to offices. In addition, HCC will continue to review the NSPDP program.

Referral awards. Referral awards are limited to the amount spent in FY 2010. Referral award amounts have been increased recently from \$500 to \$1000 per referral. HR will monitor the amount spent on this program and provide monthly updates to the Human Capital Council and quarterly updates to offices.

For your information, guidance on awards considerations is available at <http://www.internal.nrc.gov/HR/awards.html>.

Commissioner Svinicki's Office
FY 2012 SLS Performance Award Pool
5% SLS Performance Award Pool Based on Aggregate SLS Salaries as of 09/30/2011

SLS PERFORMANCE AWARD POOL:

SLS Performance Award Pool: \$24,730

SLS Staff as of 09/30/2011

	Name	Salary
1	Castleman, P.	\$163,995
2	Reddick, D.	\$165,300
3	Sharkey, J.	\$165,300
Aggregate SLS Salaries as of 09/30/2011		\$494,595

SLS AWARD STRUCTURE

The following performance award structure is being applied for most SLS employees (award amounts reduced by 50% from last year consistent with S&B constraints, OPM/OMB restrictions, and equity with award pool reductions for SES and GG):

Subelements Exceeded	Award Amount
5 – 6 (or 83% - 100%)	\$5,000
4 – 5 (or 67% - 83%)	\$4,000
3 – 4 (or 50% - 67%)	\$2,500
2 – 3 (or 33% - 50%)	\$1,500
0 – 1 (or 0% - 16%)	\$0

Talking points on anticipated FY SES and SLS bonuses

In proposing the SES and SLS bonus structure for FY 2011 performance awards that will be paid out in FY 2012, the EDO, DEDOs, GC and CFO agreed that NRC should primarily strive to meet the following goals:

- Recognize and show appreciation for successful performance, including recognizing as much of the high performing workforce as feasible
- Comply with OPM/OMB limitations and statutory requirements, and make meaningful distinctions based on rating level. Among other things, statute requires that an SES bonus be a minimum of 5% of the individual executive's pay.
- Preserve consistency, equity, and alignment among awards for SES and SLS. In essence, the awards pools will be reduced.
- Keep it simple and clear
- Use public funds prudently during difficult economic times

When considering possible approaches to bonuses, we assumed that NRC appraisals would follow a similar rating pattern to last year. We will need to revisit the approach if there are significant changes in ratings (for example, a large increase in the number of Outstanding ratings given).

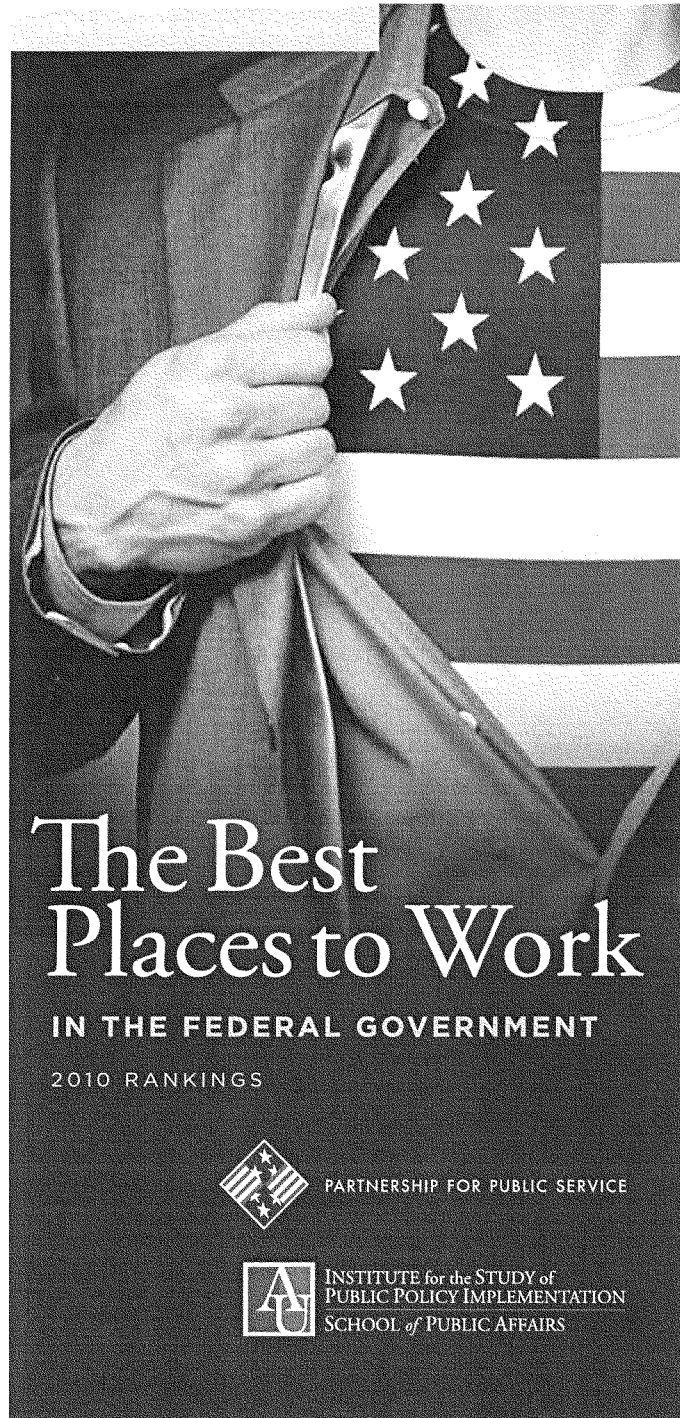
- The amounts of SES and SLS bonuses will be significantly smaller, especially for the higher rating levels and the higher tier SES positions.
- Because of the minimum 5% individual SES bonus requirement, NRC will be unable to recognize every executive, but we expect to recognize as many high performing executives as feasible. Senior leadership could not in good conscience accept a \$25,000 or \$30,000 bonus if that meant that a high achieving executive in Group C might receive no bonus.
- The distinctions between SES bonus amounts for different rating levels and position groups are likely to be in the range of several hundred or a thousand dollars rather than the approximately \$5,000 range of the past few years.

Senator BOXER. Thank you.

We are going to have 6 minutes per member for questions.

Before I ask my questions, I wanted to put two items into the record. One is a ranking of the NRC from its employees in 2010. Senator Barrasso said this was a dark time for the agency and how horrible it was under Greg Jaczko. The fact is the employees rated it No. 1 out of all the different agencies. So I put that in the record.

[The referenced document follows:]



BEST PLACES TO WORK 2010

The 2010 *Best Places to Work in the Federal Government* rankings offer the most comprehensive assessment of how federal employees perceive their jobs and agencies, providing unvarnished insights into issues ranging from leadership and pay to teamwork and work-life balance.

The rankings, representing the first in-depth look at the views of federal employees during the Obama administration, reveal good news—an increase in the overall satisfaction with the government workplace. But this positive response is leavened by a wide divergence of opinions about the capability of leadership and the conditions at individual agencies and departments.

The *Best Places* government-wide employee satisfaction score for 2010 reached an all-time high of 65 out of 100, representing a 2.7 percent increase from 2009 and a 7.4 percent jump from 2003 when our rankings were first published.

A high level of satisfaction and employee commitment translates into better organizational performance and government effectiveness. When these conditions exist, employees often have a sense of personal accomplishment, believe their talents are well used, that they can develop professionally and are encouraged to innovate.

For the third consecutive time, the Nuclear Regulatory Commission ranked first and the Government Accountability Office placed a close second in the *Best Places* list of 32 large agencies. Perhaps as noteworthy, both agencies improved their scores even though they were already top-ranked. If either had simply maintained their 2009 index score, they would have dropped down the list, suggesting that to stand still is to fall back when it comes to employee satisfaction and commitment.

At the other end of the spectrum, the lowest-rated large agency in 2010 is the National Archives and Records Administration, which was second from the bottom in 2009 and dropped a notch this year even though it showed a slight improvement. Tied for last place is the Department of

FAST FACTS

- ★ The 2010 government-wide *Best Places* index score measuring the satisfaction of federal employees with their jobs and organizations is 65 out of 100, up 2.7 percent from 2009 and an increase of 7.4 percent since the rankings were first launched in 2003.
- ★ Employee satisfaction increased in 68 percent of federal organizations, including 80 percent of large agencies, 69 percent of small agencies and 67 percent of subcomponents.
- ★ The highest-scoring workplace categories are, in order, employee skills/mission match, teamwork, pay, and training/development.
- ★ The biggest increase in the 2010 ratings was in the effective leadership category regarding employee perceptions of fairness in the workplace, which was up 8.6 percent.
- ★ The 2010 *Best Places* rankings include 290 federal organizations (32 large federal agencies, 34 small agencies and 224 subcomponents) and are based on the responses of more than 263,000 employees.

Housing and Urban Development, which lost ground as other agencies improved.

This year, the most improved large federal agencies were the Department of Transportation, which raised its standing among employees by 15.8 percent, and the Department of the Treasury, which increased its score by 8.2 percent. On the flip side, the Securities and Exchange Commission dropped by 6.4 percent—the second survey in a row that employees downgraded the financial regulator.

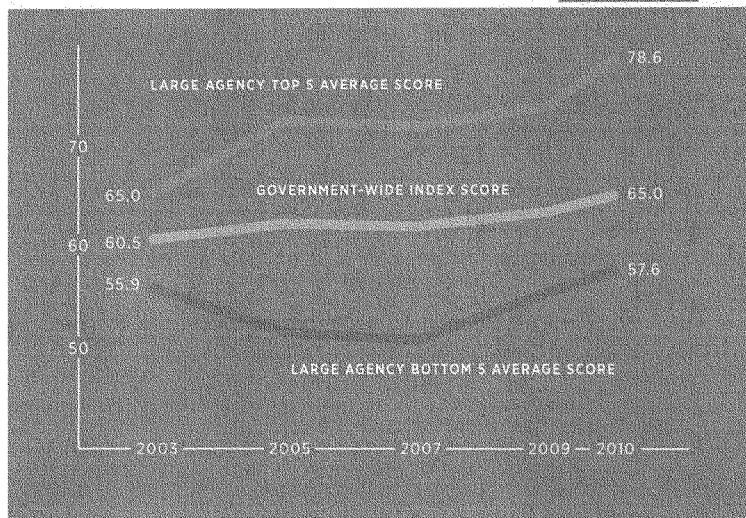
Although some federal agencies are lagging behind, the improvement by 68 percent of federal organizations demonstrates that a determined focus on good management can have a relatively quick and significant impact in the workplace.

While many factors are involved in shaping how employees view their workplace, the 2010 survey for the fifth time in a row showed the primary driver in the federal space is effective leadership, and in particular, senior leadership. Two other key factors influencing satisfaction revealed by the analysis were a belief by employees that their skills were well-suited to their agency's mission, and a satisfaction with pay.

Employees in the private sector, meanwhile, continued to be more satisfied with their jobs, organizations and supervisors than their counterparts in the federal government. But the attitudes of federal employees regarding these three work-related areas are improving, perhaps a reflection of better government management and the economic realities of today's difficult job market.

The *Best Places* rankings and detailed analysis are based on data from the Federal Employee Viewpoint Survey that was conducted by the Office of Personnel Management during February and March of 2010. The rankings provide a benchmark to measure agency progress, to identify signs of trouble, and to spur our government to improve the way it manages its most important asset—its people.

TOP TRENDS



LARGE AGENCY RANKINGS

RANK	AGENCY
1	Nuclear Regulatory Commission
2	Government Accountability Office
3	Federal Deposit Insurance Corporation
4	Smithsonian Institution
5	National Aeronautics and Space Administration
6	Social Security Administration
7	Department of State
8	General Services Administration
9	Department of Justice
10	Intelligence Community
11	Environmental Protection Agency
12	Department of the Treasury
13	Department of Commerce
14	Office of Personnel Management
15	Department of the Navy
16	Department of the Army
17	All Department of Defense (tie)
17	Department of the Interior (tie)
19	Department of the Air Force (tie)
19	Department of Health and Human Services (tie)
21	Department of Veterans Affairs
22	Department of Energy
23	Department of Labor
24	Department of Agriculture (tie)
24	Securities and Exchange Commission (tie)
26	Department of Transportation
27	Equal Employment Opportunity Commission
28	Department of Homeland Security
29	Small Business Administration
30	Department of Education
31	Department of Housing and Urban Development (tie)
31	National Archives and Records Administration (tie)

BY CATEGORY

EMPLOYEE SKILLS / MISSION MATCH

1	Nuclear Regulatory Commission
2	Department of Veterans Affairs
3	Social Security Administration

STRATEGIC MANAGEMENT

1	Nuclear Regulatory Commission
2	National Aeronautics and Space Administration
3	General Services Administration

EFFECTIVE LEADERSHIP

1	Nuclear Regulatory Commission
2	National Aeronautics and Space Administration
3	Department of State

WORK / LIFE BALANCE

1	Nuclear Regulatory Commission
2	General Services Administration
3	National Aeronautics and Space Administration

PAY

1	Nuclear Regulatory Commission
2	National Aeronautics and Space Administration (tie)
2	General Services Administration (tie)
4	Environmental Protection Agency

BY DEMOGRAPHIC

AFRICAN-AMERICANS

1	Nuclear Regulatory Commission
2	Government Accountability Office
3	Department of Justice

HISPANICS

1	Government Accountability Office
2	Nuclear Regulatory Commission (tie)
2	Social Security Administration (tie)
4	Department of State

WOMEN

1	Government Accountability Office
2	Nuclear Regulatory Commission
3	National Aeronautics and Space Administration

YOUNG PEOPLE (UNDER 40)

1	Nuclear Regulatory Commission
2	Government Accountability Office
3	Social Security Administration

View the complete category and demographic rankings at bestplacetowork.org.

SMALL AGENCY RANKINGS

RANK	AGENCY
1	Surface Transportation Board
2	Overseas Private Investment Corporation
3	Congressional Budget Office
4	Federal Mediation and Conciliation Service
5	Peace Corps
6	National Endowment for the Humanities
7	Federal Trade Commission (tie)
7	National Transportation Safety Board (tie)
9	National Endowment for the Arts
10	Commodity Futures Trading Commission
11	Merit Systems Protection Board
12	Pension Benefit Guaranty Corporation
13	National Science Foundation
14	Federal Maritime Commission
15	Federal Energy Regulatory Commission
16	Railroad Retirement Board
17	Corporation for National and Community Service
18	Court Services and Offender Supervision Agency (tie)
18	National Gallery of Art (tie)
20	Federal Labor Relations Authority
21	Federal Communications Commission
22	Millennium Challenge Corporation
23	National Credit Union Administration
24	U.S. International Trade Commission
25	Office of Management and Budget
26	Consumer Product Safety Commission
27	National Labor Relations Board
28	Agency for International Development
29	Office of the U.S. Trade Representative
30	Federal Election Commission
31	Federal Housing Finance Agency
32	Broadcasting Board of Governors
33	International Boundary and Water Commission
34	Selective Service System

BY CATEGORY

EMPLOYEE SKILLS / MISSION MATCH

1	Federal Mediation and Conciliation Service
2	Surface Transportation Board
3	National Transportation Safety Board
4	Merit Systems Protection Board
5	Federal Trade Commission

EFFECTIVE MANAGEMENT

1	Surface Transportation Board
2	Merit Systems Protection Board
3	Federal Trade Commission
4	Commodity Futures Trading Commission
5	National Endowment for the Arts

EFFECTIVE LEADERSHIP

1	Surface Transportation Board
2	Federal Trade Commission
3	Federal Maritime Commission
4	Federal Labor Relations Authority
5	Federal Mediation and Conciliation Service

WORK-LIFE BALANCE

1	Surface Transportation Board
2	Federal Mediation and Conciliation Service
3	National Endowment for the Arts
4	Federal Energy Regulatory Commission
5	Federal Maritime Commission

PAY

1	Federal Mediation and Conciliation Service
2	Surface Transportation Board
3	Federal Labor Relations Authority
4	Commodity Futures Trading Commission
5	Court Services and Offender Supervision Agency

TEAMWORK

1	Surface Transportation Board
2	Federal Labor Relations Authority
3	Federal Trade Commission
4	National Endowment for the Arts
5	Federal Maritime Commission

View the complete category and demographic rankings at bestplacetowork.org.

AGENCY SUBCOMPONENT RANKINGS

RANK	AGENCY
1	Environment and Natural Resources Division (DOJ)
2	Army Audit Agency (Army)
3	Office of Inspector General (Treasury)
4	Office of the Comptroller of the Currency (Treasury)
5	Civil Division (DOJ)
6	Bureau of the Public Debt (Treasury)
7	Goddard Space Flight Center (NASA)
8	Executive Office for U.S. Attorneys and U.S. Attorneys' Office (DOJ)
9	Region 1 - Boston (EPA)
10	Region 9 - San Francisco (EPA)
11	John C. Stennis Space Center (NASA)
12	Lyndon B. Johnson Space Center (NASA)
13	Tax Division (DOJ) (tie)
13	Office of the Inspector General (OPM) (tie)
15	Dryden Flight Research Center (NASA)
16	Office of Thrift Supervision (Treasury)
17	Region 10 - Seattle (EPA)
18	Office of the Inspector General for Tax Administration (Treasury)
19	Federal Highway Administration (DOT)
20	National Cemetery Administration (VA)
21	John F. Kennedy Space Center (NASA)
22	Antitrust Division (DOJ)
23	George C. Marshall Space Flight Center (NASA)
24	U.S. Army National Guard Units (Army)
25	All Other Components (Navy)
26	Office of Inspector General (ED) (tie)
26	Region 3 - Philadelphia (EPA) (tie)
28	Region 2 - New York (EPA)
29	National Institute of Standards and Technology (Commerce)
30	U.S. Military Entrance Processing Command (Army)
31	Langley Research Center (NASA)
32	Region 8 - Denver (EPA)
33	Air Force Special Operations Command (Air Force) (tie)
33	Region 6 - Dallas (EPA) (tie)
33	Office of Naval Research (Navy) (tie)
33	Employee Services (OPM) (tie)

View the complete rankings for all 224 agency subcomponents at bestplacestowork.org.

BY CATEGORY

EMPLOYEE SKILLS / MISSION MATCH	
1	Executive Office for U.S. Attorneys and U.S. Attorneys' Office (DOJ)
2	Environment and Natural Resources Division (DOJ)
3	National Cemetery Administration (VA)
4	Civil Division (DOJ)
5	Military Sealift Command (Navy)
STRATEGIC MANAGEMENT	
1	Office of Inspector General (Treasury)
2	Environment and Natural Resources Division (DOJ)
3	Civil Division (DOJ)
4	Office of the Comptroller of the Currency (Treasury) (tie)
4	Office of Inspector General (ED) (tie)
EFFECTIVE LEADERSHIP	
1	Environment and Natural Resources Division (DOJ)
2	Office of Inspector General (Treasury)
3	Civil Division (DOJ)
4	Lyndon B. Johnson Space Center (NASA)
5	John C. Stennis Space Center (NASA)
WORK / LIFE BALANCE	
1	Office of Inspector General (Treasury)
2	Bureau of the Public Debt (Treasury)
3	Environment and Natural Resources Division (DOJ)
4	Civil Division (DOJ)
5	Office of the Inspector General for Tax Administration (Treasury)
PAY	
1	Office of the Inspector General for Tax Administration (Treasury)
2	Office of Inspector General (Treasury)
3	Office of Inspector General (ED)
4	Employee Services (OPM)
5	Federal Law Enforcement Training Center (DHS)
TEAMWORK	
1	Environment and Natural Resources Division (DOJ)
2	Civil Division (DOJ) (tie)
2	Employee Services (OPM) (tie)
4	Lyndon B. Johnson Space Center (NASA)
5	John C. Stennis Space Center (NASA)

View the complete category and demographic rankings at bestplacestowork.org.

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The Best Places to Work IN THE FEDERAL GOVERNMENT

The Best Places to Work in the Federal Government is a unique, comprehensive, and authoritative ranking of employee satisfaction and commitment. The survey questions are designed to be relevant to public sector and private sector employees. It is the only survey of its kind.

FIND AN AGENCY

Compare, rank or filter by agency name

Overall Index Scores

Most Reported Agency and Subcomponent

NEEDS BY CATEGORY

Employee Satisfaction Matrix

Strategic Management

Teamwork

Effective Leadership

Engagement

Pay/Benefits

Overall Index Scores for Employee Satisfaction and Commitment

The overall index score represents the performance of agencies and agency subcomponents on the survey questions related to employee satisfaction.

Large Agencies

Rank	Agency	2010 Score	2009 Score	% Change
1	Office of Personnel Management	80.0	78.0	+2.6%
2	Department of Agriculture	79.0	78.0	+1.3%
3	Department of Justice	78.0	77.0	+1.3%
4	Department of State	77.0	76.0	+1.3%
5	Department of Health and Human Services	76.0	75.0	+1.3%
6	Department of Education	75.0	74.0	+1.3%
7	Department of Commerce	74.0	73.0	+1.3%
8	Department of Energy	73.0	72.0	+1.3%
9	Department of Transportation	72.0	71.0	+1.3%
10	Department of the Treasury	71.0	70.0	+1.3%

ABOUT **BEST PLACES TO WORK**

The *Best Places to Work in the Federal Government** rankings—the most comprehensive and authoritative rating of employee satisfaction and commitment in the federal government—are produced by the Partnership for Public Service and American University's Institute for the Study of Public Policy Implementation (ISPPi).

The Partnership for Public Service is a nonpartisan, nonprofit organization working to revitalize our federal government by inspiring a new generation to serve and by transforming the way government works. The Partnership's workshops, webinars and resources can help you turn your *Best Places* data into workforce solutions that drive real results. To learn more, visit ourpublicservice.org.

ISPPi at American University conducts research and facilitates dialogue among stakeholders in the public policy implementation process: members of Congress, political appointees, career executives, union leaders, academics and consultants. ISPPi along with American University's Key Executive Leadership Programs focuses on increasing leadership capacity among public sector leaders. ISPPi is part of the American University's School of Public Affairs which offers education on the graduate, undergraduate and executive levels in public administration, public policy, political science, organization development and justice. To learn more, visit american.edu/spa/isppi.

METHODOLOGY

The *Best Places* rankings are based on the Office of Personnel Management's 2010 Federal Employee Viewpoint Survey, which included responses from more than 263,000 civil servants. Working with the global management consulting firm Hay Group, the Partnership for Public Service and the Institute for the Study of Public Policy Implementation created a statistical model to transform these raw survey data into an overall measure of workplace satisfaction and commitment, and 10 workplace environment indices. This information was then used to calculate the results for each organization. Small agencies are those independent agencies that have at least 100 but less than 2,000 full-time, permanent employees. Large agencies are those independent agencies or Cabinet departments with 2,000 or more full-time, permanent employees. Finally, statistical analysis was performed to determine the relationship between the workplace dimensions and the overall *Best Places* index score.

The Government Accountability Office, the Federal Deposit Insurance Corporation, the Intelligence Community, the Smithsonian Institution, the Congressional Budget Office, the Millennium Challenge Corporation, the Overseas Private Investment Corporation, the Peace Corps and the Army Audit Agency did not participate in the 2010 OPM survey. In order to participate in *Best Places*, these organizations conducted a comparable survey that included the three index questions. The survey needed to be administered during the same timeframe, and have a 50 percent response rate. These organizations are not ranked on any of the workplace dimension categories. Only GAO participates in the demographic rankings.

Testimonials

"AT A TIME WHEN WE NEED TO RECRUIT A NEW GENERATION TO PUBLIC SERVICE, and there is a renewed focus on quality performance, it is especially meaningful that the *Best Places to Work* rankings measure federal employee satisfaction and commitment, which are essential to effective government."

*U.S. Senator Mark Warner
Virginia*

"EMPLOYEE SATISFACTION IS A LEADING INDICATOR OF EFFECTIVE ORGANIZATIONS, and there is no better measure of worker engagement in the federal government than *Best Places to Work*."

*U.S. Senator Susan Collins
Maine*

"THE BEST PLACES TO WORK RANKINGS ARE A 'MUST-READ' for anyone who cares about the federal workforce. They provide job seekers with critical information based on the opinions of federal employees and managers with a powerful tool to attract and retain the best and brightest."

*U.S. Representative Edolphus Towns
New York*

"BY MEASURING THE JOB SATISFACTION OF FEDERAL EMPLOYEES, *Best Places* offers a powerful incentive for managers to create better workplaces and, consequently, a government that is more responsive to the needs of the public."

*Then-U.S. Senator Barack Obama
Illinois*

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Senator BOXER. Now, I do think it has been a dark time in terms of what Senator Sanders said about the terrible situation with the Commissioners, and I am so happy with what you said, Dr. Macfarlane, about this, because the point is we can disagree and not be disagreeable. We can disagree and be respectful. Look, the two of us agree on one thing out of a thousand, and it is the highway bill.

[Laughter.]

Senator BOXER. Outside of that, we don't agree on much. But we really like each other, care about each other, and respect each other. Now, that is just two of us. And every colleague here could say the same about a colleague on the other side of the aisle. And that is the kind of thing we need at the agency, not trying to destroy people, OK? That is wrong. You don't destroy people, as Senator Sanders said. And I also worry about that, that that is what was going on over there. It is very disturbing.

