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DCMN HERZFELD

THE NRC FISCAL YEAR 2015 BUDGET AND POLICY ISSUES

WEDNESDAY, MAY 7, 2014

House of Representatives,  
Subcommittee on Energy and Power,  
Committee on Energy and Commerce,  
Washington, D.C.

The subcommittee met, pursuant to call, at 10:05 a.m., in Room 2322, Rayburn House Office Building, Hon. John Shimkus presiding.

Present: Representatives Hall, Shimkus, Pitts, Terry, Burgess, Latta, McKinley, Kinzinger, Griffith, Barton, Upton (ex officio), McNerney, Tonko, Engel, Green, Capps, Barrow and Waxman (ex officio).

Staff Present: Nick Abraham, Legislative Clerk; Charlotte Baker, Deputy Communications Director; Matt Bravo, Professional Staff Member; Leighton Brown, Press Assistant; Allison Busbee, Policy

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Coordinator, Energy & Power; Annie Caputo, Professional Staff Member; Tom Hassenboehler, Chief Counsel, Energy & Power; Brandon Mooney, Professional Staff Member; Chris Sarley, Policy Coordinator, Environment & Economy; Peter Spencer, Professional Staff Member, Oversight; Jeff Baran, Minority Senior Counsel; Alison Cassady, Minority Senior Professional Staff Member; and Caitlin Haberman, Minority Policy Analyst.

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Mr. Shimkus. Let me call the subcommittee hearing to order and recognize myself for -- first of all, welcome the Commissioners and recognize myself for 5 minutes for the opening statement.

We convene this hearing today to review the Nuclear Regulatory Commission's proposed budget for fiscal year 2015 and related policy issues. At the outset, let us welcome the Commissioners. I note that we have had some difficulty scheduling you all in past hearings, but the arrangements for this hearing went smoothly. Thank you for making yourselves available today.

The NRC plays a vital role in the safety of our Nation's civilian use of nuclear energy and technology, a role that I strongly support. The NRC, in fact, historically has represented the gold standard worldwide for nuclear safety regulation. In this context this hearing will help inform our oversight of how the NRC is performing the safety mission today amidst the current realities of nuclear power generation and whether its resources are used prudently.

Our Nation's nuclear plants are facing economic headwinds, struggling to compete with inexpensive natural gas in a time of decreased demand for electricity. Four reactors closed prematurely last year, and at least one will this year. Others may soon follow. The Department of Energy is currently analyzing the impact of one-third of our 100 reactors closing.

The NRC simply cannot ignore that its actions add to those

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economic headwinds. The NRC has acted on its most safety-significant post-Fukushima items called Tier 1, but it still has Tier 2 and Tier 3 to go. One utility has already estimated its post-Fukushima cost to be at least \$400 million.

As my colleague Mr. Johnson summarized so well in our last hearing, the NRC and the nuclear industry seem trapped in a pattern of ever-increasing costs, chasing even smaller increments in safety gains. This pattern is not sustainable. The NRC recovers 90 percent of its costs from fees charged to its licensees. The NRC's response to the closure of those four plants was simply to increase the fees on the remaining plants by over 20 percent and request 66 additional staff in their 2015 budget. As the size of our nuclear industry shrinks, the NRC cannot pretend that it needs more regulators to oversee fewer plants. This is another pattern that is not sustainable.

Ten years ago the NRC budget was \$626 million, 3,040 staff, and planned to review 1,500 licensing actions. In fiscal year 2015, the NRC budget was \$1.67 billion, 3