I also want to put in the record, because Senator Alexander talked about the support for nuclear power. This last article said that it had dropped among the people. Now, it is understandable that it fell, given what happened at Fukushima, but it dropped to 42 percent from 61 percent. Support for building more nuclear power plants fell to 42 percent from 61 percent that it was in 2008. So I just want to put that in the record.

[The referenced document follows:]

Public split over elimination of U.S. energy subsidies, poll finds - Los Angeles Times

Los Angeles Times | ARTICLE COLLECTIONS

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Public split over elimination of U.S. energy subsidies, poll finds

Fifty-four percent oppose doing away with subsidies for oil, gas, coal, nuclear or renewable energy, while 47% favor the idea. Support for building more nuclear power plants has fallen dramatically.

April 26, 2012 | By Julie Cart, Los Angeles Times

The American public is divided about whether to eliminate federal subsidies for any form of energy and is giving less support to nuclear power and U.S. funding of renewable energy, a new poll has found.

Fifty-four percent of respondents opposed doing away with subsidies for oil, gas, coal, nuclear or renewable energy, while 47% favored the idea. Support for building more nuclear power plants has fallen dramatically, to 42% from 61% in 2008.

The Yale-George Mason University poll being released Thursday found that 76% of Americans support regulating carbon dioxide as a greenhouse gas pollutant and that two-thirds believe the U.S. should pursue policies to reduce its carbon footprint.

Support for federal funding of renewable energy appears to be slipping, perhaps in response to the bankruptcy of the solar manufacturing company Solyndra, which had received federal loan guarantees.

Nearly 80% of Americans support federal funding of renewable energy research, but those who say they strongly support it has dropped to 36%, down from 53% in 2008. In addition, those who say they oppose the funding has more than doubled to 21%, up from 8% in 2008.

A handful of recent polls have identified renewable energy as a wedge issue, particularly among Republicans.

"All of this is politicized — climate change is politicized; that's part of the real problem right now," said Anthony Leiserowitz, a Yale research scientist who was among those who analyzed the poll results.

"Back in 1997, Democrats and Republicans were not that far apart on this issue," he said. "The gap between the two parties has widened and widened ever since."

Leiserowitz said public support for renewable energy remains strong, despite the slippage. Some of that support has come at the expense of the oil and gas industry, even as the poll found that 62% of Americans favor offshore oil and gas drilling in U.S. waters. That number, too, has decreased.

In a nod to the political season, pollsters asked respondents if they were likely to support a candidate who advocated increasing taxes on coal, oil and natural gas, if the federal income tax was reduced by the same amount — in what is sometimes called a tax swap. About 61% said they would be more likely to favor a candidate who supported such a carbon tax, while 20% said they would be less likely.

Support for the revenue-neutral tax falls along predictable party lines: 51% of Republicans say they would be more likely to vote for a candidate who supported a carbon tax, compared with 71% of Democrats. Among independents or those with no party affiliation the figure was 60%.

The online survey has a 3% margin of error.

A Pew Research Center study last month found that Americans still consider developing alternative sources of energy a higher priority than expanding exploration of fossil fuels, but the gap has narrowed by 11 percentage points in the last year.

A survey released Wednesday found that more than 2 out of 3 respondents think it is "a bad idea for the nation to 'put on hold' progress toward cleaner energy sources during the current economic difficulty."

That poll, released by two nonprofit groups, Women's Energy Matters and Civil Society Institute, suggests strong support for renewable energy, finding that 73% agree that federal energy spending should shift to wind and solar.

julie.cart@latimes.com

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<http://articles.latimes.com/print/2012/apr/26/local/la-me-enviro-poll-20120426>[6/19/2012 2:05:56 PM]

Senator BOXER. Having said all that, I am now going to ask some questions, mostly to Commissioner Svinicki, because my request of Dr. Macfarlane, I don't have questions for her, is just to bring that collegiality, bring that professionalism, as you have shown that you have done in every job you have had, to the Commission, because it is necessary to have a fresh start over there from everyone. And also a lot of transparency. And we are going to be holding a lot of oversight to see how it is going with all the Commissioners, because I think it is important.

OK, so, Commissioner Svinicki, there are serious problems with the steam generators at the San Onofre Nuclear Plant. I know you are aware of that. It is shut down, and we don't know when it is going to open. The operator is very concerned. There are many people who believe it was the design changes that were permitted to go forward. So I asked, wrote and asked if we could have a review whether or not there should have been a license amendment. Do you agree or disagree that there should have been a license amendment?

Ms. SVINICKI. Senator, I understand that, as a part of the augmented inspection team that was begun a couple of months ago, that the NRC staff has underway a review of the justification of the licensee for not submitting a license amendment. I support that review and look forward to the results from our augmented inspection team, which will look into the issue of whether or not there should have been a license amendment.

Senator BOXER. I appreciate that. But again, that is not what you did. I would place in the record the Commission correspondence. You crossed out the sentence that Chairman Jaczko wrote, and this is what it said: We are reviewing in retrospect whether the licensee's evaluation should have resulted in a determination that the changes to the facility required NRC review. You crossed that out. Why did you cross that out if you say now you want to see it reviewed?

Ms. SVINICKI. In voting on that, the Commission's response to you, Senator, I understood that the review was already underway as part of the augmented inspection team. I did not intend for that editorial change to change that; the augmented inspection team was already looking at that issue.

[The referenced document follows:]

CORR: 12-0050 (REVISED)

CORR: 12-0050 (REVISED)

COMMISSION CORRESPONDENCE

Correspondence Response Sheet

Date: June 8, 2012

To: Chairman Jaczko
 Commissioner Svinicki
 Commissioner Apostolakis
 Commissioner Magwood
 Commissioner Ostendorff

Approved, subject to the attached
 edits.

Kristine L. Svinicki for 6/11/12
 Kristine L. Svinicki Date

From: Annette Vietti-Cook, Secretary

Subject: Letter to SEN Barbara Boxer, responds to letter request for
 documents related to the safety of San Onofre Nuclear
 Generating Station

ACTION: Please comment/concur and respond to the Office of the
 Secretary by:

Time: ASAP

Day: ASAP

Date: ASAP

Comment: STAFF HAS PROVIDED A MODIFIED LETTER TO REPLACE
 THE PREVIOUS CIRCULATED LETTER. THE ENCLOSURES HAS NOT
 CHANGED. PER OCA, BOXER HAS REQUESTED A RESPONSE BY
 NOON, MONDAY, JUNE 11, 2012. THEREFORE CAN YOU PLEASE
 PROVIDE YOUR VOTE ASAP.

Contact: Roger Rihm, OEDO
 (301) 415-1717

Entered in STARS Tracking System ☐ Yes ☐ No



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

The Honorable Barbara Boxer
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Madam Chairman:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of May 15, 2012, regarding recent problems with the steam generators at the San Onofre Nuclear Generating Station (SONGS). You requested a summary of the NRC's plans for establishing whether Southern California Edison's (SCE) replacement of the steam generators required a license amendment, any documents related to the NRC's review of the design change, and documents in the NRC's possession related to SCE's determination that a license amendment was not necessary.

at 10 CFR 50.59, and associated guidance in Regulatory Guide 1.187,
NRC regulations include criteria for a licensee to determine when a license amendment *X*
is required for proposed changes to a facility. Historically, replacement steam generators (RSGs) have been evaluated against these criteria and no license amendment was required. SCE's evaluation for the SONGS RSGs was consistent with these past practices and supported by all NRC inspections to date. As requested, copies of four publicly available NRC inspection reports that ^{contain} ~~touch on~~ the reviews of the SONGS RSGs are enclosed. *X*

~~Given recent events,~~ ⁸ the NRC is currently re-examining the need for a license *X*
amendment at SONGS as part of an Augmented Inspection Team (AIT) review that is now
underway. AITs are used by the NRC to promptly evaluate significant issues that arise at NRC- *A*

licensed facilities and to ensure that appropriate actions are taken. ~~We are reviewing in~~ *e* *x*
~~retrospect whether the licensee's evaluation should have resulted in a determination that the~~ *e* *x*
~~changes to the facility for the SONGS RSGs required NRC review and approval for a design~~ *e* *x*
~~change through a license amendment.~~ *e* *x*

As a part of this effort, we have obtained from the licensee various documents that relate to SCE's determination that a license amendment was not necessary. As requested, copies of those documents are included as Enclosures 5 through 8. Because they contain sensitive licensee information, ^{I ask that you} please hold them in confidence, with access limited to Members and Committee staff. *x*

The Office of Congressional Affairs (OCA) will inform your staff of the results of our AIT analyses when those actions are completed. If you need additional information, please contact me or Ms. Rebecca Schmidt, Director of OCA, at (301) 415-1776. *x*

*as well as alert your
office to all public
meetings associated
with SONGS*

Sincerely,

Gregory B. Jaczko

Senator BOXER. Well, this is a letter to me from the Commission. If that is what you believed, and this is all your writing, I have it, you could have written in, Senator, this is already taking place. It is another one of those examples of my being extremely disappointed in the way you answer me. If it goes back to Yucca, which Senator Sessions said you were very obvious on, you weren't obvious on it. I mean, the record speaks for itself.

I simply asked you a very straightforward question, did you do work on Yucca, and you said no. But I will put all that in the record; we are not going to retread that. It is one of the reasons I am not supporting your renomination, and I don't have to go through it again. But this is another example. I ask you a question; you say, oh, you support me. But when you had the chance to support it in writing, you cross it out, said to me now it already was happening, but the facts don't comport with that.

[The referenced document follows:]



S. HRG. 110-1102

CONSIDER PENDING NOMINATIONS

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

ON

THE PENDING NOMINATIONS OF **KRISTINE L. SVINICKI**, TO BE A
MEMBER OF THE NUCLEAR REGULATORY COMMISSION AND **LYLE
LAVERTY**, TO BE ASSISTANT SECRETARY FOR FISH, WILDLIFE AND
PARKS, DEPARTMENT OF THE INTERIOR

JULY 17, 2007

Printed for the use of the Committee on Environment and Public Works



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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED TENTH CONGRESS
FIRST SESSION

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ANDREW WHEELER, *Minority Staff Director*

¹Note: During the 110th Congress, Senator Craig Thomas, of Wyoming, passed away on June 4, 2007. Senator John Barrasso, of Wyoming, joined the committee on July 10, 2007.

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JULY 17, 2007

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CONSIDER PENDING NOMINATIONS

TUESDAY, JULY 17, 2007

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m. in room 406, Dirksen Senate Office Building, Hon. Barbara Boxer (chairman of the committee) presiding.

Present: Senators Boxer, Inhofe, Carper, Whitehouse, Warner, Voinovich, Isakson, Craig, and Barrasso.

Senator BOXER. The committee shall come to order. I am very pleased to welcome one of the senior members of this committee, a great Senator, John Warner. I thought, just given your schedule, Senator, before other Senators speak, I would love for you to introduce Kristine to the committee.

Senator WARNER. Thank you, Madam Chairman. Perhaps the distinguished Ranking Member might like to make a remark or two and then I will proceed.

Senator BOXER. All right, well, it was his idea to say you should go first.

[Laughter.]

Senator INHOFE. It was my idea, I thought you might want to join us up here in your regular position. Since Kristine was a staffer for you, I understand, as well as for Senator Larry Craig, I knew you had some comments you wanted to make and this might be a good time to go ahead and do that, if you would like. I am sure Senator Craig will want to make a comment or two about Ms. Svinicki also.

Senator BOXER. Senator Warner, please.

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Senator WARNER. Thank you, Madam Chairman.

I am extremely pleased to be here this morning. All of us have these opportunities. This one I particularly look forward to, because this is one of the extraordinary persons that I have been privileged to serve with my now 29 years here at the U.S. Senate. She was on the staff of the Armed Services Committee following service with our distinguished colleague, Senator Craig, for well over 2 years. She is also a resident of my State, and for that reason, in addition to her career, I am happy to be here.

She was a senior policy advisor to Senator Craig. I interviewed her at that time for the position on our staff. Senator Craig warmly endorsed her and it all worked out extraordinarily well. Not well

known in some quarters, but the Armed Services Committee has jurisdiction over approximately two-thirds of the budget of the Department of Energy, including the very sizable nuclear weapons production sites and laboratory complex as well as the extensive environmental program to clean up the legacy of nuclear contamination created during the cold war era. These are programs which we engaged Kristine to work on with our staff.

With her extensive background and experience in nuclear matters, both at the Department of Energy and subsequently in her work in the Senate, she ably discharged her responsibilities, very, very ably, I might say. Her service has been appreciated not only by me, but by the other members of the Armed Services Committee, including our distinguished Ranking Member of this committee.

I recall the first interview with this outstanding nominee. She informed me a little bit about her family, and I would like to mention that, because it strikes me as the very pillars of the foundation of our great Nation, what her family did. Her grandfather had come from their native country of Slovakia in the early part of the last century. He worked off the cost of his passage in the iron mines of Michigan's upper peninsula. He saved up enough money to bring his wife and daughters to America, and Kristine's father was born in this country after the family was reunited in Michigan.

Ms. Svinicki's father served with distinction in the Army's Fifth Infantry Division in Europe during World War II, earning two Bronze Stars for distinguished valor in combat. The service secured for him the opportunity to attend college under the G.I. Bill, the first in his family to do so.

I mentioned to the nominee when she greeted me this morning that I was going to tweak her a little bit. In these 2½ years, I expect you have been in my office probably 30 or 40 times. On the wall is a picture of my father, who served in World War II, likewise wounded and decorated—excuse me, in World War I. He served in the Fifth Division, and you never told me about the story of your father having succeeded my father in the Fifth Division.

[Laughter.]

Senator WARNER. Now, following in her father's footsteps, she went on to college, choosing to major in nuclear engineering at the University of Michigan. I inquired of her during the first interview as to why she would have majored in nuclear engineering in college. I recall that she commented to me that because she had lost both of her parents when she was still quite young, a teenager, she had wanted to honor their memories by cherishing the value they held highest, which was education in the sciences.

Madam Chairwoman, members of the committee, this is a very able nominee of the President. I urge the committee to confirm this nominee and send her name to the floor, where I will be privileged to once again address the Senate on your behalf. Good luck.

[The prepared statement of Senator Warner follows:]

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE
COMMONWEALTH OF VIRGINIA

Madame Chairwoman, I am pleased to introduce to the Committee the nominee to serve as Commissioner of the Nuclear Regulatory Commission—Ms. Kristine Svinicki (Suh-ven-e-key). Ms. Svinicki is both a long time resident of my State, and

a staff member on the Senate Armed Services Committee, which I have had the privilege to serve on for over 28 years.

I was first introduced to Ms. Svinicki, then a Senior Policy Advisor for Senator Larry Craig, when I interviewed her for a position on my Armed Services Committee staff in December of 2005, as I needed someone to take on the nuclear issues for the committee after the departure of another capable staff person.

It is not well known in some quarters, but the Armed Services Committee has jurisdiction over approximately two-thirds of the Department of Energy—including the very sizable nuclear weapons production sites and laboratory complex, as well as the extensive environmental program to clean up the legacy of nuclear contamination created during the Cold War. These are the programs which I hired Kristine to staff. With her extensive background and experience in nuclear matters both at the Department of Energy and subsequently in her work here in the Senate, she has ably taken on this challenge. Her service has been appreciated by not only me, but the other members of the Armed Services Committee—on both sides of the aisle.

I recall in that first interview that I asked Ms. Svinicki about the origin of her last name. She informed me that her grandfather had come to this country from his native Slovakia in the early part of the last century and that he had worked off the cost of his passage in the iron mines of Michigan's upper peninsula. He saved up money to bring his wife and daughters to America, and Kristine's father was born in this country, after the family was reunited in Michigan.

Ms. Svinicki's father served with distinction in the Army's Fifth Infantry Division in Europe during World War II earning two bronze stars for distinguished valor in combat. His service secured for him the opportunity to attend college under the GI Bill, the first in his family to do so.

Following in the her father's footsteps, Ms. Svinicki went on to college, choosing to major in nuclear engineering at the University of Michigan. When I inquired with Kristine, during that first interview, as to why she would have majored in nuclear engineering in college, I recall that she commented to me that because she had lost both of her parents when she was still quite young—a teenager—she had wanted to honor their memories by cherishing the value they held highest—which was education.

Madame Chairwoman, Kristine Svinicki will be a favorable addition to the Commission and she has my full support. It is my hope that both the committee and the Senate will move favorably and quickly to approve her nomination, as the seat she is nominated to fill is currently vacant and I believe we all support having a Commission at full strength (of five commissioners).

Senator BOXER. Thank you so much, Senator Warner.
Senator Craig.

STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM THE STATE OF IDAHO

Senator CRAIG. Madam Chairman, thank you very much. I have the unique opportunity this morning of being amongst friends on both sides of me here, and very talented people. But I am here specifically to introduce you to Kristine Svinicki, who, as Chairman Warner has said, served on my staff as a senior policy advisor for 7 years prior to going to the Armed Services Committee. You have heard a good deal of her background.

I must tell you, when you can get the support of the diversity of a Craig, a Warner and a McCain in your person, I think that speaks fairly highly, because we are all very different people around here. But I would like to approach her nomination to you this morning, Madam Chairman, in this way. I don't know of another time in our country when we need on the Nuclear Regulatory Commission some very unique talents.

As you know, from the establishment of the Energy Policy Act of 2005 until today, when there was not one nuclear reactor on the drawing board, there are now some 35 or 37. Clearly, for this country to get back into the business of building nuclear generating reactors, in a way that our country and our economy demands it, we

are going to need a very strong Nuclear Regulatory Commission. The personalities that make up the Commission, I believe, are going to have to be multi-task capable.

What do I mean by that? They are going to have to have background in the nuclear energy industry itself, they are going to have to have knowledge of it. They are also going to have to have knowledge of the public policy that we have shaped to drive that industry at the rate that it appears to be driven today. The new concepts of licensing that we are trying to perfect, not unlike other countries around the world have, that bring us back into this business, are going to be tremendously important. Kristine brings that uniqueness to the Commission. She has worked here on the Hill, she has worked in policy, she has helped shape a good deal of that policy while she was with me before she went over to the Armed Services Committee with Senator Warner.

All of those experiences, I think, are very unique combinations that make her a highly qualified person. So when the President nominated her, I was, to say the least, very pleased and excited. Sure, to have somebody who had been on my staff is a pleasing kind of thing. But I have been under the evil eye of Kristine for a long while.

[Laughter.]

Senator CRAIG. Maybe that is a better way of saying it. No, no, I mean the very instructive, clear-thinking eye of Kristine for a long while, who would say it the way it was in a very frank and forthright manner, in a way that was always appreciated by me while she was working with me on the committee and on my personal staff. So when I look at those combinations, and having been somebody that has helped shape the policy that is now driving us in a direction that takes us from the 104 commercial reactors that are out there today that she would have immediate jurisdiction over and the 4,000-plus licensees that handle radioactive materials in our country. But to take it a step further and into a whole new generation is going to take the uniqueness of talent that I think Kristine has, has demonstrated to me and is a blend of those experiences.

So I speak very highly of her to this committee and hope, as Senator Warner does, that we can handle her expeditiously and take her to the Senate desk for our consideration.

Last, let me say that my experience with Lyle Laverty, who sits to my immediate left here, as the Assistant Secretary for Fish and Wildlife and Parks, has been a tremendously positive one over the years. I don't know of anyone who brings to this nomination the credentials that Lyle has. I highly recommend him. He and I worked on the Continental Divide National Trail System. We have worked on fire issues over the years. The West is burning today, maybe you ought to be out fighting fire, Lyle, and not here in front of this committee. But it is the nature of the process.

So I certainly can recommend both of these people with their skills and their talents to this committee without reservation. Again, I feel very privileged to be here speaking on Kristine's behalf as it relates to the position she is aspiring to. Thank you, Madam Chairman.

Senator BOXER. Well, Senators Craig and Warner, thank you so much. Kristine, you must be so honored. You have two just really notable Senators who have just spoken so beautifully of you. You should be very, very proud.

I want to talk to both my colleagues here for a minute. You can all listen in on where I see we are in this whole situation.

Senator Reid has a great interest, Senator Craig and Senator Warner, of course, in what happens on the NRC. We all do. He is particularly concerned because of Yucca Mountain. You all know that, regardless of where we stand, it is in his State and Senator Ensign's State. Now, he has been trying to get Greg Jaczko renominated by the President since April. My own belief, because I want to get this done, is I'm looking at a pairing here, because Greg Jaczko has been on there and Harry Reid feels very strongly.

The reason there was a little give and take on-off in where we were going is that I decided I am excited about this nominee too, and I want to give her her chance, and I want to get her on there with you. But I also understand the fact that in this Commission, we just need some balance here. So I think we have the makings of making this happen really quickly, if you can help me with the White House, because we have not, as I understand it, heard a word back since Harry Reid made this renomination in April.

So I, just because, in the interest of openness and fairness and honesty, I want you to know that this would be very helpful, if we could get both of these good people together. So I wanted to say that.

Senator CRAIG. Madam Chairman——

Senator BOXER. I will be happy to yield.

Senator CRAIG. If you would, please.

Senator BOXER. I would be happy to.

Senator CRAIG. I am simply seeking instruction from you as to how we proceed here——

Senator BOXER. Yes.

Senator CRAIG [continuing]. With Ms. Svinicki's nomination. How would you plan to handle that, hold a hearing? Would you plan to move her, if it is the desire of the committee, to the full Senate committee?

Senator BOXER. Yes.

Senator CRAIG. With the understanding that she would not move until the other issue were resolved, or what is your plan?

Senator BOXER. Well, I want to work with you. I want to work with Senator Warner, I want to work with Senator Inhofe, Senator Voinovich, if he is interested in this, and Senator Reid.

Senator CRAIG. Sure.

Senator BOXER. I want to do this in a way where everybody wins this thing. Because I have absolutely no interest in delaying 1 minute on this nomination.

But the reason I wanted to have this hearing today was to get us started. We will all work together to determine how we will do this. Now, as I say, Senator Reid made this nomination in April. Mr. Jaczko isn't up for a while, but there is precedent for this in many cases in the past. This is so important to Senator Reid that I think we need to work with him. There is no reason why we can't make this all happen.

This isn't anything that I consider to be that unusual. We have had situations before where both sides work together. So I wanted to get that out on the table.

Senator CRAIG. I appreciate your work.

Senator BOXER. I have every interest in getting them both done as quickly as possible.

Senator INHOFE. Madam Chairman?

Senator BOXER. Yes.

Senator INHOFE. I am sorry I was out of the room when this conversation started. I guess I overheard that somehow this might be paired with Jaczko who, it is another year before he even comes up. Is there precedent for that?

Senator BOXER. Yes.

Senator INHOFE. I do not recall that.

Senator BOXER. Yes, there is—we will give you the precedents in writing. We don't have them in writing right now, but we will give you the precedents in writing for that.

Senator INHOFE. OK. I just think that, on behalf of the minority, it is a very, very significant position that needs to be fulfilled, and we have such a quality individual. I would hate to see that happen.

Senator BOXER. Well, we don't intend to hold up either of them. I am just trying to work with the White House and with all of you so that we can get this done. That's the facts. I am the kind of chairman that, I want to be totally open with everybody. Because what happens on these commissions, as you know, is that we have diversity on these commissions. Senator Craig made a point, that Kristine has worked for him and John Warner and John McCain, and it has made every—it says a lot about you that you can do that.

Well, these commissions also have different points of view on them, and it is very important to Senator Reid. Senator Reid was once chair of this committee and gave it up to go into the leadership. He is very interested in this NRC as is Senator Ensign.

So in any case, here is what I intend to do. After we have this hearing, I hope we can huddle on the floor with Senator Reid and figure out a way to move all this and get it done. But let me make my opening statement, because these two positions are so important to all of us. So let me put out a few concerns, not about the individuals but about the issues you will face.

STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator BOXER. Today the Senate Committee on Environment and Public Works meets to consider the nominations of Mr. Lavery and Ms. Svinicki to be Commissioner for the Nuclear Regulatory Commission and Mr. Lavery, Secretary of Interior for Fish, Wildlife and Parks.

Mr. Lavery, the position to which you are nominated is so important, and I understand you are a California native. So I welcome you. As you know, California is a State rich in biodiversity and stunning natural beauty. I hope, if you are confirmed for this position, you will always remember what is at stake for California and all of America's natural treasures. Because truly, Californians and all Americans live in a Nation blessed with spectacular public

lands and a rich array of wildlife, which I consider to be God-given, and it is our role to protect.

Yet despite the richness we have been given, we have seen an unprecedented assault on our Nation's wildlife laws, conservation system and the science that underpins them. From silencing scientists to gutting our successful conservation laws to underfunding our public lands, I believe there have been many occasions where this Administration, and this is my view, I certainly don't speak for anybody else who is here presently, is breaching the public trust owed to America's natural heritage, instead of honoring its duty to serve as effective stewards.

Indeed, in April of this year, the then-Deputy Assistant Secretary for Fish, Wildlife and Parks, Julie McDonald, resigned following an investigative report of the Inspector General of the Interior Department. In that report, the Inspector General revealed, among other things, how that official leaked non-public information to special interests that had a stake in the outcome of the Fish and Wildlife Service decisions.

The IG report also describe how this senior official, and these are the IG's words, "got into the face of" Fish and Wildlife Service personnel over their 5-year Endangered Species Act reviews. This kind of bullying of career scientists and policy experts cannot be tolerated.

Additionally, recent news reports have documented how the Vice President personally intervened in the important Endangered Species matter. Reportedly, he rode roughshod over the process and the expert opinions of Department scientists in order to influence the decision on the water flows to the Klamath River, something I am sure you are aware of, and I am.

As a result of this political intervention, the Department reportedly reversed course, and thousands of salmon died on the Klamath. We will never forget those pictures. This ecological disaster greatly affected our fragile rural economies that depend upon those species for commercial and recreational fishing business and related industries in the State of California and the Pacific Northwest.

There are similar reports of White House officials editing EPA's scientific documents about global warming. I feel very strongly that the Government must honor the science and not let politics override the facts. It is fine for politicians like any one of us or the President or the Vice President to simply say after they see a scientific report, you know what, that may be so, but I think it will hurt the country if this happens, but not to try and interfere in the report itself.

We must recognize, as hundreds of the world's leading scientists on the U.N. Governmental Panel on Climate Change recently found, that 40 percent of the planet's species are at risk of possible extinction from global warming. We had a scientist sitting right in your chair, and said that to us. Mr. Lavery, I was stunned when she said that. It is a staggering thought, and one of the most important issues, Mr. Lavery, that you will have to face if you are confirmed.

In this position, you will be thrust into the middle of many crucial challenges and clashes between science and politics. All I ask

you to do is let us see the science. We will deal with the politics. We have to, we will. But let us see the science. We must use the best science to protect our rich, God-given heritage. We owe it to our children and our grandchildren.

Ms. Svinicki, the NRC has so many important issues to be considered. I feel after I have heard from your two colleagues that you are very well prepared to face any of them. One key issue facing the NRC is nuclear waste disposal and plans to transport it to Yucca Mountain. Protecting the public health is so crucial, and in my view, Yucca fails the test. My State of California is one of the most affected by the Yucca Mountain project, which is only 17 miles from California's border. People forget that.

Studies have shown that the groundwater under Yucca Mountain flows into Death Valley, one of the hottest and driest places on Earth. If radiation should contaminate this groundwater, it would be the demise of the national park and the surrounding communities.

The threat posed by the nuclear waste transport is also clear, and I would ask for another minute and would happily give it to Senator Inhofe. The threat posed by nuclear waste transport, over 7.5 million people live within just a mile of a possible nuclear transport route. Yucca's geology remains a concern.

So I will put the rest of my statement in the record about Yucca. I would say also, I would close with this one issue. The GAO recently completed a sting operation in which the NRC issued a materials license to a fake corporation in West Virginia. Once GAO received the license for their fake company, they altered it, so it appeared that the company was allowed to receive an unlimited quantity of radioactive sealed sources, rather than the small amount that had been approved by the NRC. After altering the license, GAO was able to receive commitments from suppliers of Category 3 sealed radioactive sources to provide more than 10 times the materials the original license would have allowed.

I have serious concerns about the NRC's ability to ensure that these licenses are not going to individuals who want to attack us. I understand that there is a delicate balance between ensuring that legitimate users, like hospitals and construction companies, they get what they need. But certainly, we need to do a lot better.

So I am going to ask you a couple of questions about that. But again, having worked for Senator Warner, whose life has been dedicated to national defense, I have a feeling you will be diligent on that.

So thank you very much, both of you. I wish you the best of luck and I will turn the microphone over to Senator Inhofe, with additional time.

**STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM
THE STATE OF OKLAHOMA**

Senator INHOFE. That is fine. Thank you, Madam Chairman. I do appreciate it.

I guess I will direct this opening comment at Mr. Lavery. I too am one who will be looking into science all the way across. It is kind of interesting when those individuals who really want to believe that anthropogenic gases cause climate change, when the evi-

dence now from the recent scientific community refutes that, and that natural variability is causing it, it is kind of interesting, you see panic on the other side. People like Claude Allegre, who was one of the strongest supporters of anthropogenic gases causing climate change, from France, perhaps considered by some to be the top scientist in France, now saying, I was wrong, he is saying that these are other causes and we need to reexamine. The same with David Bellamy from the United Kingdom, the same with Nir Shariv from Israel.

So we have literally hundreds of scientists who totally refute that any dramatic change is due to the release of man-made gases. Also, I would say that while I consider the Chairman to be a very close personal friend, we joke around a lot with each other, I do not agree with her characterization of the Administration and their performance.

I am pleased we are holding a nomination hearing today. This committee has a longstanding bipartisan tradition of considering nominations in a timely fashion. Nominees, I say to my good friend Senator Craig, have historically been given an up or down vote by the committee the week following the hearing. I am sure Senator Warner will remember that has been the tradition of this committee, and I am hoping we will be able to do that.

The first nominee before us is Lyle Lavery, who is being considered for the Assistant Secretary for Fish, Wildlife and Parks at the Department of Interior. Mr. Lavery has a long, distinguished record of resource management, which has well prepared him for this position. He has actually had 35 years as a career employee at the U.S. Forest Service, and then more recently serving as the director of the Colorado State Parks. So I can't think of anyone in America today, anyone, who could be as qualified as Mr. Lavery.

The second nominee today is Kristine Svinicki. I have no doubt that she will be an excellent commissioner at the NRC. She has proven herself to be knowledgeable on technical matters and also possesses a deep understanding of policy issues. If that is not enough, Senators Craig, Warner and others, she has been in a top notch position with them and they are happy to give support to her.

Ms. Svinicki, you and I discussed my belief that our Nation needs new nuclear plants to help meet our growing demand for energy. Revitalizing this industry is a complicated effort and the NRC's role in ensuring public health and safety in protecting the environment is an integral part. Safety first isn't just a cliché, it must be the top priority. However, the NRC must also carry out its responsibilities in a predictable and efficient manner. Balancing these objectives will be quite challenging for the Commission to consider in the growing number of applications for new plants it will receive over the next few years.

I think we have for now, I guess 12 years, my personal experience on this committee, we have talked about the fact that we can't really resolve the energy crisis in this country without a big nuclear part. Certainly, you have the credentials to address that.

Madam Chair—oh, you can stay there, I just want to be sure you are listening to my opening statement here. They talk about the, Madam Chairman, the outrage over the allegations that a DOI po-

litical released internal documents to industry groups, I think specifically the Farm Bureau. The fact is, I remember so well back in the late 1990s, just this past March, Fish and Wildlife career staff leaked a draft ESA regulation to the media, then circulated by the Center of Biological Diversity.

In 2005, a draft of the National Park Service management policies were leaked. I didn't see or hear all the outrages about that. The DOI Inspector General report of 1998 and 1999 oil leases was released to *The New York Times* 2 days before the IG was to testify. The released document, the decision to propose listing the polar bear, appeared first in *The Washington Post* before officially released by the Department. So those leaks have been occurring over a period of time. By the way, I don't know what your order of things would be, Madam Chairman, but we have our newest member, Senator Barrasso, here, and I would like to have an opportunity to welcome him. Could I do that at this time?

Senator BOXER. Absolutely.

Senator INHOFE. OK, Senator Barrasso, there is no one, as you have heard so many times since you have been here, who is more loved than your predecessor, Craig Thomas and his tenure on the committee. Alan Simpson actually also served on this committee, and Senator Barrasso joins us after having served as Chairman of the Transportation, Highway and Military Affairs Committee in the Wyoming State Senate. I am sure your contribution to this committee will be most valuable.

Under Republican Senate rules, Madam Chairman, since Senator Barrasso selected this committee as one of his first two choices, he will be seated in seniority between Senators Vitter and Craig. As far as subcommittee assignments, that isn't clarified yet. I will want a chance to visit with all of our members, our Republican members, which is the ones that would be concerned with this, so we can kind of get that resolved. But we did have a reading from Dave Sharp that showed that your seating here in terms of seniority is proper, and we welcome you, Senator Barrasso, to this committee.

[The prepared statement of Senator Inhofe follows:]

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE
STATE OF OKLAHOMA

I'm pleased we are holding this nominations hearing today. This committee has a long-standing, bipartisan tradition of considering nominations in a timely fashion. Nominees have historically been given an up or down vote by the committee the week following their hearing. I hope the Chairman continues this tradition and schedules a business meeting to consider these nominees next week.

The first nominee before us is Lyle Laverty, who is being considered for the Assistant Secretary for Fish, Wildlife, and Parks at the Department of the Interior. Mr. Laverty has a long and distinguished record in resource management which has prepared him well for this position. This experience includes 35 years as a career employee of the U.S. Forest Service and most recently serving as Director of Colorado State Parks for 6 years.

The second nominee before today is Kristine Svinicki, and I have no doubts that she be an excellent commissioner at the NRC. She has proven herself to be knowledgeable on technical matters and also possesses a deep understanding of policy issues. If that's not enough, Senators Craig and Warner say she is top notch so I'm happy to give her my support.

Ms. Svinicki, you and I discussed my belief that our Nation needs new nuclear plants to help meet our growing demand for energy. Revitalizing this industry is a complicated effort and the NRC's role in ensuring public health and safety, and

protecting the environment, is an integral part. "Safety First" isn't just a cliché it must be the top priority. However, the NRC must also carry out its responsibilities in a predictable and efficient manner. Balancing these objectives will be quite challenging for the Commission considering the growing number of applications for new plants it will receive over the next few years and the long-awaited receipt of a repository application next year. It is my expectation that, as a Commissioner, you will endeavor to achieve an appropriate balance.

Recently, there have been lapses in the NRC's efforts to openly communicate. Open communication is fundamental to maintaining the public's trust and the trust of this committee. I encourage you to learn from these mistakes. My door is always open and I hope you visit often.

The nominees testifying before us are qualified individuals and I hope they receive fair consideration based on their qualifications rather than unrelated politics over which they have no control.

Senator BARRASSO. Thank you very much, Senator Inhofe, Madam Chairman. I am very pleased to serve on this committee. The issues that we deal with here are very important to the State of Wyoming. Wyoming is the Nation's largest coal-producing State, and it is a debate and role that we take very seriously. In the Wyoming legislature, as you mentioned, I was chairman of the Transportation Highways Committee with jurisdiction over the highways. I am looking forward to working with this committee on those issues of highway funding, infrastructure.

Finally, not a day goes by in Wyoming when we don't talk about the endangered species, Endangered Species Act. The law continues to have a profound impact on the people of Wyoming. We are very concerned about the environment, all of the issue of public works. So I am looking forward to working hard with you and following up in the great tradition of Senator Craig Thomas.

Senator WARNER. Madam Chairman?

Senator BOXER. Yes, Senator Warner, before I call on you, I wanted to say something to our newest member.

Welcome. We welcome you here. We look forward not only to getting to know you but your staff and this committee. I am trying to bring a feeling that this isn't about partisanship, because you know, the role that we play, and you pointed out just some of the areas, from the environment to public works. Originally when I came to the Senate, I thought, why do they marry those two together? It seemed so strange. But at the end of the day, I think they need to go together. Because in my view, you take your State, the beauty of your State is really the engine of your economy, the beauty of that State. To preserve it and do it in the right way and allow the job growth and the infrastructure to be built in the right way to accommodate that is so key. So we really want to welcome you.

Senator Warner, do you want to add a word of welcome?

Senator WARNER. I just wanted to say that this outstanding individual who stepped up to take the place of our beloved colleague we lost has such an engaging personality and diversity of interests. I make a prediction here and now he will be warmly received on both sides of the aisle. Extraordinary man, and we thank you for coming.

Might I add a word on behalf of the nominee, Mr. Lavery?

Senator BOXER. Certainly.

Senator WARNER. Yesterday, I had the opportunity to sit down and visit with him. I thought, you know, another sort of a perfunc-

tory call on a Senator. But it turns out that both of us started our careers in the Forest Service as young men, working on the trails and fighting the fires and just loving the national forests, all forests, for that matter. I am just extremely pleased to see such a distinguished nominee from the President to come up and take on this job.

But what perplexes me is why anyone would give up a job as State Director of all the parks in one of the most beautiful States to come down here and do this daily combat.

[Laughter.]

Senator WARNER. Good luck to you, my friend.

Thank you, Madam Chairman.

Senator BOXER. Thanks, Senator.

OK. Just to let you know where we are going here with opening statements, we are now going to go to Senator Voinovich, followed by Senator Barrasso, if he has an opening statement today, followed by Senator Isakson. Then we will hear from our distinguished nominees.

Senator Voinovich.

**STATEMENT OF HON. GEORGE VOINOVICH, U.S. SENATOR
FROM THE STATE OF OHIO**

Senator VOINOVICH. Thank you, Madam Chairman.

John, I welcome you to this committee also. I think the fact that Senator Barrasso has had experience on the State level is very, very important. Too often I think that this committee fails to recognize the relationship between what we do on the Federal level to what is happening in our States. John, we are looking forward to having that perspective brought to our attention as often as possible.

I welcome our two nominees. Thank you for your willingness to serve. I am sure my colleagues know, I am very interested in the management of our Federal Government and its work force. Finding the right people with the right skills to put them to work at the right time and place is extremely important to the future of our Nation.

The Subcommittee on Clean Air and Nuclear Safety has oversight responsibility for the NRC. Madam Chairman, Senator Carper and I are also very interested in the nominees to the NRC. We think it is important. We need Ms. Svinicki on that as soon as we possibly can, and maybe we can work something out with Mr. Jaczko.

Senator BOXER. We are hoping so.

Senator VOINOVICH. The industry today, the nuclear industry, is pursuing new power plants for the first time in decades. I think the best information I have, we have proposed 28 reactors from 12 companies. At the same time, the Agency is going to have to deal with a wave of retirements. More than 40 percent of the people who work there are eligible to retire. So we are going to really need some attention in that NRC to human capital.

I had the opportunity to meet Ms. Svinicki last week. We had a frank discussion about her background and her regulatory philosophy, the fact that she has had such glowing tributes from Senator Warner and Senator Craig is also something that all of us should

take into consideration. I came away from that meeting with her that she has the breadth and depth of experience and energy in environmental policy as well as nuclear technology that will serve her as a good member of the NRC.

I think the fact that you have also had extensive experience here in the Senate working for two distinguished individuals also is going to give you insight into how this place works. I think you will be a better member of the NRC as a result of that experience.

Senator BOXER. Thank you so much, Senator Voinovich.

Senator BARRASSO, do you have an opening statement?

Senator BARRASSO. No, Madam Chairman, but I did notice that everyone else's name tag said Senator and mine said Mister.

[Laughter.]

Senator BOXER. Who is responsible, staff? That is an error. We will make sure that is corrected.

Senator BARRASSO. If it had said Doctor, Madam Chairman, I would have understood.

Senator BOXER. I understand. We will make sure we correct that. Senator Isakson.

**STATEMENT OF HON. JOHNNY ISAKSON, U.S. SENATOR FROM
THE STATE OF GEORGIA**

Senator ISAKSON. Thank you, Madam Chair. I too want to welcome Dr. Barrasso, who is a very engaging, articulate individual. As many old men as there are around the Senate, we need another doctor in the house. We are glad to have you today.

I have had the privilege of meeting both the nominees. Both of them paid a visit to my office, I am very grateful for that and had a great time talking to them. I have an acute interest, as the members of the committee know from previous testimony, in the nuclear issue and expansion of nuclear energy. I think with the challenges that we have before us vis-a-vis climate, carbon and all those things, the capacity of nuclear is the best and most efficient that you can find to deal with those issues. We need to do everything we can to promote it.

I too was very impressed with Ms. Svinicki in our interview and I look forward to hearing the questions today and your answers. Thank you, Madam Chairman.

Senator BOXER. Thank you so much.

Why don't we start with you, Kristine, and please, if you can summarize in 5 minutes, and we'll put the remainder of your statement in the record.

**STATEMENT OF KRISTINE L. SVINICKI, NOMINEE FOR
MEMBER OF U.S. NUCLEAR REGULATORY COMMISSION**

Ms. SVINICKI. Thank you very much.

Madam Chairman, Ranking Member Inhofe and committee members, it is an honor to appear before you today as the President's nominee to be a member of the U.S. Regulatory Commission. Even though Senator Warner has admonished me not to be too humble, I will say that I am humbled by the kind words and support of both Senator Warner and Senator Craig. Their support of me far exceeds, in my view, any meager service it has been my privilege to provide to them over the past 10 years. I am deeply grateful for

the trust they have resided in me as a member of their staff, and for the unique and wonderful opportunities to serve that have accompanied that trust.

I also want to express my appreciation to the staff of this committee for their professionalism and to my many colleagues in the Senate. Although my family was not able to be here today, I have many members of my Senate family here, and I appreciate their support and encouragement.

I appreciate also the time of the committee members who have met with me throughout this process to discuss this position and my nomination. Hearing the views of the members of this committee and of other Senators on nuclear policy is very instructive to me. If I were confirmed, I would seek to continue that communication.

In preparing for my appearance here today, I reviewed the statements of previous Commissioners during their confirmation hearings. I was struck by a common theme in their statements. Each nominee stated their belief that they had been nominated to the Commission at an unprecedented and uniquely challenging moment in the Commission's history. I feel similarly both honored and challenged by my nomination.

Over the next 2 years, in addition to its responsibility for regulating the continued safe operations of nuclear reactors and the many material licensees, the NRC expects to receive, as has been referenced by committee members, applications for new plants as well as applications to extend licenses and to increase power output of existing reactors. To meet this increasing workload, the NRC has embarked upon a significant effort to increase the size of its technical work force and to expand its office facilities. At the same time, as has also been noted, the Commission will be experiencing the retirement of many of its most experienced staff.

Throughout this very dynamic and demanding period, the Commission and its staff must, in my view, not only maintain regulatory stability but also strive to meet the performance metrics the Commission has outlined for itself with respect to the timeliness of reviews of new applications, while continuing to hold itself to very high standards of performance. This combination of operational and organizational challenges is daunting by any measure.

If confirmed, I am eager to confront these challenges and will commit myself fully to contributing to the continued success of the Commission. Madam Chairman, I have worked in Government service at the State and Federal level for nearly 20 years. While I honor the choice of those working in the private sector, I have made a very different and conscious choice to remain in public service. The work I have done in the Executive and Legislative branches, in technical positions at the Department of Energy, and subsequently as an advisor to Senators here in the Senate has provided the opportunity to participate in some of the most compelling energy, environmental and national security challenges confronting the Nation.

I believe that my career up to this point has prepared me for the challenge of serving as an NRC commissioner. If the Senate acts favorably on my nomination, I am eager to apply my skills and experience in this new capacity.

In conclusion, I would note that the NRC is charged with protecting the public health and safety, which I believe to be a sacred trust between the people and their Government. Consequently, the accountability of an NRC commissioner is first and foremost to the public she serves. If confirmed by the Senate, I would approach my duties as commissioner with this as my core principle.

That concludes my statement, and I look forward to your questions.

[The prepared statement of Ms. Svinicki follows:]

STATEMENT OF KRISTINE L. SVINICKI, NOMINEE FOR MEMBER OF U.S. NUCLEAR REGULATORY COMMISSION

Madam Chairman, Ranking Member Inhofe and Committee Members, it is an honor to appear before you today as the President's nominee to be a member of the U.S. Nuclear Regulatory Commission (NRC). I am humbled by the kind words and support of Senator Warner and Senator Craig. Their support of me far exceeds any meager service it has been my privilege to provide to them over the past 10 years. I am deeply grateful for the trust they have resided in me as a member of their staff and for the unique and wonderful opportunities to serve that have accompanied that trust.

I also want to express my appreciation to the staff of this committee for their professionalism and to my many colleagues in the Senate. Although members of my family are spread across the country and were not able to be here today, I appreciate the presence of many members of my "Senate family". Their support and friendships have been the foundation of any achievements I have had during my service as Senate staff.

I appreciate the time of the members of the Committee who have met with me throughout this process to discuss this position and my nomination. Hearing the views of the members of this committee, and of other Senators, related to nuclear policy has been very instructive to me. If confirmed, I would seek to continue this communication.

In preparing for my appearance here today, I reviewed the statements of previous Commissioners during their confirmation hearings. I was struck by a common theme. Each nominee stated their belief that they had been nominated to the NRC at an unprecedented and uniquely challenging moment in the Commission's history. I feel similarly—both honored and challenged.

Over the next 2 years, in addition to its responsibility for regulating the continued safe operation of the existing 104 commercial nuclear reactors in this country and approximately 4,500 materials licensees, the NRC expects to receive numerous combined license applications for the construction of new nuclear power plants, as well as additional applications to extend the licenses and to increase the power output of existing reactors. To meet this increasing workload, the NRC has embarked upon a significant effort to increase the size of its workforce and to expand its office space. At the same time, the Commission will be experiencing the retirement of many of its most experienced staff.

Throughout this very dynamic and demanding period, the Commission and its staff must not only maintain regulatory stability, but also strive to meet the performance metrics the Commission has outlined for itself with respect to the timeliness of review of new applications, while continuing to hold itself to very high standards of performance. This combination of operational and organizational challenges is daunting by any measure. If confirmed, I am eager to confront these challenges and will commit myself fully to contributing to the continued success of the Commission in fulfilling its obligations to the Nation.

I have worked in government service, at the State and Federal level, for nearly 20 years. While I honor the choice of those working in the private sector, I made a different and very conscious choice to remain in public service. The work I have done in the executive and legislative branches, in technical positions at the Department of Energy and, subsequently, as an advisor to policy makers here in the Senate, has provided the opportunity to participate in some of the most compelling energy, environmental, and national security issues confronting the Nation. I believe that my career up to this point has prepared me for the challenge of serving as an NRC Commissioner. If the Senate acts favorably on my nomination, I am eager to apply my skills and experience in this new capacity.

The NRC is charged with protecting the public health and safety, which I believe to be a sacred trust between the people and their government. Consequently, the

accountability of an NRC Commissioner is first and foremost to the public she serves. If confirmed by the Senate, I would approach my duties as Commissioner with this as my core principle.

This concludes my statement. I look forward to your questions.

RESPONSES BY KRISTINE L. SVINICKI TO ADDITIONAL QUESTIONS
FROM SENATOR BOXER

Question 1. What will you do as an NRC commissioner to ensure that oversight of materials licensing is improved?

Response. I understand the Commission is looking at a variety of ways to strengthen the materials licensing process including consideration of site visits, web-based licensing systems, increasing the tamper-proofing of licenses, and red teaming/testing the licensing process. If confirmed, I would be eager to examine these proposals, as well as others such as examining the required procedures before a supplier ships a source to a license holder, as part of a comprehensive evaluation of ways to improve the materials licensing process.

Question 2. The NRC does not require an inspection of the license applicant prior to issuing a license for a Category 3 radioactive sealed source. Other States, such as Maryland, have determined that pre-license inspections are necessary. Do you think the NRC and agreement States should have the same requirements?

Response. I have not been briefed on the current basis for the differences in procedures between the Commission and the agreement States in processing applications to possess Category 3 sealed sources. If confirmed, I would examine the basis for these differences and scrutinize the justification, if any, in light of the results of the GAO investigation. Although States may have unique circumstances which are reflected in their procedures, it would seem reasonable that best practices, as were demonstrated in Maryland's process, should be encouraged.

Question 3. Will you support pre-license inspections for Category 3 radioactive sealed source materials?

Response. I have not been briefed and consequently do not fully understand the basis for not requiring pre-license inspections for Category 3 radioactive sealed sources in non-agreement States. If confirmed, I pledge to acquaint myself fully with this issue and take part in Commission review of this requirement.

Question 4. Will you support and encourage the NRC's efforts to create a web-based licensing system? If so, would you support including Category 3 radioactive sealed materials into any such system created by the NRC?

Response. If confirmed, I will support and encourage the timely development and implementation of a web-based licensing system and will evaluate further the inclusion of Category 3 radioactive sealed materials into such system, as the Commission considers ways to strengthen controls over these radioactive materials.

Question 5. I understand you have worked in the Department of Energy's Civilian Radioactive Waste Management Office. As an employee in that office, please explain what your involvement was in transportation and waste disposal issues as they relate to Yucca Mountain.

Response. Between May of 1994 to December of 1996, I worked as an engineer in the DOE Office of Civilian Radioactive Waste Management, Office of Storage and Transportation. The engineering position I filled was responsible for collecting technical information related to federally-owned radioactive waste, such as high-level radioactive waste produced by defense programs, waste arising from the environmental remediation of DOE cleanup sites, and spent nuclear fuel created in research programs at DOE national laboratories, and assuring that sufficient information on each of these waste forms existed in order to evaluate the transportation and disposal of such waste, should such waste eventually require deep, geologic disposal.

Question 6. What is your view on whether DOE and NRC should move forward with the Yucca Mountain project as it is currently envisioned?

Response. As directed by Congress, the Nuclear Waste Policy Act requires the DOE to submit a license application to the NRC for the establishment of a geologic repository at Yucca Mountain and requires the NRC to review and act on this application within 48 months of receipt. If confirmed, I would support the NRC in fulfilling its obligations under this law, which is to receive and process this application in an objective and timely manner, on the basis of the facts before it.

Question 7. Several applications for new nuclear facilities are expected to be received by the NRC in the coming years. What role do you see the NRC playing in addressing waste disposal issues that these new facilities will face?

Response. In my view, the obligation of the NRC is to act as an impartial arbitrator; making decisions based on the safety and security of licensed activities while executing the roles assigned to it under law. As I understand it, the Commission relies upon its confidence that this country will continue to make progress on the development of disposal capacity as called for in the Nuclear Waste Policy Act. If confirmed, I believe my duty would be to ensure that any waste generated by a plant could be stored safely and without significant environmental impact as the Nation works toward the implementation of the waste disposal policies laid out in current law.

Question 8. Do you expect licenses for new facilities to be approved regardless of the status of Yucca Mountain?

Response. If confirmed as a Commissioner, I would judge each application coming before the Commission on its merits. Based upon my experiences as Senate staff, I know that resolving nuclear waste disposal issues is essential to the Nation. If confirmed, I believe my duty would be to ensure that any waste generated by a plant could be stored safely and without significant environmental impact during such time as the Nation works toward the implementation of the waste disposal policies laid out in current law.

RESPONSES BY KRISTINE L. SVINICKI TO ADDITIONAL QUESTIONS
FROM SENATOR LAUTENBERG

Question 1. The transportation of nuclear waste could pose a serious national security, environmental and health risk to the communities which the waste passes through while transporting. How would you evaluate these risks when making decisions about the future of the Yucca Mountain application?

Response. As required under the Nuclear Waste Policy Act, transportation of materials to a deep geologic repository must be conducted in packaging developed and licensed to the NRC requirements contained in 10 CFR Part 71. These standards require the evaluation and analysis of the transportation packaging against accident, fire, and flooding scenarios. The NRC also shares responsibility with the U.S. Department of Transportation for the safe carriage of these materials over the Nation's highways. If confirmed, I pledge to evaluate closely the safety and security aspects of the transportation of nuclear materials and to work closely with DOT to ensure that protecting the public and environment remains paramount.

Question 2. The Oyster Creek nuclear facility in New Jersey will turn 40 years old in 2009, and the re-licensing decision for this facility is a very controversial issue. Would you give me your view on the future of Oyster Creek, specifically, as well as how you would approach re-licensing for older nuclear facilities?

Response. Although I am not familiar with the details of the Oyster Creek application, in my view a similar question must be answered at Oyster Creek and in all other license renewal projects: can this plant be operated safely beyond its initial licensing period and on what basis can we be confident that this safety is assured? This is a decision that must be made on a case-by-case basis, impartially, under the Commission's regulations, and on the available scientific evidence. Safety should be the highest priority. If confirmed, I would pledge to evaluate such matters based on the record before the Agency.

Question 3. The NRC has allowed radioactive waste to build up at the Shieldalloy Metallurgic Corporation in Newfield and now plans to allow them to leave 28 thousand cubic meters of radioactive waste at the decommissioned site. Can you assure me that, if confirmed, you will review this plan and work to have this radioactive waste removed?

Response. Although I am not familiar with the specifics of this situation, if confirmed, I commit to familiarizing myself with this plan and reviewing the adjudicatory record before the Commission.

RESPONSE BY KRISTINE L. SVINICKI TO AN ADDITIONAL QUESTION
FROM SENATOR CARDIN

Question. We are all aware of the fact that GAO investigators posing as businessmen in West Virginia were able to obtain an NRC license which, once manipulated, allowed for the purchase of enough radioactive material to make a dirty bomb. In-

investigators attempted to purchase similar radioactive materials in Maryland, a State which has its own licensing process. The GAO withdrew its application when the State informed them numerous checks including an on-site interview were needed before the license was granted. The process in Maryland was shown to be decidedly more thorough than the NRC process. How will you ensure that all 34 States that conduct their own licensing procedures do so in a comprehensive manner that is commensurate with practices which have proven successful?

Response. If confirmed, I would pledge to review the best practices of all the agreement States and make sure they are communicated among the agreement States. I would further work to understand the differences between the procedures of the Commission and the agreement States, and the justification, if any, for such differences. In my view, Maryland should be commended for the vigilance it demonstrated in overseeing the issuance of material licenses in its State.

RESPONSES BY KRISTINE L. SVINICKI TO ADDITIONAL QUESTIONS
FROM SENATOR VOINOVICH

Question 1. One of the things that Senator Carper and I have been stressing is the need for the NRC to improve and be more proactive in its public relations efforts. The recent communication problems on the part of the Agency associated with the GAO sting operation and the spill of highly enriched uranium at a nuclear fuel facility do not bode well to increase the public's trust in the Agency. I would like to hear your thoughts on how a regulatory agency such as NRC can improve in this area.

Response. Through public outreach and information initiatives, I believe the NRC can strengthen its role both as a credible source of information related to regulated nuclear activities as well as an educator of the public more generally about regulatory processes and radiological safety. While not a technology advocate, the NRC should seek to increase public confidence by building greater awareness of its inspection and oversight programs and by communicating its findings in a clear and understandable manner to interested stakeholders and the public in general. Further, the Commission must be prompt and forthcoming, at all times, in its communications to the Congress.

Question 2. There has been a lot of talk of building new reactors in this country. What do you think are the major road blocks to getting these licensed and built? What would you do to try to help solve these problems as a Commissioner?

Response. I believe that the principal challenges to getting new reactors licensed and built are access to financing and credibility of the regulatory process. The NRC is responsible for only one of these challenges—the regulatory process. By completing its reviews in a timely and transparent manner, the NRC will increase public confidence in the regulatory process. As the NRC gains experience with the regulatory process and timelines for new reactor applications that the Commission has laid out for itself, I would pledge, if confirmed, to continually review and seek to improve the Commission's internal processes, while keeping safety and security always as the top priority.

Question 3. You and I briefly discussed about human capital being a significant challenge not only with the NRC but affecting both the public and private sectors including the electric utilities, component manufacturers, government agencies, and national laboratories. I am not convinced, however, that government agencies and the industry are taking the problem seriously enough. I am interested in any suggestions you might have on how the government-industry-academia can work together more effectively to meet this challenge.

Response. As outlined in the sober assessment of the National Academy of Sciences report, "Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future," the scientific and technological building blocks critical to our economic leadership are eroding at a time when many other nations are gathering strength. The report makes a number of recommendations to increase America's talent pool by improving science and mathematics education. Through my current responsibilities on the Senate Armed Services Committee staff, I am familiar with science and technology educational programs initiated by the Department of Defense, reaching as deep as middle school science programs and extending up to graduate fellowships. The Department is currently gathering data on the sustainability of the impacts of its outreach to middle school and high school students. I am also aware that the NRC has authorities, provided under the Energy Policy Act of 2005, to fund scholarships and fellowships in return for service with the NRC. Although I am not familiar with the extent of NRC resources for these

scholarship programs, if confirmed, I would endeavor to continue to follow the results of all of these programs, as well as others in government and industry, with the intent of finding approaches to address this strategic national vulnerability.

Question 4. Going forward, NRC's relationship with other Federal agencies and State/local governments will be absolutely critical in accomplishing its mission. I would like to hear your thoughts and plans on how you intend to work at this issue.

Response. As demonstrated by both the attacks of September 11, 2001, as well as natural disasters such as Hurricane Katrina, our Nation must improve its ability to marshal the entirety of our government resources in response to events such as these. Reviews by the Government Accountability Office and other commissions have found uneven progress in this regard, and not on a pace sufficient for the vulnerabilities we face. Although I have not been briefed on the details, I am aware that the NRC is a part of operational drills and government-wide exercises to test our preparedness and inter-agency coordination. If confirmed, I would participate in these efforts with the intent of strengthening this coordination and the mechanisms which support it.

Senator BOXER. Thank you so much.

Mr. Lavery, why don't you go ahead, take us to a whole other world for a moment, and then we will ask questions of both nominees as each Senator wishes.

**STATEMENT OF LYLE LAVERTY, NOMINEE FOR THE POSITION
OF ASSISTANT SECRETARY FOR FISH, WILDLIFE AND
PARKS, U.S. DEPARTMENT OF THE INTERIOR**

Mr. LAVERTY. Thank you, Madam Chair, Senator Inhofe and distinguished members of the committee. It is truly an honor for me to appear before you today as I seek your confirmation to become the Assistant Secretary of the Interior for Fish, Wildlife and Parks.

I began my professional journey over four decades ago in the mountains of northern California, along the Klamath River in Orleans. It was there that I brought my new wife and we have spent four decades together. My wife is able to join me here this morning, as is my brother-in-law and my niece and nephew. My nephew, Ryan Struck, is scheduled to be deployed to Iraq in mid-September. So I am honored to have him here.

Senator BOXER. We would ask if they could all stand.

Mr. LAVERTY. Thank you very much.

Senator BOXER. The young man who is going to Iraq, would you just raise your hand. We say thank you, Godspeed, and we will all do what we can to make sure that you are safe when you are there and get home as fast as you can.

Mr. LAVERTY. Thank you, Madam Chair.

Just a little bit of background. I completed my undergraduate degree at Humboldt State with a Bachelor in forest management and security, a Masters in public administration from George Mason University. I am a registered professional forester in California and a certified forester with the Society of American Foresters.

As Senator Warner mentioned and Senator Craig, I have worked across the country for the past 35 years as a career employee with the U.S. Forest Service, and most recently, 5 years as the director of Colorado State Parks. Through a variety of leadership assignments, I have really come to develop a profound understanding of the importance of the harmony and balance between good public resource policy and successful management of America's natural resources.

In 1999, I led the Agency's effort to develop an integrated strategy to develop a response to the hazardous fuel conditions across the national forests. This strategy became then the foundation of the National Fire Plan, which was in fact supported by the Congress and funded after the catastrophic fires of 2000. I was subsequently asked to lead the Agency's implementation of that National Fire Plan and did so through 2001.

Since the enactment of the Endangered Species Act, I have been involved in a variety of project design, implementation and coordination of natural resource management activities that truly integrate the protection of habitat with the goal of recovering species. I say the goal of recovering species, because that is a very, very critical part.

As a regional forester in the Rocky Mountain region, I worked with the U.S. Fish and Wildlife Service and the Division of Wildlife in the recovery lynx. Ten years ago, I served on the Interagency Grizzly Bear Committee, that we were involved in the coordination of the activities to support the recovery of the grizzly bear in the Yellowstone ecosystem. As a forest supervisor of the Mendocino National Forest in California, I worked with the Fish and Wildlife Service as well as the Department of Fish and Game to manage that complex habitat of the spotted owl, the southern portion of the spotted owl.

Madam Chair, if confirmed, I am going to commit my energy to the stated purposes of the Endangered Species Act, to the mission of the National Wildlife Refuge System and those laws and regulations supporting, under the jurisdiction of the U.S. Fish and Wildlife Service. I will work aggressively with other agencies, tribes and States, tribal land owners and other non-governmental organizations to further our country's conservation goals.

I am aware of the many challenges and unique opportunities facing this position. I have read closely and studied the Inspector General's report on the allegations associated with Julie McDonald. One of the principal leadership responsibilities of this position is to distinguish between questions of science and questions of policy, and all of you have articulated that very, very clearly. I believe that science is the foundation of sound public policy.

I am committed to ensuring the scientific integrity is maintained and scientific determinations are accurately and clearly communicated to policymakers. I believe that leadership is an active responsibility. As I worked with fire commanders in my past, it is very, very clear that the importance of presence is the essence of leadership. I believe that the presence provides that forum for communications and conversations to determine, are we doing what we said we would do. Doing what we said we would do is the essence of trust, and I am committed to earn the trust from you.

If confirmed, I have several actions that I want to share with you that I will take. I will be happy to expand on these in the questions. First of all, I would invite the solicitor and the designated agency ethics officer to brief the entire staff of this unit, to talk about the rules and regulations as it relates to the protection and disclosure of information received by that office.

Second, I will ensure that the staff understands the importance and the difference between questions of science and questions of

policy. Third, I will establish a code of conduct for employees to treat people with dignity and respect. It became very, very clear to me in that report that that is one of the fundamental roles of that position.

Fourth, I will actively engage with the Agency, in conversations with agency leaders, both Director Bomar and Dale Hall, and agency employees, and talk about performance expectations. I will monitor performance. I believe that is the function of leadership and it is the essence of what this position is about.

Finally, I want to commit to work personally and closely with all of you. I believe that being open and transparent in terms of conversations to hear from you and what are the concerns and also then be able to share with you what my concerns are, I want to have that kind of a dialog and relationship with you.

I am honored to be here, and I look forward to the conversations and being able to answer any questions you might have for me. Thank you.

[The prepared statement of Mr. Lavery follows:]

STATEMENT OF LYLE LAVERTY, NOMINEE FOR THE POSITION OF ASSISTANT SECRETARY FOR FISH, WILDLIFE AND PARKS, U.S. DEPARTMENT OF THE INTERIOR

Madam Chair, Ranking Member Inhofe, and Members of the Committee, I am truly honored to appear before you today as I seek your confirmation to become the Assistant Secretary of the Interior for Fish and Wildlife and Parks. As a career resource manager and public servant, the opportunity to be entrusted with the care and stewardship of the icons of America's heritage, is the ultimate experience. I want to thank both President Bush and Secretary Kempthorne for their confidence in me as shown through my nomination.

My personal connection with America's great outdoors begins in Montana nearly 60 years ago. Born and raised in California, I have vivid memories of our family adventures to Montana to visit my grandparents, aunts, uncles, and cousins in Missoula. I remember to this day catching my first trout in the crystal waters of Holland Lake. I remember waking up in Yellowstone as my grandmother chased bears out of our campsite banging on a big metal pot. I remember helping my dad set up our tent in the floor of Yosemite. I remember the ranger hikes. I remember watching the "firefall" during evening interpretative programs. Little did I realize how significant these personal connections would be in creating a lasting imprint on my being.

I began my professional journey in public service over four decades ago in Orleans, California, a small rural mountain community. It was to this remote ranger station on the Klamath River that I brought my bride Pam, who has shared this wonderful journey and is with me here today. Our two children, Lori and Chad, experienced lives growing up on ranger stations as we moved throughout this great country.

I completed my undergraduate education with a Bachelor of Science in Forest Management from Humboldt State University in Arcata, California, and subsequently received a Masters degree in Public Administration from George Mason University in Fairfax, Virginia. In 1997, I was selected to participate in the Executive Leadership Program at Harvard University's John F. Kennedy School of Government.

I have worked across the country as a 35-year career employee with the U.S. Forest Service and most recently as the Director of Colorado State Parks. I have gained a rich understanding of the values of America's natural resources and the importance of being a good steward of these resources. I have had the opportunity to participate in many assignments which have afforded my working with a broad range of stakeholders and government officials on a variety of natural resource management issues. Through a variety of line and leadership assignments, I clearly understand the importance of harmony of sound public resource policy with practical field operations.

In 1999, I was asked to lead a team to respond to the GAO Report which identified the need for an integrated strategy to address the hazardous fuel conditions on National Forest lands. The strategy became the foundation for the National Fire Plan, funded by the Congress after the catastrophic fire season in 2000. I was subse-

quently asked to lead the Agency's implementation of the National Fire Plan and did so through 2001. I mention my experience with the National Fire Plan, because it models the importance and complexity of working with various organization, agencies and jurisdictions to implement natural resource policy issues on a consensus basis. To that end, I am committed to working with each of you and the States to protect and promote our nation's fish and wildlife conservation heritage.

Late in 2001, I accepted the position of Director of Colorado State Parks. The Colorado State Park system is different than most State park systems in America. More than 85 percent of the division's operating budget comes from revenue other than general fund. Sustaining a quality system of parks required the application of sound business principles as well as consistently providing quality guest services.

I have enjoyed a professional journey that has provided broad and extensive resource management challenges in. Through these varied experiences, I have a combination of qualifications, perspectives and insights that I believe will add value to an excellent team of professional resource managers. Over the course of my career, I have worked with individuals, volunteers, organizations, State agencies and numerous Federal agencies. Living and working in both rural and urban communities across this country, I have learned that solutions to challenges facing our natural resources are developed through conversations with all interested parties. The wonderful relationships I have developed over the course the years has resulted in the support of my nomination by a wide variety of organizations across the country.

My career has afforded me the opportunity to work in a variety of communities and ecosystems across the country, in the Douglas fir forests of northern California, the Cascades of Oregon and Washington, the southern portion of California's Coastal Range, the great Rocky Mountains of the intermountain west, as well as our nation's capital. I have found through these experiences that people care deeply about America's resources.

For over three decades, I have been involved in the design, coordination and implementation of natural resource management activities, integrating protection of habitat, and working towards the recovery of species. As Regional Forester, I worked with the U.S. Fish and Wildlife Service and the State Division of Wildlife on the recovery of the lynx in Colorado. Last year, Bruce McCloskey, Director of Colorado's Division of Wildlife, proudly showed pictures of young lynx kittens, successful indicators that agencies working together can make a difference in the recovery of species. Ten years ago I served on the Interagency Grizzly Bear Committee, coordinating agency activities to support the recovery of the grizzly bear in the Greater Yellowstone Ecosystem. Today, that grizzly bear population has been delisted, another indicator that agencies working together, seamlessly, with public support, can make a difference in the successful recovery of a species.

As Forest Supervisor of the Mendocino National Forest, I worked extensively with the U.S. Fish and Wildlife Service staff and the California Department of Fish and Game in managing the complex southern portion of the spotted owl habitat. As Associate Deputy Chief, I coordinated policy implications of hazardous fuel treatment projects with U.S. Fish and Wildlife Service leaders. The results, evidenced on the ground, demonstrate again that working together we can protect and enhance habitat and protect people and resources by reducing the risk of catastrophic wildland fire. Most recently, as the Director of Colorado State Parks, with the U.S. Fish and Wildlife staff and Colorado Division of Wildlife staff, we designed and implemented wildland fire mitigation projects in lynx habitat in the urban interface of Colorado's Front Range, again working together to effectively manage habitats for species recovery, as well as satisfying multiple resource objectives.

Madam Chair, if confirmed, I will commit my energy to achieve the stated purposes of the Endangered Species Act, the mission of the National Wildlife Refuge System, and the laws and regulations under the jurisdiction of the U.S. Fish and Wildlife Service. I will work aggressively with other Federal land management agencies, States, tribes, private land owners and other nongovernmental organizations to further our country's conservation goals. I am aware of the many challenges and unique opportunities associated with this position. I am committed to work closely with each of you to provide the oversight and stewardship of the resources entrusted to me in this position.

Thank you again Madam Chair, Senator Inhofe, and Members of the Committee for considering my qualifications and for the opportunity to appear before you this morning.

I will be happy to answer any questions you may have.

RESPONSES BY LYLE LAVERTY TO ADDITIONAL QUESTIONS
FROM SENATOR LAUTENBERG

Question 1. As Assistant Secretary for the Department of Interior, which oversees the Fish and Wildlife and Parks Service, what would you do to ensure that science is not further suppressed or improperly edited for political reasons?

Response. If confirmed, here are the actions I will take to ensure that science is not suppressed or improperly edited.

Immediately, I will ask the Solicitor's Office and the Designated Agency Ethics Officer to brief the staff on the rules and regulations with regard to the protection of and disclosure of information received by the Office.

I will affirm that discussion with my pledge to staff and employees of both agencies, the National Park Service and the U.S. Fish and Wildlife Service, reiterating my personal commitment to the ethical standards of conduct and behavior articulated by Secretary Kempthorne, including not sharing non-public information with outside parties.

Second, I will ensure that my staff understands the difference between questions of science and questions of policy. I will explain that my policy staff is not to ask for or direct any change or modification in scientific findings by either agency.

I will explain that any contacts they have with field personnel at either the Fish and Wildlife Service or the National Park Service regarding questions of science must and will be through established organizational channels, and only with my prior approval. I will actively monitor agency performance with and through both agency leaders.

Third, I will establish a code of conduct for employees to treat people with dignity and respect. Abusive behavior toward anyone will not be tolerated.

Fourth, I will actively engage in conversations with agency leaders, Directors Bomar and Hall, and agency employees to monitor performance. I will take whatever steps are necessary to ensure that organizational performance is meeting expectations. I will make it clear that:

- Contact between my policy staff and agency personnel on management or regulatory actions will go through established organizational channels;
- I expect bureau directors to personally ensure agency decisions are supported with credible scientific information that, as appropriate, is peer reviewed;
- My policy staff is not to ask any of the agency staff to change scientific findings;
- No staff, policy or career, are to act abusively toward any person, and if there is any indication of inappropriate behavior, it is the Director's responsibility to inform me immediately;
- Bureau directors are to personally advise their management teams of my expectations for each of them regarding these principles; and
- Any violations of these principles are to be reported immediately to me personally by the agency director for appropriate action.

In the event of any violation of these principles, I will not hesitate to ensure that appropriate action is taken.

Question 2. Will you commit to me that you will not participate in any efforts to alter, edit or redact the work of scientists as Assistant Secretary for the Department of the Interior? Will you commit to report to this committee any actions that you see taking place that violates the integrity of government scientists?

Response. In my previous answer, I provided my plan to ensure that scientific integrity in our decisionmaking processes is protected. This includes ensuring that my staff understands the difference between questions of science and questions of policy. I will explain that my policy staff is not to ask for or direct any change or modification in scientific findings by either agency.

I will explain that any contacts they have with field personnel at either the U.S. Fish and Wildlife Service or the National Park Service regarding questions of science must and will be through established organizational channels, and only with my prior approval. I will actively monitor agency performance with and through both agency leaders.

RESPONSES BY LYLE LAVERTY TO ADDITIONAL QUESTIONS FROM SENATOR BOXER

Question 1. The Fish and Wildlife Service recently removed both the bald eagle and the Midwest grey wolf population from the list of threatened and endangered species. This is one of the Endangered Species Act's great success stories.

The Act defines an endangered species as one imperiled "throughout all or a significant portion of its range." But a recent Interior Department opinion limits this test to "the geographical area currently occupied by the species."

If that test had been used 35 years ago, wouldn't it have made it difficult to protect species like the bald eagle and grey wolf, whose "current range" at the time was largely limited to Canada and Alaska?

Do you support that interpretation of the Act?

If you do support the new test, how do you square it with the clear intent of Congress that the Endangered Species Act must protect species like the bald eagle when they became endangered in places like California and Maryland?

Response. I am not familiar with the recent Departmental opinion, so I cannot speak to the characterization of it in your question. However, I will commit to you that, if confirmed, I will review that opinion and discuss its content and conclusions with our attorneys to ensure that it fulfills the intent of Congress in enacting the Endangered Species Act.

Question 2. The 2007 Intergovernmental Panel on Climate Change report concluded that 40 percent or more of all species may become extinct if global warming continues and we reach a 4 to 5 C average global temperature increase.

Do you accept the IPCC's conclusion that there is a 90 percent certainty that most global warming over the past 50 years is human-caused, and that global warming's impacts on wildlife are a major concern? If confirmed, how would you address this issue?

Response. I acknowledge and respect the increasing scientific knowledge regarding global climate change. The IPCC has made significant contributions to the scientific information on global climate change. If confirmed, I pledge to work with all of the bureaus within the Department of the Interior, particularly the U.S. Fish and Wildlife Service, the United States Geological Survey, and the Bureau of Reclamation to increase our understanding of the impacts of global climate change on fish and wildlife and to work to identify ways that we can address those impacts.

Question 3. As part of the restructuring due to funding shortages, the Fish and Wildlife Service is shifting staff and resources to "high priority" refuges. The Wildlife Refuge System prides itself on having at least one wildlife refuge in each of the 50 states, and one within an hour's drive of every major U.S. city.

How should the FWS appropriately determine which State's fishing spot is highest priority, and which local wildlife viewing site is lower priority? Doesn't this mean that some refuges are going to be unmanned? What do you plan to do about this?

Response. While I have not had the opportunity to fully study the staffing situation in the National Wildlife Refuge System, I do understand the importance of the System to the public and to our fish and wildlife resources. If confirmed, I will commit to being an advocate for the system, and to work with the U.S. Fish and Wildlife Service to help ensure that our national wildlife refuges are effectively managed to meet mission obligations and to continue to provide visitors with quality wildlife-dependent recreation opportunities.

Question 4. Records from the State Board of Great Outdoors Colorado (GOCO), which provides State funds to the Department, raised questions about the adequacy of the Department's financial system. News reports in the Denver Post in February and March of this year and internal documents and other information indicate that, for example, "the accounting/finance staff of Parks at all levels was unable to articulate basic accounting principles involving the GOCO bills." I understand that an audit of the department was initiated at least in part in response to these problems. Please describe in detail what the accounting problems were that GOCO identified, what specific actions you took to address those issues both before and after GOCO identified them, your role in recommending or approving the audit, the specific issues to be reviewed in the audit, and what results if any have been reached in that audit.

Response. The following deficiencies were identified and addressed as part of GOCO's concerns for accounting: underperforming staff were identified, GOCO's data needs were clearly identified, and proper quality controls were created to ensure the long term success of this relationship.

A number of events transpired in late 2005 and early in 2006 that significantly impacted the Division's GOCO accounting and reporting activities. Since none of these factors were reflected in the Denver Post article, it is important to provide the context leading to the actions that have addressed the issues.

The Division experienced several significant changes in the Financial Services (FS) unit. Based on very serious performance deficiencies, the CFO began addressing performance accountability. The Controller and a lead accountant both resigned their positions early in 2006. The CFO had to rely on the GOCO accounting tech to perform the necessary GOCO billing and reconciliation tasks until more senior

accounting personnel could be hired. After a lengthy hiring process, the new Division Controller assumed his duties in June of 2006. The CFO immediately assigned him the tasks of evaluating and improving the GOCO billing and reconciliation process.

Under the "Guiding Principles" that the GOCO board enacted to define the Division's policy in how to prioritize, spend and account for GOCO funding resources, there was a stipulation that "old" GOCO money had to be spent before "new" money could be spent.

This triggered a massive effort on the part of State Parks in December 2005/January 2006 to reallocate expenditures at Cheyenne Mountain from newer GOCO grants to older grants and Lottery funds. It was imperative for the process to be completed to release funding so that construction on Cheyenne Mountain could proceed without delay. Parks staff worked closely with GOCO on this process and brought it to a successful conclusion. This was a complex task with a large number of grant budget lines, contract awards, task orders and payments involved, where the process and the results would ultimately have to meet both GOCO and audit standards.

The Division's CFO scheduled meetings with GOCO's CFO and accounting staff to solicit input from GOCO on how to improve the reporting processes, given the Division's personnel situation. The desired outcome was to define the reporting requirements—different for base and large scale projects—that would meet GOCO's reporting and audit needs.

A meeting with GOCO staff in August 2006 produced a substantive agreement on this issue and the Division worked diligently to produce these work products, both interim and permanent. The products included a temporary set of "payment adjustment record" forms for the Cheyenne Mountain Golden Triangle contract, which was due and delivered to GOCO in September 2006. The fact that a difference existed between some invoices submitted by contractors and what was ultimately paid to the contractor caused GOCO great frustration. In the summer of 2006, this became a major issue ultimately involving the DNR Controller.

The DNR Controller communicated in a letter to GOCO on June 20, 2006 that it is not uncommon in the construction industry for disagreements to arise regarding project completions. Payments are determined on the basis of the project manager's assessment of the quality and acceptability of materials furnished, work performed, and the rate of progress of the work, all interpretations of the plans and specifications, and the acceptable fulfillment of the contract. Payments are not made on the basis of the contractor's subjective assessment of these same issues as reflected in invoices. Thus, payments are made on those items where there is agreement and, where there is no agreement, the balance deferred and subjected to further resolution and/or negotiations.

The DNR Controller concluded, based on the terms of the Memorandum of Understanding (MOU) between the Division and GOCO that the MOU only requires a monthly billing statement to GOCO, identifying the total expenditures to date, along with copies of the Colorado Financial Reporting System (COFRS) accounting reports to support the amount billed to GOCO. She also concluded that, since COFRS is the official financial record of the state, information contained in the accounting reports should be sufficient for GOCO to make the determination that a vendor has been paid by the Division, and that reimbursement from GOCO to the Division is due. In a follow-up e-mail from GOCO's CFO, she referenced additional documentation requirements contained in the Legacy/Large Scale grant agreements—correctly so—and State Parks has responded to these additional requirements.

State Parks agreed to develop a single format for pay sheets that would include a "payment adjustment record" and be used on all legacy/large scale funded grants such as Cheyenne Mountain, St. Vrain and future projects. Division staff continues to consult with GOCO staff in the development process of format to assure that GOCO accounting data needs are met. The Division Controller met with the GOCO CFO and accounting staff the week of November 13, 2006 to develop even closer communications and cooperation in defining these and other needs.

Another work product requested by GOCO and delivered by the Division was expenditure by fund and year for Cheyenne Mountain since the inception of the project. This was requested by GOCO to review match funding for legacy/large scale projects. This report was generated in short order and delivered in its final form to GOCO on October 5, 2006, with a positive reception by GOCO's CFO. On September 13, 2006, the Division's CFO and GOCO's CFO agreed that GOCO would pay the May and June bills with the understanding that the Division would be providing with the July and subsequent billings, a summary billing statement with a formula error corrected. The Division's GOCO Accounting Tech and seasonal staff spent considerable time (approximately three weeks) and effort, in an attempt to

isolate and correct the formula error, without success. At that time the Division's CFO decided that it would be better to re-develop the billing summary in an MSAccess format. This would eliminate the error and add additional reporting capabilities to adjust to possible future GOCO requests for changes in reporting detail and formats.

GOCO was informed of this decision and the impact it would have on receiving the July and subsequent GOCO billings completed and submitted. It should be noted that the summary spreadsheet with the formula error was developed by Division GOCO accounting staff no longer with the Division.

Just after this effort began, in the third week of September, the Division's GOCO Accounting tech had to attend to a critical family issue that demanded her full attention. She was out of the office for nearly four weeks. Although she tried to work on the report at home as time would permit, the effort was seriously delayed. Again, GOCO was informed of the situation and the consequential impact on the Division's ability to meet its time commitment on the billing summary report and associated July and subsequent billing submittals. The Division eventually met with GOCO to present the draft MSAccess report on Monday, November 13, 2006 and to discuss the submittal of July, August, September and October billing reports.

The CFO has met with his FS Management team to define and pursue a strategy to cross train available staff and build process redundancy within the organization. He has also expressed his intent to add a much needed quality control and assurance component to the GOCO billing process. The addition of another budget/accounting FTE in fiscal year 2007-8, requested in the Division's fiscal year 2007-8 FTE Decision Item, and recently approved by the legislature, will add much needed staff to implement these changes.

After the review and a subsequent meeting on November 16, 2006, with the Division's Controller, GOCO's CFO agreed to accept the Division's July, August and September billings with the currently available backup and to manually adjust any inconsistencies as done previously. The Division would get the substantial outstanding revenue recorded in COFRS, and GOCO would get the funds transferred and off their books. The Division agreed to have the billings completed and submitted to GOCO by November 30, 2006. The Division's October GOCO billing would be submitted no later than December 14, 2006.

The Controller worked essentially full time to resolve the GOCO impasse and develop a billing and reconciliation process, with supporting documentation and reports to meet GOCO's billing verification, reconciliation and audit requirements. He was assigned the primary lead on all GOCO accounting and financial interface and communications events and activities. The Controller has successfully resolved the GOCO accounting and reconciliation issues, which led to successful approval and release of the fiscal year 2007-2008 spending plan.

In summary, filling critical positions, such as the Division's Controller and Lead Accountant with skilled and highly qualified individuals, combined with defining reporting needs with GOCO has successfully addressed these concerns. In a February meeting with the Executive Director, prior to the GOCO Board meeting, I recommended that we ask the State Auditor to conduct a performance audit to ensure that the Division's internal controls were in order. This recommendation was a proactive effort to review our existing internal control systems and determine if there were other improvements the Division should take, such as training, staffing, and project management.

I understand the audit team has met with Department of Natural Resources and Division personnel to define the scope of the audit. The audit team is currently assessing the Division's established internal controls as well as the financial management systems and processes. Since the team is in the fact finding state, I am not aware of any results, conclusions or recommendations.

Question 5. GOCO has stated that the Department's Controller has "extensive personal relationships with senior management within State Parks that may cloud the situation and provide a perception issue from an audit perspective. To complicate this is that the current CFO also had a personal relationship with the Director. It has been our experience during our annual financial audits that these types of close personal relationships raise red flags and can impede internal control effectiveness." Please respond to this statement and please explain whether you participated in the hiring process for the Department's Chief Financial Officer or Controller, and whether you knew either of the individuals prior to interviewing or selecting them for these positions.

Response. The meaning of "extensive personal relationships" as referenced in the GOCO statement is not clear to me. I do attend the same church as the Division's Controller and CFO. I see them on most Sundays before or after worship services.

From my association with both of these individuals, I believe they both demonstrate the highest standards of professional and personal integrity.

I was the selecting official for the Chief Financial Officer. The State of Colorado has a very rigorous and structured personnel testing process. The Department's Human Resources division manages this entire process. Human Resources issue vacancy announcements and screen the applicants, to determine which candidates meet the minimum qualifications. Following that screen and evaluation, Human Resources administer and score a written test. The test questions are developed by the Human Resources division based on the position description.

Following the scoring and evaluation of the written test, the candidates go through an oral test, with a panel of Human Resources and subject matter experts from other divisions in the Department. From this panel, generally the top three candidates are then submitted to me for selection. Individuals involved in this evaluation panel included the Department's Budget Office and the Department's Controller and the Department's Director of Human Resources. This panel developed the recommendations and submitted three candidates for me to consider. It was at this point, and this point only, that I saw the selection options. I had no knowledge of which candidates successfully passed the written test. I had no knowledge of which candidates the oral testing panel interviewed. After interviewing the three candidates, I selected the Chief Financial Officer. I considered his qualifications, background, and the needs of the Division based on the position description.

The Division's Controller followed the same process described above. After interviewing the top three candidates, the Chief Financial Officer asked the staff of the Financial Services Unit to make the final selection of the Division Controller. They did so.

Question 6. In April 2007, the Denver Post reported that you purchased a horse to participate in activities sponsored by an elite social club, and that after officials questioned this purchase you sold the horse to your son-in-law. Please explain in detail the purpose of the purchase and sale, how the purchase and sale process and amounts paid for these articles is consistent with State purchasing, bidding and sale of asset rules, and what advice you received from state officials and from whom regarding the purchase and sale.

Response. The horse was not purchased to participate in activities sponsored by an elite social club, but by the Division of Parks and Outdoor Recreation to establish an equestrian program for a variety of park operations, including visitor contacts in our urban parks as well as backcountry patrols in our mountain parks. The primary objective of the mounted ranger patrol was to provide officer presence to the busiest areas of our large metro parks. Other park and law enforcement agencies have found that a mounted ranger provides a highly effective tool for positive visitor contacts.

The value of a mounted ranger has been tested throughout the country in metropolitan communities and urban parks. Large park areas, like Chatfield and Cherry Creek, with large open space and extensive trail systems are settings where mounted rangers can patrol more effectively than rangers on foot or with motorized vehicles. Other park units and law enforcement agencies reinforce the effectiveness of visitor contact with a mounted ranger.

In 2004 the Division conducted a series of town meetings throughout the State to receive public input regarding state park facilities and services. Based on input the Division received during the town meetings, the public ranked trails and trailheads for hiking and horseback riding as a very high priority. Having park managers ride with equestrian organizations in the field to discuss State park trails, trailheads and corrals is extremely effective, as we have learned from participation in similar activities with hikers, ATV and snowmobile organizations.

The purchase was consistent with all State procurement regulations. I personally met with the Department Controller and discussed the equestrian program in the Division's park operations. We discussed the program benefits and advantages of a mounted patrol in our metropolitan parks. Subsequent to that discussion the purchase order was reviewed and approved by the Department of Natural Resources Contracting Officer.

Following a budget briefing, a member of the budget committee expressed a comment regarding the horse that I felt could possibly put some of the Division's programs at risk. I discussed the comment with the Division's executive team and determined selling the horse was the appropriate action.

The subsequent sale of the horse was consistent with state property disposal regulations. The sales contract was reviewed and approved by the Department's Contracting Officer and Controller.

Question 7. Earlier this year, we joined other colleagues in a letter to Secretary Kempthorne expressing concern about weakening changes to the rules for the Endangered Species Act which the Department was considering.

It is my expectation that before any regulatory changes, including any changes that would amend the ESA's key protection, such as habitat designations, the listing process, scientific standards, and interagency consultation, are proposed, the subcommittee will be briefed on them and given a chance to review them well in advance of any formal proposed rulemaking. Do I have your commitment to do so?

Response. As I mentioned to your staff during our meeting last week, I am a believer in open dialogue. While I have been generally briefed on past versions of the draft proposal, I look forward to learning more about it. I am also not aware that a decision has been made to finalize or publish anything to date. I am aware that U.S. Fish and Wildlife Service Director Hall has provided general briefings on this issue and I advised that it is the Department's practice to brief committees of jurisdiction in advance of all significant actions, including key points of major rule-making proposals. If confirmed, I will ensure that this is done for the Committee, should the Department decide to issue proposed revisions to these rules.

RESPONSES BY LYLE LAVERTY TO ADDITIONAL QUESTIONS FROM SENATOR LIEBERMAN

Question 1. Earlier this year, we joined other colleagues in a letter to Secretary Kempthorne expressing concern about weakening changes to the rules for the Endangered Species Act which the Department was considering.

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Question 2. The endangered species program is currently experiencing at least a 30 percent vacancy rate and in some areas that rate may be close to 50 percent, undermining its ability to recover species, respond to stakeholders in a timely fashion, and list species in need of protection. How will you address the backlog of candidate species proposed for listing, but still unprotected by the Endangered Species Act? How will you address the delays in the development and implementation of species recovery plans?

Response. I have not had the opportunity to review in detail the staffing situation in the FWS's Endangered Species Program. However, I believe that it is important to be responsive to stakeholders and work with them to undertake conservation measures that prevent the need to list species, as well as to implement conservation measures designed to recover those species that have been listed under the Endangered Species Act. If confirmed, I commit to working with the FWS to better understand and address the challenges facing the Endangered Species Program.

Question 3. The Interior Department has recently been troubled with the interference of professional staff and the undermining of scientifically based decisions. You said science should drive policy and that you would set minimum performance and ethical standards to ensure that these sorts of actions do not continue. Can you specifically outline these standards and the steps you plan to take to make certain that the best available science is used to drive the implementation of the Endangered Species Act?

Response. If confirmed, here are the actions I will take to ensure that science is not suppressed or improperly edited and that the best available science is used in our decision.

Immediately, I will ask the Solicitor's Office and the Designated Agency Ethics Officer to brief the staff on the rules and regulations with regard to the protection of and disclosure of information received by the Office.

I will affirm that discussion with my pledge to staff and employees of both agencies, the National Park Service and the U.S. Fish and Wildlife Service, reiterating

my personal commitment to the ethical standards of conduct and behavior articulated by Secretary Kempthorne, including not sharing non-public information with outside parties.

Second, I will ensure that my staff understands the difference between questions of science and questions of policy. I will explain that my policy staff is not to ask for or direct any change or modification in scientific findings by either agency.

I will explain that any contacts they have with field personnel at either the Fish and Wildlife Service or the National Park Service regarding questions of science must and will be through established organizational channels, and only with my prior approval. I will actively monitor agency performance with and through both agency leaders.

Third, I will establish a code of conduct for employees to treat people with dignity and respect. Abusive behavior toward anyone will not be tolerated.

Fourth, I will actively engage in conversations with agency leaders, Directors Bomar and Hall, and agency employees to monitor performance. I will take whatever steps are necessary to ensure that organizational performance is meeting expectations. I will make it clear that:

- Contact between my policy staff and agency personnel on management or regulatory actions will go through established organizational channels;
- I expect bureau directors to personally ensure agency decisions are supported with credible scientific information that, as appropriate, is peer reviewed;
- My policy staff is not to ask any of the agency staff to change scientific findings;
- No staff, policy or career, are to act abusively toward any person, and if there is any indication of inappropriate behavior, it is the Director's responsibility to inform me immediately;
- Bureau directors are to personally advise their management teams of my expectations for each of them regarding these principles; and
- Any violations of these principles are to be reported immediately to me personally by the agency director for appropriate action.

In the event of any violation of these principles, I will not hesitate to ensure that appropriate action is taken.

RESPONSES BY LYLE LAVERTY TO ADDITIONAL QUESTIONS FROM SENATOR CARDIN

Question 1. During your tenure as the head of the Colorado State Parks system you made a concerted effort to modernize camping and cabin facilities. Many attribute the 7.6 percent percent increase in attendance at Colorado State Parks in part to these modernizations. In Maryland, the Patuxent Wildlife Research Refuge covers 12,900 acres between Baltimore and Washington DC. The site is in serious need of modernization and repair. How would you work with the Department of the Interior and OMB to ensure that Patuxent and sites like it obtain long-term commitments to facilities improvement?

Response. As I mentioned during our meeting prior to my hearing, I am not familiar with the U.S. Fish and Wildlife Service's facilities management plans or its capital/maintenance investment strategy to date. However, if confirmed I will work with the Fish and Wildlife Service to determine this project's priority within the Service's maintenance program. With strong supporting information, I will advocate for a strong investment program to support the mission and goals of the refuge system.

Question 2. Smith Island is Maryland's only inhabited island. The northern section of the island complex includes the Martin National Wildlife Refuge. This refuge is critical for myriad species of waterfowl and wildlife. However, accelerating shoreline erosion is threatening the refuge as well as the island's population. We have secured funding to help ameliorate the immediate problem on Smith Island by constructing an offshore segmented breakwater. However, continued attention is needed to save the Refuge and the inhabited sections of Smith Island. How would you approach the erosion problem in Smith Island and areas suffering similar erosion problems? What do you believe should be done to save wetlands and underwater Bay grasses such as those in the Chesapeake?

Response. As I mentioned to you in our meeting, I have not had the opportunity to review the various concerns that have been raised regarding the erosion issue at Smith Island, so I am not in a position to comment on specific recommendations regarding this situation. However, I do believe that the restoration of wetlands and related habitats is important in many areas, including the Chesapeake Bay. If confirmed, I will work with the U.S. Fish and Wildlife Service to address the conservation and protection of wetlands and other important habitat such as underwater Bay grasses in the Chesapeake Bay.

Question 3. Maryland is working hard to reduce excess nitrogen and phosphorus inputs into the coastal byways. Output from the Assateague Island National Seashore wastewater treatment plant is a significant contributor to the problem. To address this problem, Assateague Island National Seashore has been provided funds to make modifications to its wastewater treatment plant. However, the process has stalled at the Dept. of the Interior. What would you do to make sure that those bureaucratic hurdles that remain are successfully surmounted?

Response. As Assistant Secretary, I understand that ultimate responsibility for ensuring that such facilities in parks or refuges comply with any applicable state requirements will lie with me. I look forward to taking on that responsibility. As I mentioned during our meeting, while I am not familiar with the details of this matter, if confirmed I will work with the National Park Service to determine what has delayed the project and to ensure that it continues to move forward. I will work with the National Park Service to examine all options to identify available funding or to seek new funding through appropriate National Park Service funding programs to complete the project.

RESPONSES BY LYLE LAVERTY TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. Implementation of the Endangered Species Act is very important to this Committee. During your career how have you been involved in implementing the ESA? What do you believe the role of the Assistant Secretary in implementing the ESA?

Response. Since the enactment of the Endangered Species Act, I have been involved in the design, coordination and implementation of natural resource management activities that integrate habitat protection with the goal of recovering species.

As a Regional Forester, I worked with the U.S. Fish and Wildlife Service and the State Division of Wildlife on the recovery of the lynx in Colorado. For the past several years, reintroduced lynx have successfully reproduced, an indication that agencies working together can make a difference in the recovery of endangered species.

Ten years ago I served on the Interagency Grizzly Bear Committee, coordinating agency activities to support the recovery of the grizzly bear in the Greater Yellowstone Ecosystem. Today, that grizzly bear population has been delisted, an excellent example that agencies working together, seamlessly, with public support can make a difference in the successful recovery of species.

As Forest Supervisor of the Mendocino National Forest, I worked extensively with the U.S. Fish and Wildlife Service staff and the California Department of Fish and Game successfully managing the complex southern portion of spotted owl habitat.

I believe the role of the Assistant Secretary is to commit personal energy and coordinate agency resources to achieve the stated purposes of the Endangered Species Act. If confirmed, I will work aggressively with other Federal land management agencies, States, tribes, private land owners and other nongovernmental organizations to further our Nation's conservation goals.

Question 2. Last year, the Supreme Court in its *Rapanos* decision correctly limited federal regulatory jurisdiction of waters of the U.S. The Fish and Wildlife Service oversees several programs that partner with landowners, play an important role in the preservation of our environment, and are critical to the President's goal of an annual wetlands gain. Do you agree that programs like Partners for Fish and Wildlife that work collaboratively can be very successful in preserving the environment without a confrontational, regulatory approach that often leaves landowners feeling that their rights have been violated?

Response. I completely agree that programs like the Partners for Fish and Wildlife program can be extremely valuable in protecting habitat. It and other cooperative conservation programs promote partnerships with States, landowners, and other citizen stewards to, among other things, protect and enhance habitat for threatened and endangered species. If confirmed, I will work with U.S. Fish and Wildlife Service Director Hall to continue the success of such partnership programs.

Question 3. During the course of your professional career, how have you reconciled issues of science and policy?

Response. As a professional resource manager, I have found that issues of science and policy can be reconciled through clear and open discussions at the beginning of a project. The leadership role of the line officer or project manager is to, at that point, bring all parties—scientists and resource specialists—together and clearly articulate project objectives and science requirements associated with the project site. I have found that, in my past positions, the most significant aspect of my role as

the deciding officer was ensuring that my team was complete and that questions of science and policy were openly discussed as the foundation of the project design.

Question 4. Mr. Lavery, during the question and answer period, you made some comments about the Fish and Wildlife Service activities regarding a potential penguin listing. Specifically, you said "they are in the process now of gathering public comments on that. That also would be expanded into a 12-month status review." The FWS announcement that the petition to list penguin was found to be warranted was July 10. You appeared before this committee on July 17. Your response to the question about penguins suggests that the FWS has already made up its mind to propose listing of these species after only one week of official comment and well in advance of gathering any data to assess penguin populations, threats to their existence, regulatory mechanisms, etc. This greatly concerns me. Can you please provide detailed information as to where the FWS is in the process with the penguins and explain what information you received that would suggest that the FWS will indeed take the next step in proposing to list the penguin species.

Response. During the question and answer period, I unintentionally misspoke when commenting about the U.S. Fish and Wildlife Service's activities with respect to a potential penguin listing. Under the Endangered Species Act, the first step in considering a petition is to evaluate the information presented by a petitioner, after which the Fish and Wildlife Service is required to make a finding on whether the petition provides substantial information to indicate that listing may be warranted.

In fact, with the Fish and Wildlife Service's July 11, 2007, publication of a 90-day finding that listing may be warranted under the ESA for 10 of the 12 petitioned penguin species, the Fish and Wildlife Service is now only in the earliest stages of conducting a status review. At this time it is my understanding that the Fish and Wildlife Service has not determined whether any or all of these penguin species warrant inclusion on the list. Through a 60-day open comment period, the Fish and Wildlife Service is gathering information to assist in evaluating the status of each penguin species under review and, after reviewing public comments, will make a decision as to whether or not it should propose to list any of the penguin species based on the best available science and commercial data.

It is my understanding that a positive 12-month finding for any of these species, if made, would trigger a second 12-month period for public comment and scientific review of a proposed listing rule before a final decision is made on whether to designate any or all of these species as threatened or endangered.

RESPONSE BY LYLE LAVERTY TO AN ADDITIONAL QUESTION
FROM SENATOR VOINOVICH

Question. The 2006 National Park System Advisory Board report, "Charting a Future for National Heritage Areas" emphasizes how the National Park Service can benefit from welcoming the National Heritage Area approach to conserving nationally important landscapes and cultures. What approach and strategy will you utilize to implement the recommendations in this important report so that National Heritage Areas are included within the family of the National Park Service?

Response. National Heritage Areas support the Department's mission to work in partnership with local communities to promote, protect, and interpret resources and tell the stories of our national heritage. I am familiar with National Heritage Areas in Colorado, and am generally aware of the Advisory Board's report and recommendations. I understand that the Administration has previously transmitted a legislative proposal to provide this program with clear criteria and standards for management planning, among other things. If confirmed, I look forward to continuing to work with Congress on this very important issue.

Senator BOXER. Thank you so much, Mr. Lavery.

We are going to start the questioning period, so people can have 5 minutes. I am going to give any Senator that didn't make an opening statement 7 minutes, so they can have a little extra time.

Mr. Lavery, your comments are music to my ears. I really think the spirit in which you gave them is very important to this committee on both sides.

There was an article July 9, "U.S. Officials Looking to Protect Ten Penguin Species. The Bush administration is considering an endangered species protection for ten penguin species whose polar

habitat is shrinking due to global warming. The Fish and Wildlife Service said that listing 'may be warranted,' and initiated a formal status review which is the first step in the process of listing a species. This would put the penguins on the same path as the polar bear." This is the report that I have.

Are you aware of this? Have you been briefed on this situation yet?

Mr. LAVERTY. Yes, ma'am, I have.

Senator BOXER. What do you see the timeframe for both the polar bear decision and the penguins decision?

Mr. LAVERTY. Madam Chair, there are basically two different time lines right now.

Senator BOXER. OK.

Mr. LAVERTY. For the polar bear, the polar was listed as a proposed listing and they have received public comments on that. The action by the Agency is to come up with a recommendation in December. That is on the polar bear.

Senator BOXER. OK.

Mr. LAVERTY. The listing on the penguin as a result of a petition was in fact the 90-day listing. They are in the process now of gathering public comments on that. That also will probably expand into a 12-month status review by the Agency.

Senator BOXER. I see. Very good. Well, thank you for that.

I want to talk to Kristine. I noticed, and of course all of us did, the earthquake in Japan that involved some type of a leak from the nuclear power plants there. Without getting into whether it is a problem or not, because I certainly don't have the facts to know, I am only reading news reports, one of the things I noticed in California, and it is just mind-boggling, is when these great, big, giant projects come up, for some reason, whether they are great big dams or nuclear power plants, for some reason, they come up, they are right near earthquake faults. I just don't—I think this is something that we ought to be concerned about.

So I guess my question is pretty simple. Would you commit that as you look over these applications, and I know that Senators Carper and Voinovich will be looking very closely, this is their jurisdiction in the subcommittee, and I greatly respect that, I wanted to know from you, is this something that you will carefully look at as these applications come forward, the geological situation, and ask questions from the scientists about the earthquake potentials?

Ms. SVINICKI. Yes, Senator, clearly seismic considerations, as you've mentioned, are an important consideration, not only in your State, but anywhere in the country that we have faults and other seismic conditions. That needs to be analyzed against both a realistic case and a worst case scenario. Those need to be informed decisions.

Senator BOXER. Thank you so much. My other question is, during their investigation, GAO's fake company was unable to obtain sealed radioactive sources from the State of Maryland. They tried first, they went to Maryland as a sting operation. Because the State said a site visit would be necessary before materials could be issued.

Now, the NRC does not require a pre-license inspection for a licensee to receive a Category 3 type of radioactive material. If

Maryland has determined that a pre-license inspection prior to receipt of Category 3 materials is necessary, why hasn't the NRC? Do you know? If you don't know, is this something that you will consider bringing up if you are confirmed?

Ms. SVINICKI. Senator, I was able to watch a certain amount of the hearing that was conducted on the GAO sting investigation. I was exposed to an amount of Commissioner McGaffigan's testimony. He was the NRC witness at that hearing. I know that he has pledged to look at this issue.

So it would appear to me as an outsider that it will be something that the Commission will be evaluating, since Commissioner McGaffigan has made that commitment to do so. If confirmed, I certainly would be a part of that.

Senator, I was reflecting, in your opening comments where you talked about national security aspects of nuclear materials, I certainly, if confirmed would bring a strong focus on our vulnerabilities to my service as Commissioner.

Senator BOXER. Good. I am very pleased. Just think about Senator Warner sitting on your shoulder, because it is just ridiculous to think about our rules being weaker than the State of Maryland. It blows my mind.

Last question. I understand you have worked in the Department of Energy's Civilian Radioactive Waste Management Office. Did you work on transportation and waste disposal issues related to Yucca Mountain?

Ms. SVINICKI. Senator, thank you for that question. I want to be as clear as I can with the committee. When I worked at the Department of Energy I was employed in what is called the Office of Civilian Radioactive Waste Management. That is the office established under law to administer and develop the geologic repository. My work was not in Las Vegas on the Yucca Mountain license application, it was in Washington, DC at the Department of Energy headquarters.

I worked transportation packaging. As you had mentioned in your opening comments, the safe transportation of these materials is so important. Whether a geologic repository opens or not, we have to transport materials this week and every week very, very safely. I also worked on inventories of defense materials that may require deep geologic disposal. Those would be materials currently at Department of Energy sites.

Senator BOXER. So you didn't work directly on Yucca?

Ms. SVINICKI. I did not.

Senator BOXER. OK, very good. Thank you.

Senator Inhofe.

Senator INHOFE. Thank you, Madam Chairman.

Kristine, you and I briefly discussed in my office the highly enriched uranium spill at the Nuclear Fuel Services facility in Tennessee and my disappointment with the NRC's lack of communication about the event. In your current capacity as staff to the Armed Services Committee, you also understand the need to protect sensitive information that could aid our adversaries who might want to use it against us.

If confirmed, will you ensure that the national information security needs are adequately protected and balanced with the NRC's

need to improve public communication? Maybe any other comments you might want to make about the Tennessee event.

Ms. SVINICKI. Thank you, Senator. I do recall that we discussed the Erwin, TN spill of material and I commented to you that it struck me just in reading reports and summaries of the event that it was a very serious matter. I had been taken aback with something of that seriousness, that the notifications were delayed.

I don't know the cause of the delay in notifying on that incident. But I confirmed to you and I would confirm that those are the types of matters that I think, if there is any threat to public health and safety, that people need to know about.

I also do acknowledge, as you have mentioned, that post-9/11, Government-wide, there has been a consideration of what is appropriate to post on Websites and the appropriate balance needs to be struck. These are difficult issues, to find that balance, but I would pledge to do that.

Senator INHOFE. All right, thank you. We also talked about the fact that the NRC is going to be receiving a lot of applications under the new reactor licensing program. My concern is you don't get bogged down. We want to preserve the safety and the security, and we want to have applications reviewed efficiently and expeditiously. I just hope that you will do that. Any comments as to your intentions in terms of keeping things going?

Ms. SVINICKI. Senator, I recall that we discussed the challenges of this matter. I think any time that something hasn't happened for many, many years such as the NRC has not been confronted with a new license application for so many years that this will be challenging process as we move forward, not only to continue excellence, as they need to do in regulation of current facilities, but to be able to resource in terms of people and human resources that they will apply to the new applications they are getting. This is going to be a tough challenge that I referred to in my statement. The tempo is going to go up and they need to continue to do a good job.

Senator INHOFE. Yes, back some 10 or 12 years ago when I chaired the Clean Air Subcommittee, at that time it had been 12 years since there had been an oversight hearing of the NRC, and things were in need of oversight. We actually put deadlines on dates. This is something you can't do when you are looking at these applications, because no two cases are alike. But I just hope that you keep things moving along, because I think we all agree that we are going to have to get these things approved.

Now, Lyle, it was music to my ears when you said something about the fact that you want to extend courtesies to these people, the stakeholders and other people. This is something that you don't see very often and you don't hear from people. I am glad that you have.

One of the programs that you and I talked about that I just feel very excited about was this Partners for Fish and Wildlife Program. We had hearings out in my State of Oklahoma, Mr. Hall was there, and I introduced legislation after that hearing. The President has signed it. This is the type of thing that Government, in my opinion, should be doing, working with the property owners. All so often, they think that someone, if you are a landowner, that you

are there trying to abuse, you are trying to pollute, you are trying to not take care of the wildlife.

But I think this partnership program, that started out as a pilot program, is tremendously successful. I would like to hear your comments about that partnership in wildlife program.

Mr. LAVERTY. Senator, I believe that working with landowners becomes the essence in how we are going to manage the wildlife resources of this country. A major proportion of wildlife habitat is not on Federal eState, but it requires and demands that kind of a working relationship with private landowners.

I think we need to do all we can, and I think this is what Dale and his group are working on and trying to create that kind of an environment, that can make it a working relationship with the private landowners to further conservation causes in terms of protecting wildlife species and habitats. It becomes critically important to be able to have incentives that can help landowners do that. It should not be perceived as a penalty, if you will, for doing some things to protect wildlife habitat. I think this is some of the goals and objectives that the partnership program is all about.

Senator INHOFE. I agree with that. Since my time is running out, let me just ask you, you commented that you have several actions that you want to take and you named four. Are there others? Is your list longer than four?

Mr. LAVERTY. Yes, sir. I think first of all, is to be able to sit down with the staff and understand kind of the feeling of the staff. It has really been under intense pressure. I think you need to understand, what is the staff feeling about the issues that are facing the staff as it relates to the IG report and then look at recommendations and solutions that can be driven from a staff perspective.

The protection of science is absolutely fundamental. I just can't say it strong enough that that is the foundation of good public policy. You need to have good science. I think Madam Chair talked about the importance of having good science. Then you debate the policy. I want to be able to help facilitate that.

Senator INHOFE. That is good. Thank you very much. Thank you, Madam Chair.

Senator BOXER. Thank you, Senator.

Senator Carper, you get 7 minutes.

Senator CARPER. Thank you, Madam Chairman.

To our witnesses, welcome, congratulations on your nominations. If I could start with you, Ms. Svinicki. Is it true that you once worked for a Member of Congress?

Ms. SVINICKI. I have had the privilege of serving three Senators; I currently serve Senator McCain, before that Senator Warner and Senator Craig, two members of this committee.

Senator CARPER. That is pretty good. So you have a pretty good idea of how we work around here, or don't work, I guess.

Ms. SVINICKI. I do, sir.

Senator CARPER. We don't work well together sometimes. This committee I think maybe being an exception to that.

I want to talk with you a little bit about communications. But before I do, I want to reflect back on something the Chairman just said regarding the ability of GAO in the scam operation to counterfeit a license that would have enabled them to acquire substantial

amounts of low-level radioactive materials that they could cobble together and maybe create enough oomph for a dirty bomb.

I go back to that, I am an advocate of nuclear power, I am also an advocate of reducing our dependence on foreign oil. I don't know how we reduce that dependence without a whole lot of things, more solar, more wind, cellulosic ethanol, biobutanol, more energy efficient appliances, more energy efficient cars, trucks or vans. I also believe it is impossible to move meaningfully toward energy independence without a greater reliance on nuclear energy.

Every now and then, something comes along that gives us a scare. We had one of those just a week or so ago with respect to the GAO's scam operation. I said at the hearing, which I chaired in part, I said that everything I do, I know I can do better. I used to implore my cabinet, when I was Governor of Delaware, and my staff now here in the Senate, with these words, if it isn't perfect, make it better, if it isn't perfect, make it better. None of us are perfect. God knows I am not, and we all make mistakes.

The latitude that the Nuclear Regulatory Commission has for making mistakes is more narrow than that which falls on the rest of us. One mistake, one oversight, one slip in the work that the Commission does cannot just create maybe a difficult situation in a nuclear power plant, maybe an embarrassing situation, what it may do even more is undermine the confidence, which has just now I think resurged to support, within the population, and within the Congress, confidence and support for nuclear energy. So I would just call on you as a soon to be new member of the NRC, that you adopt as your own this adage of, if it isn't perfect, make it better. Hold the folks that you're over, looking over their shoulder, just hold them to the very highest standards every single day. Vigilance is the watch word. To the extent you can do that, and Senator Voinovich, in our role as co-chairs of the Clean Air and Nuclear Safety Subcommittee, we will be there with you.

In fact, we are going to meet tomorrow morning, I believe, with the Chairman of the Commission. One of the things we are going to talk about, and this is my question, and I will ask you just for a brief answer, one of the things we are going to talk with him about is communication. When something goes wrong, we don't want to read about it in the paper, we don't want to hear about it in the news. We want you or the chair to be telling us what is going on. We haven't had the kind of communications, in all instances, that we need. I would just ask for your thoughts in that regard.

Ms. SVINICKI. Senator, thank you for those comments and for that question. I think that public confidence in a regulator is absolutely essential. I think transparency and communication are a keystone in building that confidence. That would be a focus of mine if I were confirmed, to increase public confidence.

In the process of my courtesy calls, a question was posed to me which was, who has the biggest stake in making sure that nuclear power is safe. I think it is proponents of the technology who should have the highest standards for safety and security of these installations. I agree with that point, and I would pledge to you, Senator, if confirmed, to work on continual improvement, as you said, if it is not perfect, make it better, of communications.

Senator CARPER. All right, thank you.

Mr. Lavery, congratulations on your nomination. Thank you for your willingness to serve. I received a letter from a fellow named Charles Saulk, as we call him, Chas, in Delaware, he is the director of the Delaware Division of State Parks and Recreation. He is someone we hired when I was Governor, we hired him to run our parks operation. He wrote to me and really denounced your nomination. I happened to be walking by his home in Delaware, it is a small State, I was walking by his house and he came out on his front porch just to tell me what an awful guy you are, and he said, the last person I would support would be Lyle Lavery.

[Laughter.]

Senator CARPER. So what have you done to make him feel that way about you?

Mr. LAVERTY. Senator, I appreciate the comment. I believe that the conversation is focused on the issues related with Ms. McDonald and the ethics in the Department. That is what I am committed to work on, to do all I can.

Senator CARPER. More seriously, he actually had very positive things to say.

Mr. LAVERTY. Thank you very much.

Senator CARPER. Maybe I have seen in the letter, and even on the front steps of his house, he had good things to say about you, about a week ago.

Mr. LAVERTY. Chas is good.

Senator CARPER. Chas has worked with us, along with a lot of people in our State, to try to make Delaware the 50th State, the 50th and last State, to actually have a national park. We are the only State in America that has no national park. We are not even a unit of a national park. We have been working on a process through gathering public opinion in our State, creating a proposal that has been endorsed by a congressional delegation, submitting it to the Park Service. Mary Bomar was by and met with me from the National Park Service last week.

Lynn Scarlett, Deputy Secretary of the Department, was in one of our wildlife refuges with us this last weekend. So we had a chance to chat with her.

Mary Bomar, who is the head of the National Park Service, does she report to you?

Mr. LAVERTY. Yes, sir.

Senator CARPER. Oh, good. How do you feel about Delaware being the only State in America that doesn't have a national park?

Mr. LAVERTY. I think you ought to have one.

[Laughter.]

Senator CARPER. I move the nomination—

[Laughter.]

Mr. LAVERTY. There was no other answer, was there?

Senator CARPER. We worked long and hard, we appreciate the chance to work with all you guys to finalize and fund the feasibility study and move it on. I think standing right behind you is Rob Horwath. Rob was good to help us as we were moving our feasibility legislation through the House. I acknowledge him and thank him for that. We look forward to working with you, too. Thanks so much.

Senator BOXER. Thank you, Senator.

Senator Voinovich.

Senator VOINOVICH. Thank you, Madam Chairman.

I would like to just followup on comments some of my other colleagues have made with this issue of communications and transparency, we are in a unique position today where because of the Energy Policy Act of 2005, we are ready to launch, well, we have 12 applications, for sure, 28 reactors. We are getting some good vibes back from the environmental community that they are not as opposed to this as they had been in the past, because of the fact that they are so concerned about climate change and nuclear power doesn't emit these greenhouse gases.

On the other hand, I think we have to be very careful about this communication issue. I was after Nils Diaz, and I have talked to Chairman Klein about it, and it just seems they don't get it. One thing I would like you to do is comment on that, and you have done it so far, but I think we need to really have someone hitting this very, very hard. Because I think it does hurt the credibility of the Agency and could be the reason why some people aren't going to be as supportive as they should be.

The second thing, and this is something that Senator Carper and I are going to probably be talking to Chairman Klein about this week, is that we need to make clear to the public that these facilities, the 103 reactors, almost 104, in terms of earthquakes and that are not, that are not subject to earthquakes, in other words, they have been built in areas where we are not going to have a Japanese problem.

So I would like you to just share with us once again your attitude toward this communication. We went through Davis-Besse here, and it took us a long time to recover from that. I would like your thoughts on that, because as I mentioned in my opening statement, it is wonderful that you have had the perspective from Congress.

Ms. SVINICKI. Thank you, Senator. I appreciate returning to this point, because it is such an important one. I would hope that with my background and being such a closer observer of the most recent policy debates on energy, environment, on the resources we will need to meet our future energy needs, I hope that I will bring a unique sensitivity to public awareness, to communication.

I probably should not tell a story about Senator Warner, but as I reflect upon something in my service with him, it is a story related to North Anna, in Virginia, and the consideration of the construction of additional units at that site. The Senator came back from being in that part of the State and he asked me to come over to his office and he said, "Why is it when I go to these communities and I meet with members of the public, they are so unaware of what is potentially planned or the process that the NRC would use to evaluate such an application?" He expressed to me his frustration about that.

So I would like to pledge that I would be uniquely sensitive to that. I appreciate your focus on it, and if confirmed, would work on that very heavily.

Your second point on earthquakes I think is actually tied to the first. I think if the public understood more thoroughly how applica-

tions are evaluated that their confidence would, for better or for worse, at least be an informed decision and position that they might take on having these facilities located nearby to their communities. So I think that the two are linked. The basis would be understanding.

Senator VOINOVICH. Are you also aware of the fact that if we are going to launch this new effort in terms of nuclear power in the country that there is a challenge in regard to the issue of human capital?

Ms. SVINICKI. Yes, Senator. As you had mentioned and referred to earlier, that is one where I had said in my statement it was a daunting challenge and I felt challenged. I think the human resource issue is tough. Anyone who would come and testify to this committee that that is something that is easily dealt with is probably creating a false sense of confidence. That is going to be a tremendous challenge. This country does not produce the numbers of scientists and engineers that we need. NRC would be competing in that same environment for those folks. These are very tough problems, Senator.

Senator VOINOVICH. I would suggest that you again review the flexibilities that you have in terms of hiring these people and make sure that you have everything you need to get the job done. I would be interested in hearing from you, should you be appointed. Thank you.

Ms. SVINICKI. Thank you.

Senator BOXER. Thank you, Senator.

Senator Whitehouse, you have 7 minutes.

Senator WHITEHOUSE. Thank you very much, Chairman.

I wanted to ask a few questions of Mr. Laverty, if I may. In February 2005, as you probably know, the Union of Concerned Scientists surveyed scientists at the Fish and Wildlife Service and found pervasive political interference in science at the Agency. Two-thirds of the scientists who responded to the survey, 303, were aware of cases in which Interior Department political appointees interfered with scientific findings. Eighty-four scientists reported that they were directed to inappropriately exclude or alter technical information from agency scientific documents.

Now, we disagree on a lot of things up in this building, and everybody is entitled to their own opinion. But they are not to their own science and they are not entitled to their own facts. What will you do to guarantee that interior political appointees will keep out of improper meddling in scientific facts and determinations?

Mr. LAVERTY. Senator, thanks for that question. I really believe that that has been one of the fundamental elements that I have wrestled with as I have read through the Inspector General's report and thought about, what would I do in that position. I believe it goes back to what I shared earlier with the committee in my remarks, you have to set the expectations that science is science and that you deal with policy issues as a separate conversation. You have to do everything you can to secure the culture that presents good science.

I think that comes from active involvement in working with staff, with scientists to create that expectation that this is the way science will be developed, and that from the political side, we let

science come together and then you deal with the policy issues as a separate entity. I think you have to articulate that, but then you have to constantly monitor, do you feel that science is coming up forward. I would like then for that Union of Scientists to come back and say, in the Department of Interior, science is good science and it is not being suppressed. I think that comes from leadership and I am willing to jump in to do that. I am committed to doing that.

Senator WHITEHOUSE. OK. One of the reasons I ask is because just a few months ago, the Interior Inspector General wrote a fairly scathing report, chastising former Deputy Assistant Secretary for Fish and Parks Julie McDonald, who I believe would have reported to you had she stayed on, she resigned, as you know, a few weeks after the report was released, for habitually rewriting and distorting scientific documents. Although obviously she has since resigned, that problem of political interference remains a serious concern. I urge you to try to put that behind the Department.

One of the things that is very important to the people of this country is to be able to count on their departments of Government. We are neck deep in a huge disarray over at the Department of Justice. Let us not have the Department of Interior follow that path. We want to be able to count on you.

Mr. LAVERTY. Yes, sir. I am committed to do that.

Senator WHITEHOUSE. Very good.

Thanks, Madam Chair.

Senator BOXER. Thank you so much, Senator. Senator, what I would like to do is, Senator Whitehouse, put into the record the two-page summary of the Union of Concerned Scientists survey, so it appears in the record with the questions. I will mention it in my closing statement.

Senator WHITEHOUSE. Thank you.

Senator BOXER. Thank you very much for bringing this to the committee.

[The referenced material follows:]



U.S. Fish & Wildlife Service Survey Summary February 2005

The Union of Concerned Scientists (UCS) and Public Employees for Environmental Responsibility (PEER) distributed a 42-question survey to more than 1,400 USFWS biologists, ecologists, botanists and other science professionals working in Ecological Services field offices across the country to obtain their perceptions of scientific integrity within the USFWS, as well as political interference, resources and morale. Nearly 30% of the scientists returned completed surveys, despite agency directives not to reply—even on personal time.

I. Political Interference with Scientific Determinations

Large numbers of agency scientists reported political interference in scientific determinations.

- Nearly half of all respondents whose work is related to endangered species scientific findings (44%) reported that they “have been directed, for non-scientific reasons, to refrain from making jeopardy or other findings that are protective of species.” One in five agency scientists revealed they have been instructed to compromise their scientific integrity—reporting that they have been “directed to inappropriately exclude or alter technical information from a USFWS scientific document,” such as a biological opinion;
- More than half of all respondents (56%) knew of cases where “commercial interests have inappropriately induced the reversal or withdrawal of scientific conclusions or decisions through political intervention;” and
- More than two out of three staff scientists (70%) and nearly nine out of 10 scientist managers (89%) knew of cases “where U.S. Department of Interior political appointees have injected themselves into Ecological Services determinations.” A majority of respondents also cited interventions by members of Congress and local officeholders.

II. Negative Effect on Wildlife Protection

While a majority of the scientists indicated that agency “scientific documents generally reflect technically rigorous evaluations of impacts to listed species and associated habitats,” there is evidence that political intrusion has undermined the USFWS’s ability to fulfill its mission of protecting wildlife from extinction.

- Three out of four staff scientists and even higher proportions of scientist managers (78%) felt that the USFWS is not “acting effectively to maintain or enhance species and their habitats, so as to avoid possible listings under the Endangered Species Act;”

- For those species already listed as threatened or endangered under the ESA, more than two out of three scientists (69%) did not regard the USFWS as effective in its efforts toward recovery of those listed species;
- Nearly two out of three scientists (64%) did not feel the agency “is moving in the right direction;” and
- More than two-thirds of staff scientists (71%) and more than half of scientist managers (51%) did not “trust USFWS decision makers to make decisions that will protect species and habitats.”

III. Chilling Effect on Scientific Candor

Agency scientists reported being afraid to speak frankly about issues and felt constrained in their roles as scientists.

- More than a third (42%) said they could not openly express “concerns about the biological needs of species and habitats without fear of retaliation” in public while nearly a third (30%) did not feel they could do so even inside the confines of the agency;
- Almost a third (32%) felt they are not allowed to do their jobs as scientists;
- A significant minority (19%) reported having “been directed by USFWS decision makers to provide incomplete, inaccurate or misleading information to the public, media or elected officials;” however,
- Scientific collaboration among USFWS scientists, academia and other federal agency scientists appears to be relatively untainted by this chilling effect, with a strong majority (83%) reporting they felt free to collaborate with their colleagues on species and habitat issues.

IV. Resources and Morale

There was a broad perception that the agency lacks the resources to accomplish its mission. Not surprisingly, results showed a strain on staff morale.

- Half of all scientific staff reported that morale is poor to extremely poor and only 0.5% rated morale as excellent;
- More than nine out of ten (92%) did not feel that the agency “has sufficient resources to adequately perform its environmental mission;” and
- More than four out of five (85%) said that funding to implement the Endangered Species Act is inadequate.

The survey was sent to 1,410 scientists, of which 414, or 29.4%, responded to the survey.

Senator BOXER. Senator Barrasso.

Senator BARRASSO. Thank you, Madam Chairman.

Ms. Svinicki, congratulations. There is a concern of the folks in Jackson Hole, WY, it has been a continuous concern and it has to do with the issue of potential radiation discharges from the Idaho National Energy and Environmental Laboratory. What role does the NRC play in that, in ensuring that those discharges do not occur, and then there is another role, I guess from the Department of Energy, so what role would you play?

Ms. SVINICKI. Senator, the Idaho National Laboratory is a Department of Energy facility and as such, under the Atomic Energy Act, it is not regulated by the Nuclear Regulatory Commission. I believe that the State of Idaho would have, in terms of air emissions, would have Clean Air Act authority over that facility.

Senator BARRASSO. Thank you. I know that you, from your work in Idaho, you are certainly aware of the concerns in Jackson Hole. I just wanted to express those again today, so that in your, while not specifically in the authoritative position, you know that those concerns continue from the folks in Jackson Hole. Thank you.

Ms. SVINICKI. Thank you.

Senator BARRASSO. Mr. Lavery, if I could, a couple of things. I know this committee doesn't have jurisdiction over the national parks, but you will. The people of Wyoming do have some serious concerns about access to the national parks, specifically Yellowstone National Park, and specifically winter access. Perhaps in another venue, I would appreciate the opportunity to sit and visit with you specifically about winter access to Yellowstone Park.

Mr. LAVERTY. I would be very, very happy to do that, and share with you what the Park Service is doing right now in terms of that analysis.

Senator BARRASSO. Thank you.

A couple of other topics. As you know, brucellosis has been eradicated from the State of Wyoming, except in the wildlife populations. We have it out in livestock, but not in wildlife. It is a problem in Yellowstone and Grand Teton National Park. Last weekend, I spent time at the National Elk Refuge visiting with the biologists there.

I think that eradicating brucellosis should be a top priority for the Park Service. What is the Park Service going to do to help try to eradicate brucellosis and to ensure that the disease doesn't really spread beyond the boundaries of the Park into our livestock?

Mr. LAVERTY. Senator, I know that the Park Service is working closely with the State Division of Wildlife, as well as the U.S. Fish and Wildlife Service, to look at that very issue. My involvement came as my time as a regional forester with the Rocky Mountain Region. I know that they are doing that, I can get you an update on what the status is of that. I can't tell you today what that is.

Senator BARRASSO. Then there are other concerns that if Wyoming happens to lose its brucellosis-free status, there is clearly economic hardships. Who should bear those, the individual, the State or the Federal Government? Because it is from the national parks that that would be lost.

Mr. LAVERTY. It is one of those wicked questions. It becomes one of public policy and how do you deal with that kind of an issue.

I think it comes from conversations on how do we work to correct the issue, rather than trying to patch up what happens after.

I would be happy to get some more information for you on that.

Senator BARRASSO. We can visit about that as well.

Then the last question would have to do with the Endangered Species Act. It seems to me that there appears to be a bias toward listing species and one against delisting. The Canadian gray wolf is a perfect example. The gray wolf flourishing in Canada was still reintroduced by the Federal Government in Wyoming over a decade ago. In my opinion, all the recovery goals have been met a while back, but the species continues to be listed as endangered. This is a process that in my opinion has dragged on too long, and I read that you have significant experience with the grizzly bear. That has successfully been delisted. People in Wyoming are delighted with that, but believe that that process took too long.

So what reforms do you suggest to the Endangered Species Act, specifically what can be done to streamline the delisting process?

Mr. LAVERTY. Senator, I think you captured for me what the essence of the Endangered Species Act is all about, and that is, the recovery of species. We need to do all we can to bring folks together so that we can in fact manage, whether it is habitat or whatever it might be, that can help recover species. That is exactly what happened with the grizzly bear.

I think with the wolf, I think it just is going to take some conversations, again, with the State and Fish and Wildlife Service to look at what do we have to do to get to that point of recovery of delisting of recovered species. We should celebrate those. We just delisted the eagle. I think those are significant milestones. We need to be working aggressively to protect species, protect habitat.

But we also should be working on how do we move toward the recovery of species. It becomes even a greater challenge, as we talked about some of the issues that are in front of the country today, with growth and development and climate, all these factors are coming together to create an extremely complex scenario on how do we manage the species. I am convinced that we can do that, and I am happy to work with the folks in Wyoming on the wolf. I know that is a big issue.

Senator BARRASSO. Well, it is. Thank you very much, Mr. Laverty. I look forward to visiting with you. Congratulations on your nomination.

Thank you, Madam Chairman.

Mr. LAVERTY. Thank you, and congratulations to you, sir.

Senator BOXER. Mr. Laverty, thank you for laying out the real serious issues that we all face together. But one of them we can control very directly, and that is a staffing crisis at the National Wildlife Refuge System. They have lost 230 staff between 2004 and 2006 and project a further reduction of 335 positions, equaling a 20 percent total reduction. The number of refuges able to afford non-staff costs including viewing platform and trail repairs is in decline.

So how will you keep the refuges open to visitors and safe while protecting resident wildlife in their habitats if you don't have the key staff? Will you help us on this? Because I just want you to know that this Congress passed a budget that would give you the

money to restore, but the President has said he is going to veto all these appropriation bills.

So I guess, not to put you in a delicate spot, because that is not the purpose of my question, will you let the facts be known to those in the OMB and so on, so that they understand what happens when we don't have enough staff to run these important programs?

Mr. LAVERTY. Madam Chair, I believe that again, one of the primary responsibilities of this position is to be the advocate for these programs.

Senator BOXER. Good.

Mr. LAVERTY. I am also, I should tell you on the other side, I understand the challenges of dealing with budgets.

Senator BOXER. Right.

Mr. LAVERTY. Even as I dealt with the National Fire Plan, the huge costs of that, and then what that brings to, how do you balance that with other programs. I am willing to commit to being that advocate and I think the answer to your question, again, is one of those very wicked questions, because there is not an easy answer. But I think you have to look hard at, are there ways that you can in fact provide those services and still maintain the quality of what the refuge system is all about. It takes hard work to get down into those questions.

I know that the agencies and the refuge system are looking hard at operation plans on how they can in fact manage within those budget levels and still provide those kinds of services. I would be willing to work with all of you on that issue.

Senator BOXER. I know this is a very tough thing to ask nominees, because you are agreeing to a position and your Administration will decide their budget and the Congress our budget, and then at the end of the day, we have a give and take and you have to deal with what comes out.

But my view has always been, regardless of whether it is a Democratic President or Republican President, it doesn't matter, I like the people who are taking these jobs to be advocates, so that if Kristine feels we really need to pay more attention to the way we give out these permits, as an example, so that we don't get really stung, not just a make-believe sting, but we get stung by some Al Qaeda operative here, and she feels strongly that she will tell the powers that be, look, I know you have other considerations, but if we don't have X number of positions, we can't do it. That is what I really hope to see, because I think that is key here.

We are going to have some very tough debates. You know, nobody likes these arguments. It is very unpleasant. But if you are spending, I think it is now \$10 billion a month in Iraq, and this has nothing to do with your hearing and I don't expect any response, there are pressures now on the rest of the budget that have to be recognized.

So let me say that there are just two matters of business that I have to ask you, two more questions that are required. So first, I will ask you, Kristine, are you willing to appear at the request of any duly constituted committee of Congress as a witness?

Ms. SVINICKI. Yes, Madam Chairman, I am.

Senator BOXER. Do you know of any matters which you may or may not have thus far disclosed that might place you in any conflict of interest if you are confirmed in this position?

Ms. SVINICKI. I know of no such matters.

Senator BOXER. Thank you.

Robert, I would ask you the same. Are you willing to appear at the request of any duly constituted committee of Congress as a witness?

Mr. LAVERTY. Yes, ma'am, I am.

Senator BOXER. Do you know of any matters which you may or may not have thus far disclosed that might place you in any conflict of interest if you are confirmed to this position?

Mr. LAVERTY. No, ma'am.

Senator BOXER. All right, well, that is very good. I would make one last point on the issue that Senator Whitehouse raised. He always raises, I think, gets to the heart of the matter. I don't know if you have seen this Union of Concerned Scientists survey.

Mr. LAVERTY. Yes, I have seen it.

Senator BOXER. You have. I would just point out that they talked to 1,410 scientists, went to 1,410 scientists. But in any case, half of all scientific staff reported morale as poor to extremely poor and only .5 percent, half a percent, half of 1 percent, rated morale as excellent.

Now, getting to know you just a little bit through this hearing, I think you really do have the temperament and the attitude and the love of your work that you can change this. It is not going to be easy for you. There have been some problems. But I sense that you are bringing that spirit to this work and I am pleased to have had a chance to meet both of you.

If there is nothing else to come before the committee, we stand adjourned.

[Whereupon, at 11:30 a.m., the committee was adjourned.]

Senator BOXER. So now I want to ask you this: At NRC's Annual Regulatory Information Conference in March, you read from an article that was entitled "The World Has Forgotten the Real Victims of Fukushima" that used the phrase a nuclear disaster that never was. That is what this article was, a nuclear disaster that never was. Do you really believe the meltdown of three nuclear reactors at Fukushima qualifies as a nuclear disaster that never was?

Ms. SVINICKI. No, Senator. I intended, by quoting at length from that article, to discuss the human tragedy that had occurred to the people of Japan. I had felt that some of the narrative contained therein was very moving about watching these events unfold on television and the tremendous scale of the human tragedy that had occurred there. That was the focus of my repeating some of the text of that article.

Senator BOXER. OK. So you believe that Fukushima was a nuclear disaster.

Ms. SVINICKI. Yes, definitely.

Senator BOXER. OK. So that leads me to my next question. The Nuclear Regulatory Commission established a goal to implement the Fukushima recommendations within 5 years. However, it appears that the recent orders which begin to implement those recommendations allow nuclear power plants more than 5 years to comply with safety. If confirmed, will you work to ensure, and answer me, please, honestly, work to ensure that the schedule is accelerated so safety improvements are implemented within 5 years?

Ms. SVINICKI. As I had testified in March, I believe that there are potential opportunities to accelerate those schedules, and if confirmed to another term, I would work very earnestly with other members of the Commission to find those opportunities to accelerate activities where possible.

Senator BOXER. I am going to repeat the question. Will you work to ensure that the schedule is accelerated so safety improvements are implemented within 5 years? It took 10 years to get the safety improvements after 9/11. That is too long to wait. Will you work to see that they are implemented within 5 years?

Ms. SVINICKI. Yes, Senator, I will work to ensure that they are implemented in 5 years—

Senator BOXER. Thank you.

Ms. SVINICKI [continuing]. Knowing that there may be implementation challenges beyond my control.

Senator BOXER. Well, that is a big loophole, but we will talk about it as time goes by, believe me. And I will close with this question: Ms. Svinicki, 94 organizations concerned with nuclear safety signed on to letters opposing your renomination to the NRC, and it is a disturbing thing for me. And they are not just using rhetoric; they are showing the votes, and I read some of those into the record.

If reconfirmed, would you meet with a few of the safety advocates who have qualifications within the organizations, and we can work with you on that, will you sit down with them across a table, just you and them, and hear their concerns so that maybe we can bridge this divide that I fear is present in this community?

Ms. SVINICKI. Yes, Chairman Boxer, I make that commitment. And I have met, over the course of my time at NRC, with some of the organizations that have signed that letter.

Senator BOXER. OK, good. Well, will we work together on that, then?

Ms. SVINICKI. Yes.

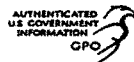
Senator BOXER. I don't think more than three or four is a good idea, but I think if you could meet with three or four, it would be great. Well, thank you very much.

I turn to Senator Inhofe.

Senator INHOFE. Thank you, Madam Chairman.

I would like to enter something into the record. I ask unanimous consent that page 33 of the hearing, and I happened to be Chairman at that time of this Committee of 2007 was your confirmation hearing. In this, this subject was discussed in terms of her response, and it seemed to be a satisfactory response. So page 33 of the hearing of 2007.

[The referenced document follows:]



S. Hrg. 110-1102

CONSIDER PENDING NOMINATIONS

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

ON

THE PENDING NOMINATIONS OF KRISTINE L. SVINICKI, TO BE A
MEMBER OF THE NUCLEAR REGULATORY COMMISSION AND LYLE
LAVERTY, TO BE ASSISTANT SECRETARY FOR FISH, WILDLIFE AND
PARKS, DEPARTMENT OF THE INTERIOR

JULY 17, 2007

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Maryland has determined that a pre-license inspection prior to receipt of Category 3 materials is necessary, why hasn't the NRC? Do you know? If you don't know, is this something that you will consider bringing up if you are confirmed?

Ms. SVINICKI. Senator, I was able to watch a certain amount of the hearing that was conducted on the GAO sting investigation. I was exposed to an amount of Commissioner McGaffigan's testimony. He was the NRC witness at that hearing. I know that he has pledged to look at this issue.

So it would appear to me as an outsider that it will be something that the Commission will be evaluating, since Commissioner McGaffigan has made that commitment to do so. If confirmed, I certainly would be a part of that.

Senator, I was reflecting, in your opening comments where you talked about national security aspects of nuclear materials, I certainly, if confirmed would bring a strong focus on our vulnerabilities to my service as Commissioner.

Senator BOXER. Good. I am very pleased. Just think about Senator Warner sitting on your shoulder, because it is just ridiculous to think about our rules being weaker than the State of Maryland. It blows my mind.

Last question. I understand you have worked in the Department of Energy's Civilian Radioactive Waste Management Office. Did you work on transportation and waste disposal issues related to Yucca Mountain?

Ms. SVINICKI. Senator, thank you for that question. I want to be as clear as I can with the committee. When I worked at the Department of Energy I was employed in what is called the Office of Civilian Radioactive Waste Management. That is the office established under law to administer and develop the geologic repository. My work was not in Las Vegas on the Yucca Mountain license application, it was in Washington, DC at the Department of Energy headquarters.

I worked transportation packaging. As you had mentioned in your opening comments, the safe transportation of these materials is so important. Whether a geologic repository opens or not, we have to transport materials this week and every week very, very safely. I also worked on inventories of defense materials that may require deep geologic disposal. Those would be materials currently at Department of Energy sites.

Senator BOXER. So you didn't work directly on Yucca?

Ms. SVINICKI. I did not.

Senator BOXER. OK, very good. Thank you.

Senator Inhofe.

Senator INHOFE. Thank you, Madam Chairman.

Kristine, you and I briefly discussed in my office the highly enriched uranium spill at the Nuclear Fuel Services facility in Tennessee and my disappointment with the NRC's lack of communication about the event. In your current capacity as staff to the Armed Services Committee, you also understand the need to protect sensitive information that could aid our adversaries who might want to use it against us.

If confirmed, will you ensure that the national information security needs are adequately protected and balanced with the NRC's

Senator INHOFE. I would say to both of you, when a tragedy occurs such as 9/11, it changes the behavior; we do things that we hadn't done before, and of course, we have air space issues and all that. But when Fukushima happened, the same thing happened. However, the NRC has imposed a number of actions on nuclear power plant owners post-Fukushima which have to deal with in addition to the daily activities.

In other words, they took on more responsibilities. It seemed to me at the time, and I am just going from memory, Commissioner Svinicki, that a lot of the things that they had not done in Fukushima we were already doing here, and I would like to ask you how would you prioritize the changes that took place after Fukushima compared to before Fukushima.

Ms. SVINICKI. Thank you, Senator Inhofe. Although I am not aware of any organization that has done a comprehensive comparison of the regulatory requirements in place in Japan and the United States, it is apparent that the actions that the NRC mandated after the attacks of September 11th would have provided an opportunity at U.S. plants to mitigate against this extreme kind of natural event that occurred in Japan. Since Japan did not have a 9/11 type event, their regulator had not put equivalent measures in place in Japan, to my knowledge.

In prioritizing the NRC's response to the lessons learned of Fukushima, we have, of course, looked at extreme natural hazards, and that is one of the outgrowths: to look at the readiness to mitigate and defend a nuclear power plant against extreme natural events. So, as I discussed, we issued three immediately effective emergency orders requiring that nuclear power plants in the United States enhance their ability to mitigate against what we call beyond design basis or very extreme natural events.

We also issued an order to require hardened venting systems at BWR plants of a certain containment design. And then we also are requiring enhanced spent fuel pool instrumentation so that there will be greater knowledge about the status of the spent fuel pools should an extreme natural event occur. We also are requiring the reevaluation of seismic and flooding risks at plants, as I had described in my testimony.

Those appeared to the NRC to be the most immediate actions that should be put forward after Fukushima. Of course, we have what we call Tier 2 and Tier 3 recommendations also under evaluation.

Senator INHOFE. OK, thank you. That is a very good answer.

Dr. Macfarlane, I am sure you are aware and have studied this before or since your nomination, that in 1980 we had a reorganization of the NRC, and it did prescribe specific duties of the Chairman, of the Commissioners, and of staff at certain levels, so I need to ask you two quick questions here. One is in that plan they stated that the Chairman "shall be responsible for ensuring that the Commission is fully and currently informed." As Chairman, would you interfere or seek to influence the flow of information between the Commissioners and the agency staff?

Ms. MACFARLANE. No, I will not. I will ensure that the other Commissioners are fully informed.

Senator INHOFE. I think you covered that pretty well in your opening statement, but I wanted to make it in reference to this reorganization statement.

Ms. MACFARLANE. Right.

Senator INHOFE. The second thing that was in that plan in 1980 says the Chairman "shall be governed by the general policies of the Commission." Would you also agree with your—

Ms. MACFARLANE. Absolutely.

Senator INHOFE. Fine. Thank you very much.

Thank you, Madam Chairman.

Senator BOXER. Thank you very much, Senator.

Senator Carper.

Senator CARPER. Thanks, Madam Chair.

Again, thank you both for your testimony today and for your willingness to serve. I want to just return to a discussion that took place in this room just a few days ago with several members, including Brent Scowcroft, from the Blue Ribbon Commission on which you served, Dr. Macfarlane. The discussion dealt with spent fuel is not going to end up in Yucca Mountain, and how do we go forward and find a place that is suitable in this country or places that are suitable in this country.

Senator Alexander and I both served as Governors, and we had to, among other things, be concerned about where to site prisons. Not an easy thing to do in a small State like Delaware, and in fact, a number of other States. As it turns out, there are other States that literally competed for the right to become a repository, if you will, for people who violated the law in our State and were incarcerated, and we had a competition that flowed from that situation. And a consent-based approach, which is what the Blue Ribbon Commission is suggesting, really makes a lot of sense to me. Regardless what happens with Yucca Mountain, I think we have to learn from that experience and just be a whole lot smarter going forward as we prepare to take next steps.

How might we incentivize other States, other localities to be willing to, as they are in France and some other countries, to be willing to be a site for these kinds of activities? Your ideas from both of you, please. What would be your counsel to us?

Ms. MACFARLANE. Well, first of all, I will say that the mission of the NRC is protecting human health and safety, and not making energy policy. But speaking as a former Blue Ribbon Commission member in that forum, I would say that it is important to offer compensation, without necessarily specifying exactly what that compensation is, to the local community who might be interested in following up an opportunity to host either an interim storage facility or a repository, and work with the community in determining what form or shape the compensation would be. That is one way of offering something like that.

Senator CARPER. Well, what seems to have worked in some other countries?

Ms. MACFARLANE. I don't even think we need to look as far as other countries, because the United States is the only country with an operating deep geologic repository, and that is in the great State of New Mexico, just outside of Carlsbad, New Mexico. It is the Waste Isolation Pilot Plant, and it has operated successfully since

1998. They have received over 10,000 shipments of transuranic waste from the nuclear weapons complex. It was not straightforward in terms of arriving there, it took about 20 years, but there was a lot of good back and forth between the State and the Federal Government and the local community, and the local community and the State now, from our experiences on the Blue Ribbon Commission with them, are very, very supportive of this, it has worked very well. So it can work, and it has worked within our country.

Senator CARPER. All right, fine.

Commissioner Svinicki, any comments you might like to add, please?

Ms. SVINICKI. As noted by Dr. Macfarlane, the NRC did not take an active role in the Blue Ribbon Commission recommendations. I know that some of our technical staff presented before the Blue Ribbon Commission and provided information as requested by the Commission.

Senator CARPER. I would just remind us all, as we are concerned about safety with respect to the operation of nuclear power plants, part of safety is the safe storage, if you will, of spent fuel rods, so it is something that I think we all need to be mindful of.

One of my colleagues, I don't know if it was Senator Sessions or not, but one of my colleagues, Dr. Macfarlane, mentioned that it is not everybody that gets the opportunity really to lead an organization of 4,000 employees. I think you mentioned that there are other folks who served on the Commission, who served as Chair of the Commission who have not run organizations of this size and complexity before. Talk to us about your approach to leadership and why do you think you have the skills to be able to lead an organization of this magnitude, and what might you do to further strengthen those skills.

Ms. MACFARLANE. Great. Thank you very much for your question. First, I should note that at the Nuclear Regulatory Commission there is already an exceptional structure in place that manages the day to day operations of the agency and oversees the dedicated employees there.

If confirmed, I would view my role as continuing the mission of the NRC, continuing to be accountable to you all and to the people of the United States. I see that the main mission for the Chairman currently, especially given the current circumstances, is a leadership position and I think that some of the important attributes in terms of being the Chairman in this leadership position is to behave in as a collegial manner as possible.

If confirmed, I would plan on reaching out to the Commissioners on a regular basis, having one on one conversations with them. They all have different sets of expertise, and I would certainly want to tap that expertise, consult them on issues that come before the Commission. And in the past I have worked with people from a variety of different viewpoints; I certainly did that on the Blue Ribbon Commission. We were not all of one mind at all, but we did work together to forge consensus.

That final report was a consensus document. Sometimes it was hard fought, but it was well worth it. I don't think anybody expects the five Commissioners to agree on everything. I don't think that

was the intention. But certainly they should work collegially together.

Senator CARPER. I would just add to that, and I have said this in this room before, and this is just my counsel to you, would be to, as the leader, if you are confirmed and become the Chair, to try to focus on what is the right thing to do; not the easy or expedient thing to do, but the right thing to do. It sounds like you are very much attuned to treating your colleagues and those who work at the NRC the way you would want to be treated. That is critically important.

I have reminded the Commissioners, as Commissioner Svinicki will tell you, any number of times that if it isn't perfect, make it better. Everything we do, I think everything we all do we can do better, and that certainly includes the operation of our nuclear power plants in this country.

Finally, if you think you are right, you know you are right, don't give up, and you sound like a person who doesn't give up.

The last thing I want to say, if you are confirmed, two out of the five Commissioners will have MIT ties. We want to express our thanks to MIT for preparing and sharing both you and Dr. Apostolakis with all of us.

Thank you.

Senator BOXER. We turn to Senator Alexander.

Senator ALEXANDER. Thank you, Madam Chairman.

Dr. Macfarlane, seeing you and your family sitting there, we welcome them. It reminds me of about 20 years ago I was in the same spot. I had been nominated by the first President Bush to his cabinet, and Senator Metzenbaum from Ohio looked at me and said, Senator Alexander, or he said Governor Alexander, I have heard a number of disturbing things about your background, but I don't think I will bring them up now. And Senator Kassenbaum looked over and said, Well, Howard, I think you just did. I don't intend to do that to you because I haven't heard such things, but we welcome you and welcome your family.

And Commissioner Svinicki, we welcome you and thank you for a great job.

I won't go into the management issue; Senator Carper did. I share his attitude and his concern, and would expect you and your colleagues to address that. Let me begin with specific questions.

Dr. Macfarlane, you served on the bipartisan commission on waste. I am not going to ask you, either of you, whether you are for or against Yucca Mountain. Let's put that over here for a moment. I imagine you will get a question or two about that. I am not asking that.

Whether one is for or against Yucca Mountain, whether one is—do you agree with the Commission's suggestion that we should move ahead to break the stalemate on disposal of used nuclear fuel by, No. 1, beginning to identify consolidation sites to which to move fuel from the sites around the country, and two, begin to find a repository, since even if we were to open Yucca Mountain, we would still need a second geologic repository? Do you believe it is prudent to move ahead on parallel tracks with both of those activities?

Dr. Macfarlane.

Ms. MACFARLANE. Senator Alexander, thank you very much for that question. Again, I remind myself that the Nuclear Regulatory Commission's mission is that of regulating human health and safety. Again, putting on my Blue Ribbon Commission hat, I wholeheartedly agree with both of those statements. I have always been a very strong proponent of geologic repositories.

Senator ALEXANDER. But we could move ahead with the consolidation sites——

Ms. MACFARLANE. Absolutely.

Senator ALEXANDER [continuing]. While we also——

Ms. MACFARLANE. Absolutely. There is ample need to do so, because we have 10 shutdown reactors in this country at 9 facilities, and it makes both economic and security sense to consolidate that material at a few locations.

Senator ALEXANDER. Commissioner Svinicki, the Nuclear Regulatory Commission would certainly have a role on the moving ahead on those parallel tracks, with licensing both of sites and of transportation. Do you agree that we should move ahead on parallel tracks?

Ms. SVINICKI. Both previous law and initiatives on consolidated storage and the proposals that I have heard from congressional committees regarding future activities I believe would have the NRC license those consolidated storage sites, so, yes, NRC would have an involvement in that activity.

Senator ALEXANDER. And Commissioner Svinicki, do you believe that the legislation with which you may be familiar, that Senator Feinstein and I have introduced, which would begin a pilot program on the consolidation sites, now in the Appropriations bill, and the steps that we are taking with Senator Bingaman and others, begin to take the form of a plan that would help the Commission on its waste confidence rule in light of recent court decisions?

Ms. SVINICKI. The Commission has not taken a position, at this time, on that legislation, Senator Alexander, but the Commission has indicated that as long as this fuel is at the sites it is at now, it is our highest priority, of course, to make sure that it is stored safely, and the Commission also indicated that it is not a policy preference that the fuel remain at dispersed locations.

Senator ALEXANDER. Thank you. Now, I have two more questions, so I will ask for short answers, if I may.

Dr. Macfarlane, small modular nuclear reactors, the Tennessee Valley Authority and the Oak Ridge Laboratory, for example, have expressed an interest to the Department of Energy on siting one there; Sandia National Laboratory has expressed the same. The Congress has approved the beginning of a 5-year jump-start program for small reactors. If you were Chairman of the Commission, would you assign a priority to the Commission's role in creating an environment where we could move ahead with small nuclear reactors?

Ms. MACFARLANE. If confirmed and then designated as Chair, I would certainly be interested in learning more about the Commission's role vis-à-vis small modular reactors. I know a little bit about them technically from my own background and I think they are very interesting. I would look forward to seeing license applications and seeing how they go.

Senator ALEXANDER. Well, do you support the idea of moving ahead with them?

Ms. MACFARLANE. Excuse me?

Senator ALEXANDER. Do you support the idea of moving ahead with small nuclear reactors?

Ms. MACFARLANE. Small modular reactors? Certainly.

Senator ALEXANDER. Commissioner Svinicki.

Ms. SVINICKI. Senator, in my service on the NRC, I have supported activities that would prepare the NRC to receive designs for review of small modular reactors so that if vendors decide to proceed, the NRC would be in a state of readiness to have in place the requirements and framework to review those applications.

Senator ALEXANDER. Thank you very much.

I will submit a question about MOX fuel in writing, but let me ask Dr. Macfarlane in my remaining 22 seconds. I would like to get an idea of your attitude about nuclear power in general, and maybe a good way to ask it would be this: As you look ahead, do you see nuclear power as a source of electricity as a significant share of the United States' ability to produce reliable, clean, low cost electric power?

Ms. MACFARLANE. Currently, the U.S., as I think maybe yourself or one of the other Senators pointed out, gets 20 percent of its electricity from nuclear power. That number is not going to go down for a while, but it could go down. I certainly think it is very important for this country, for the security of the country that we have a diverse energy supply, and nuclear is part of that diversity, certainly.

Senator ALEXANDER. Thank you very much, Madam Chairman.

Senator BOXER. Thank you, Senator.

Senator SANDERS.

Senator SANDERS. Thank you. Before I begin, if I may say to Senator Alexander, you talked to nuclear power being low cost. To the best of my knowledge, in terms of the production of new electricity, nuclear power is the most expensive form of new generation.

Senator ALEXANDER. Madam Chairman, I will look forward to a private discussion with Senator Sanders, and I would love to present him with the National Academy of Sciences study that shows just the reverse. And the windmills that you like and I don't are much more expensive.

Senator SANDERS. OK.

But to the Commissioners, let me start off with Dr. Macfarlane.

Doctor, I have expressed concern with the NRC voting process, and I think you and I discussed this when you were in my office, which does not include a public meeting where Commissioners meet to vote yes or no and explain their vote. I have no problem with Commissioners continuing to use the notation vote process, whereby each drafts an opinion and reconciles it to provide a majority opinion and orders to the staff, but I see no logical reason why the NRC cannot also have a public voting meeting so that the American people can see what the NRC is doing, is not doing, and how the members feel about a given issue.

We, in fact, have been talking about this issue for a number of years, and I think it is time to move. And in fact, if I do not see

changes at the NRC in terms of the voting process, I am going to offer legislation to mandate that that happen.

So my question to you, Dr. Macfarlane, will you commit today that for the next vote that the NRC conducts, if you are appointed Chairman, you will hold a public voting meeting where staff can present the issue, and each Commissioner can vote yes or no in public and explain his or her vote? Can I have that commitment?

Ms. MACFARLANE. Thank you for your question, Senator. We did have a discussion about this when we met. I certainly commit to being as transparent as possible, as transparent as I can be at the Commission, if confirmed. At the moment, I am still learning about the voting practices and procedures at the NRC, and I would like to learn more about the history of voting practices at the NRC to better understand the options for internal Commission procedures.

Senator SANDERS. Well, let me—

Ms. MACFARLANE. And in an effort to maintain collegiality, before any changes are made to current voting processes, I would like to consult with the other Commissioners to understand their thoughts on this process.

Senator SANDERS. Well, let's consult with Commissioner Svinicki. Let me ask her this question.

Commissioner, in your written testimony to this Committee you describe openness a key principle for good regulation, and I certainly agree with you. But as you know better than I do, the NRC voting process is anything but open or transparent. In fact, it is extraordinarily opaque and complicated. It makes it difficult for the average citizen to understand what is going on at the NRC. It begins with a staff paper offering recommended actions, then each of the five Commissioners votes via a detailed statement, and somehow a majority opinion is cobbled together, and then in yet another document orders are given to staff to carry out the result.

Now, right here, for better or for worse, every member of the U.S. Senate has to raise his or her hand and vote yes; we vote no; very rarely people vote present. But everybody in our home State in America knows how we vote on an issue. So I don't think it is complicated.

My understanding, Commissioner Svinicki, is that Chairman Jaczko, in fact, requested that the NRC hold a public holding meeting, that he made that request to the Commission. Did you agree with that request?

Ms. SVINICKI. I am trying to recollect what specific voting matter that might have been. It might have been—well, I would rather check my record; I am not remembering. I know that Chairman Jaczko was in favor of modifying the Commission's voting practice.

Senator SANDERS. Right. He had the wild and crazy idea that, in a democracy, maybe the people of America might know how you voted. So let me ask you that. I happen to agree with Jaczko on that. Will you—I didn't get a clear answer from Dr. Macfarlane, but will you be supportive of an open and transparent public vote so that Members of the Senate, the American people, know how you vote?

Ms. SVINICKI. Senator, the notation, written notation voting process that you referred to, my views are appended to a vote that is

made public on the NRC's Web site, so if I understand your proposal, it would be in addition to the release of—

Senator SANDERS. I am asking for the radical idea that you raise your hand in public, and tell the American people whether you voted yes or no on that issue. You don't do that now. Can you give us assurance that you will support that process?

Ms. SVINICKI. Again, my votes are made public. I think they have been quoted to me by members of this Committee. So I have supported the written notation process. I benefited, when I came on the Commission, from being able to read the written votes of prior Commissioners to learn the history of issues.

Senator SANDERS. OK, you are telling me no, in fact. I mean, I can write a 12-page analysis of how I feel on an issue and know how to do it without allowing the people to know really whether I am voting yes or no, and that is really what goes on in the NRC. And I would hope that regardless of political persuasion, we would want our constituents back home to see a yes and no vote. We don't have that now. If we don't get it, and it sounds to me like we are not going to get it, I will offer legislation to mandate that, and I hope I can have bipartisan support for that.

Senator BOXER. Your time has expired.

Senator SANDERS. Oh. Thank you, Madam Chair.

Senator BOXER. Senator Sessions.

Senator SESSIONS. Thank you, Madam Chairman.

Dr. Macfarlane, let me first say how much I enjoyed talking with you. I appreciated that opportunity yesterday. I would like an actual answer for these questions. What experience and technical expertise do you have concerning reactor safety? I know that you have a doctorate in geology, which can be helpful with regard to waste disposal or plant sitings, but the actual operation of a nuclear plant, what experience have you had or technical expertise?

Ms. MACFARLANE. My expertise is on the back end of the nuclear fuel cycle, so that does deal with part of what nuclear power plants produce, which is spent nuclear fuel, which is at reactor sites. So part of my expertise has to do with that. I think that, in general, as well as you pointed out, seismic issues are important not just for plant siting, but for plant operation, as we saw in terms of what happened in Japan.

Senator SESSIONS. With regard to the 4,000 employees, the Chairperson is given some supervisory power. What is the largest organization you have ever managed?

Ms. MACFARLANE. I have managed different committees within academia, and I have been Chair of boards, on different boards, but there have not been 4,000 people.

Senator SESSIONS. Well, the NRC budget exceeds \$1 billion annually. What is the largest budget you have ever overseen?

Ms. MACFARLANE. It has been smaller.

Senator SESSIONS. Have you received funding, directly or indirectly, from the Department of Energy or the Nuclear Regulatory Commission, or other Federal agencies, related to Yucca Mountain?

Ms. MACFARLANE. No, I have not.

Senator SESSIONS. Have you received funding, directly or indirectly, from any organizations opposed to the Yucca Mountain facility?

Ms. MACFARLANE. No, I have not.

Senator SESSIONS. Six months ago, Senator Kirk and I, joined by seven colleagues, wrote to Chairman Jaczko urging him to ensure that all documents and files related to the Yucca project be preserved and kept available for future decisionmakers. Would you agree it would be prudent for the NRC and the Energy Department to maintain and preserve the work that has been done on the Yucca project?

Ms. MACFARLANE. Speaking as a scientist? Absolutely. There is a wealth of scientific knowledge there. It is important.

Senator SESSIONS. I know you have expressed your view in a hearing, I believe one called by maybe Senator Reid, that there was a lack of political support for the Yucca site. Certainly, there have been objections in Nevada to that site, but are you aware that the Board of County Commissioners of Nye County, the third largest county in the United States, issued a resolution last year or wrote the Blue Ribbon Commission to say that "strong local community support for Yucca Mountain exists at the host county level"?

The letter also states, "that their own research convinces us that the science embodied in DOE's license application for Yucca Mountain and its hundreds of supporting documents is sound." They write that the Yucca repository has been "hijacked by the politics of a single powerful Senator and what some view as complicity by the NRC Chairman."

Of course, the then-NRC Chairman had formerly worked for perhaps that Senator, and I don't mind saying it is my friend, Senator Reid, the majority leader, I am sure they were referring to.

So do you agree that while there is opposition in Nevada, that at least the people in this large county, where the site would be, are supportive?

Ms. MACFARLANE. As commissioner with the Blue Ribbon Commission, I had multiple opportunities to interact with the people from Nye County and from the other counties in Nevada who came to many of the meetings, so we had opportunities to talk. I was aware of their views.

Senator SESSIONS. Have you provided the Committee with all the articles you published and writings?

Ms. MACFARLANE. I provided them with a long list of all the articles and writings that I have done.

Senator SESSIONS. No, the question would be have you provided the Committee with a list of all your articles and published writings.

Ms. MACFARLANE. Yes.

Senator SESSIONS. And does that include speeches that you have made?

Ms. MACFARLANE. I do believe, yes, I included all the speeches as well.

Senator SESSIONS. Commissioner Svinicki, congratulations on receiving the 2012 Presidential citation a few weeks ago by the American Nuclear Society. That is quite an honor, and you should be congratulated for it. I think it does reflect well on your abilities.

My time is up. Thank you, Madam Chair.

Senator BOXER. Thank you, Senator.

Senator SESSIONS. You have been very gracious.

Senator BOXER. Thank you, Senator.

Senator CARDIN.

Senator CARDIN. Thank you, Madam Chair.

Dr. Macfarlane, first, let me congratulate you on your good judgment. I know that you grew up in Connecticut, but you now live in Maryland, so I wanted to point that out to the Committee.

Ms. MACFARLANE. Finally figured it out.

Senator CARDIN. Right. Congratulations on that.

I want to follow up on Senator Alexander's point on the storage issues.

And I understand both of your positions as it relates to regional facilities or for depositories, and I understand that. That can take some time, as we all know, before they are implemented. So I want to get your thoughts on onsite storage as it relates to the safety issues as to the advisability and long-term use of onsite storage, and your views as to how that relates to the work of the Commission. I will let you start.

I will ask some specific questions. There are some trade offs, obviously, the trade offs on transportation, the trade offs of risk at a regional or at a national depository; there are the issues of how safe different regions of the country have different risks. We know that certain areas may have more weather related concerns than other areas.

How would you go about dealing with the storage issue as it relates to your responsibilities on a long-term need to do storage onsite?

Ms. MACFARLANE. Would you like me to start?

Senator CARDIN. Either one.

Dr. Macfarlane, you may start.

Ms. MACFARLANE. OK. Thank you. Thank you for the question. I, as a safety regulator, if confirmed, my main concern would be ensuring the safety of the storage onsite at reactors. Let's limit it to just onsite at reactors right now. Reactors need spent fuel pools. You cannot operate a light water reactor without a spent fuel pool, because when the fuel is discharged from the reactor, it is both thermally and radioactively hot; it needs that 40-foot-deep swimming pool to sit in and have the water circulated around so it remains cool. After 5 years, though, it has cooled off enough that you can actually put it in what we call a dry cask. There are a number of different designs, but they are mostly concrete and steel structures which are passively cooled.

So you don't need the dry casks, but you can use them, but you do need that spent fuel pool. And we know, in terms of safety from recent experience with dry casks both at the Japanese facility in Fukushima and the one in Virginia at North Anna, where there was an earthquake last summer, you guys might recall, those dry casks performed very well, so I think they are safe. But I think understanding how they behave over the long term is important to ensure their security. And also continuing to work on the safety and security of spent fuel pools is important as well.

Senator CARDIN. So are you saying that from a long-term perspective the dry cask storage, is it an acceptable option, or do we need to move forward on regional or national depositories?

Ms. MACFARLANE. From my point of view, we absolutely need to move forward on national repositories. Those dry casks are fine on the decades time scale. If you are talking hundreds or thousands of years, there is no long-term guarantee; you need some kind of deep geologic repository.

Senator CARDIN. Which is worth the risk of transportation and a centralized site, I take it?

Ms. MACFARLANE. I believe so.

Ms. SVINICKI. Senator Cardin, within its regulatory authorities, the Commission has been focused on making certain that either the pool storage or the dry cask storage, if fuel remains at sites for some longer duration of time, can be done safely. The Commission has assessed that it has all the regulatory authority that it needs in order to put in place requirements to make sure that that continues to be the case. But as I noted earlier, the Commission, in offering that assurance of continued safety, indicated that it was not to be interpreted as a policy preference, that leaving fuel dispersed at different sites was preferable from a policy standpoint. Clearly, that is not the preferred policy.

Senator CARDIN. Thank you.

Thank you, Madam Chair.

Senator BOXER. OK. I have just been notified we are going to have two votes at noon, so in order to give everybody a chance, we are just going to have to go down to 3 minutes apiece. I do deeply apologize.

Senator BARRASSO.

Senator BARRASSO. Thank you, Madam Chairman.

Just a couple quick questions. Dr. Macfarlane, my home State of Wyoming, and I know you are taking notes, has an abundance of domestic uranium. Permitting of these sites has met with a lot of bureaucratic delay and red tape. These sites are good paying American jobs for folks in my State, other States where uranium is found. Do you believe that domestic uranium production is preferable to being dependent on importing foreign uranium from countries like Russia?

Ms. MACFARLANE. First of all, I should say that I think Wyoming is one of the most beautiful States in the union. That aside, the job, again, of the Nuclear Regulatory Commission is to assure safety and security, not to opine on policy positions. But given that and my past views on things, certainly it is important for the United States to have as diverse a supply of energy as possible, and to have as much domestic supply as possible as well.

Senator BARRASSO. What assurances can you provide the Commission that you will not unduly delay Commission decisions or ensure that all the perspectives and opinions of your colleagues are dealt with in a respectful and timely manner?

Ms. MACFARLANE. I assure you wholeheartedly.

Senator BARRASSO. Thank you.

Commissioner Svinicki, you have had a number of questions asked to you today. I just wonder if there are comments you would like to make to the Committee to kind of tie together or answer some of the charges that may have been made by others.

Ms. SVINICKI. I would reflect that, again, I was privileged to be a Senate staff person for a long time. I have tremendous respect

for the Senate's unique role under the Constitution to review President Obama's nomination of me, and I know that I have not achieved universal agreement in my actions and positions I have taken on the Commission. I am very respectful that there are differing views. I think, as Dr. Macfarlane has indicated, it is not an expectation that everyone agree with everyone. So that standard was probably not within my reach, but I have worked to assess issues based on the facts in front of me, and I have attempted to fulfill my duty in that way. Thank you.

Senator BARRASSO. Thank you.

Thank you, and congratulations to both of you.

Thank you, Madam Chairman.

Senator BOXER. Thank you, Senator, so much. I really do apologize for the 3 minutes.

Senator Lautenberg.

Senator LAUTENBERG. Thanks very much, Chairman. Sorry, I had to leave for a few minutes, but I appreciate the opportunity to get a couple of questions in.

For Dr. Macfarlane, it is critical that we apply the lessons of the Fukushima disaster to improve nuclear safety here at home. One of those lessons is ensuring that containment vents work properly and are filtered to prevent the release of radiation. Now, would you support the requiring of filtration of containment vents where appropriate?

Ms. MACFARLANE. Thanks for that question, Senator. I understand that the Nuclear Regulatory Commission is actually looking into that specific issue right now, and I would, if confirmed, be very interested in the results of their analysis. I am somewhat familiar with the issue, so I would be very interested to learn more. I will definitely follow that issue.

Senator LAUTENBERG. And Commissioner Svinicki, you said that you don't believe that U.S. power plants should be required to install filtered containment vents. These systems could prevent the release of radiation into the atmosphere in the event of a nuclear accident. Why do you oppose taking this precautionary step?

Ms. SVINICKI. Senator Lautenberg, I believe I was asked about that, my support for that in a speech in March, and what I indicated was that I had not been provided any analysis to date that would support or make the case for installation of filtered vents. As Dr. Macfarlane indicated, the NRC staff is preparing an evaluation of that issue now, and later this summer that issue will come before the Commission.

Senator LAUTENBERG. But you are, therefore, not committed to say no to that.

Ms. SVINICKI. I will review with a very open mind the staff's evaluation of this issue.

Senator LAUTENBERG. In March, Dr. Macfarlane, I sent a letter raising concern that the NRC was not allowing public comments at the annual meeting for the Oyster Creek Plant in New Jersey. I think that local residents deserve to have their voices heard on these issues. If you are to be the NRC Chair, would you try to make sure or work to try and bring the public into the discussion and increase their participation?

Ms. MACFARLANE. Thanks for the question, Senator. I am very dedicated to hearing all sides and all points of view on all of these topics, and my experience as a commissioner with the Blue Ribbon Commission was that we were most successful when everybody felt that they were heard.

Senator LAUTENBERG. One more question, Dr. Macfarlane. You were a member of the President's Blue Ribbon Commission. They made a number of proposals that would require transporting significant amounts of nuclear waste across the country. What steps might be taken to protect the communities that live near the railroads and the highways where nuclear waste will be transported?

Ms. MACFARLANE. Wow, that is a long answer question. There are many steps that could be taken, and the Blue Ribbon Commission did specifically look at the issue of transportation and re-look at the issue of transportation and suggested that there is actually a lot of work that can be done now because there are a lot of issues that have to do with rail—

Senator LAUTENBERG. So they can be transported safely, in your opinion?

Ms. MACFARLANE. Yes. Yes, absolutely. And they are in many other countries.

Senator BOXER. Can I ask if you would put something in writing about that for us?

Ms. MACFARLANE. Sure.

Senator BOXER. Because I am very interested in this.

Senator LAUTENBERG. Thanks, Madam Chairman.

Senator BOXER. Yes.

And now the votes have started. We call on Senator Boozman.

Senator BOOZMAN. Thank you, Madam Chair.

And thank both of you for being here. We appreciate your willingness to serve, Dr. Macfarlane, and we also appreciate your service, Commissioner Svinicki, and your willingness to get back into this.

Dr. Macfarlane, the question has come up about trying to get our safety issues resolved in 5 years, and we are all part of the bureaucracy up here. What do you see as some of the pitfalls in actually getting that done? I assume that you are committed to doing that in 5 years, but what is lurking out there that you see that might be a problem? I have road projects that have taken longer than that to get approval.

Ms. MACFARLANE. Certainly. Thank you for the question, Senator. I am still learning exactly all of the different aspects of what the NRC is planning to do and has requested of the licensees. I understand that it will take two outages to go through and fulfill the orders that have been issued. These outages occur every 18 to 24 months, and that is part of this 5-year timeframe. The first outage to try to understand, especially with placing hardened vents, where they could be placed and how they would be done, and then the second outage with actually doing it. So that is part of it. So those are some of the issues.

Senator BOOZMAN. The former Chairman used tactics like simply not voting or delaying votes on decisions with licensing and things for plants. Can you assure us that you won't use those kind of tactics?

Ms. MACFARLANE. Certainly.

Senator BOOZMAN. Thank you very much.

I yield back.

[The prepared statement of Senator Boozman follows:]

STATEMENT OF HON. JOHN BOOZMAN,
U.S. SENATOR FROM THE STATE OF ARKANSAS

Madam Chair, thank you for holding this hearing. President Obama has re-appointed Commissioner Svinicki to the NRC, and this is our first opportunity to visit with Dr. Macfarlane. I appreciate the willingness of both of these individuals to serve.

My understanding—and this has been misreported—is that both nominees are simply nominated to positions on the Commission. The appointment of a Chair for the NRC is made exclusively by the President, and that is a decision the President will have to make once the current Chairman is retired.

This nomination process is limited to whether these two nominees are appropriate and qualified to serve on the Commission, not whether either of them would be best suited to serve as Chair of the Commission. My vote will be made in that context. I hope the President will choose the best prepared and most qualified Commissioner to serve as Chair, when the time comes. The Chairman must provide administrative leadership to an organization with a massive budget and over 4,000 employees. Experience matters.

Madam Chair, again thank you for this hearing. I believe we need to have five active and engaged Commissioners, overseeing the important work of the agency. I hope the Senate will do its work quickly, because we do not want vacancies to impact the work of the Commission.

Thank you.

Senator BOXER. Thank you so much.

Senator Gillibrand, welcome.

Senator GILLIBRAND. Thank you.

Obviously, we have had many lessons learned because of the Fukushima accident, and two things that I am particularly concerned of for New York that I would like your thoughts on. First, in the area of exemptions, license amendments, and renewals and waivers, given that we give licenses for up to 20 years, given that many waivers and exemptions have been given, and given that technology is improving very rapidly, have you given any consideration to re-looking at these current rules and guidelines in terms of timing, because I think, given what we have learned from Fukushima, we may want to have license renewals have shorter time periods; we may want to create a mechanism whereby waivers can be re-looked at, given what we have learned.

Second, with New York specifically, we have Indian Point, and I know, Dr. Macfarlane, you have some expertise in geology. Do you plan to look at things like potentially active fault lines; what the risks are, what can be done to protect these existing sites?

And then last, also highly relevant to the New York issue, have you given consideration to re-looking at issues of evacuation for large scale populations, making sure that there is such a plan for that kind of large evacuations if there is some damage or emergency situation?

Ms. MACFARLANE. Thank you for the questions, Senator. In terms of license renewals, et cetera, I think that is very important to periodically review lessons learned from the process, and I believe that the Nuclear Regulatory Commission has done this and is doing this in that case.

In terms of Indian Point and assessing seismic risks, there has been a new seismic hazard analysis that the U.S. Geological Survey

has issued. I think it is important for all reactors to go and assess the new analysis, and I would certainly be interested in following that issue vis-à-vis reactors, and specifically with Indian Point in mind.

And then in terms of looking at the issues around evacuating people, thinking about Indian Point, I do believe that under the activities that the NRC is undertaking regarding the Fukushima accident, that they are reconsidering the emergency planning zones and looking at that as well, and I would definitely follow that up as well.

Ms. SVINICKI. Senator, I don't have too much to add to what Dr. Macfarlane said except that as a specific action post-Fukushima, all nuclear power plants, including Indian Point, have been ordered to do a seismic reevaluation. So that requirement has been imposed by the Commission. And again, as Dr. Macfarlane said, the evacuation and emergency planning issues are also under reevaluation by the NRC staff.

Senator GILLIBRAND. Thank you very much.

Senator BOXER. Thank you, Senator.

So I am going to just close with a couple of points and then rush off. So if I don't thank you both, I will now do that. There is something I need to do in order to make sure that these nominations go forward. Would you both be ready to answer these questions: Do you agree, if confirmed, to appear before this Committee or designated members of this Committee and other appropriate committees of the Congress and provide information subject to appropriate and necessary security protection with respect to your responsibilities? Answer yes or no.

Ms. MACFARLANE. Yes.

Ms. SVINICKI. Yes.

Senator BOXER. Do you agree to ensure the testimony, briefings, documents of electronic and other forms of communication of information are provided to this Committee and its staff and other appropriate committees in a timely manner?

Ms. MACFARLANE. Yes.

Ms. SVINICKI. Yes.

Senator BOXER. Last, do you know of any matters which you may or may not have disclosed that might place you in any conflict of interest if you are confirmed?

Ms. MACFARLANE. No.

Ms. SVINICKI. No.

Senator BOXER. All right. The record will show those answers.

Senators, questions are due at noon tomorrow. Nominees' answers are due Monday at noon. We are trying to move this forward.

So my couple of last parting questions are—I asked my staff to put together a list of what does this nuclear waste contain. Now, Chairman, you are expert at this, Chairman-to-be, and Commissioner, I know you are an expert at this, too, so I looked at some of the half-lives here, and they said, well, Neptunium-237 has a half-life of 2.1 million years, and plutonium-237 has a half-life of 24,100 years. Would you agree with this, and do you agree that when you are dealing with this waste it is very, very serious business?

Commissioner.

Ms. SVINICKI. Yes, Chairman.

Ms. MACFARLANE. Yes.

Senator BOXER. All right. I have two more points. After the Three Mile Island accident, the NRC Chairman's duties were really changed, and they were strengthened, and the Chairman became not only known as the Chairman, but the principal executive officer of the Commission who directs "the day to day operation of the agency and the NRC's response to nuclear emergencies." Are you aware of this law?

Ms. SVINICKI. Yes, Chairman.

Senator BOXER. OK. And will you respect the role of the Chairman?

Ms. SVINICKI. Yes, I will.

Senator BOXER. Even when she may not agree with you?

Ms. SVINICKI. Yes, absolutely.

Senator BOXER. And when she does agree with you?

Ms. SVINICKI. Yes.

Senator BOXER. And I would ask our hopefully future Chairman, if reconfirmed, do you understand this authority, and will you exercise it if necessary?

Ms. MACFARLANE. Absolutely.

Senator BOXER. Because I think that is key. There was such a confusion over that after Fukushima, and the arguments went back and forth.

The last point is I am really glad Senator Inhofe put page 33 of Commissioner Svinicki's answers to me about Yucca into the record because here it goes:

Senator BOXER: So you didn't work directly on Yucca? Answer: I did not.

I don't believe that is true. When I don't vote for you, Commissioner, it is because I have reasons that go with my view of your candor or lack of same, and also the record in terms of safety. I hope and I truly pray that this Commission, with your leadership and yours, can get off in a different direction. We can have the deepest divisions of opinion. This is America; that is what we are known for. We don't agree on things, but we have decent relationships with each other.

And I just really want to underscore that. As one day we had all the Commissioners here and the Chairman, and I said you should all go out after work and have a beer, soda, something; and they all looked at me like what planet was I on for that to even be possible. That has to be possible. It could be tea or coffee. It could be anything. But you get my point.

So, Dr. Macfarlane, you are walking into a tough situation, but honestly, after meeting with you and watching you here today, I sense in you the ability to bring people together, and I know as a mom myself, you have to do that a lot around the house, as well as in the workplace. So I think you are going to bring a different touch. I think it is necessary.

And I would say, Commissioner Svinicki, I hope, as a long-time member of this Commission and despite my opposition, I know that you are going to be confirmed, I hope you will do your best to help our new Chairman find her way. And if there is disagreement, let's not make it personal, let's not make it some kind of vendetta, one

to the other. Let's just bring those disagreements out to the fore and recognize that is how this country is. We are great because we allow that debate. We certainly do it here in the Senate, and we can go out for a cup of coffee afterwards.

So I hope that will happen. I am very, very pleased that you are both here today, that we had such an important hearing, that it was so civil, and I am just feeling good today. And I will feel even better when we get the highway bill done.

[Laughter.]

Senator BOXER. Thank you very much. We stand adjourned.

[Whereupon, at 12:11 p.m. the Committee was adjourned.]

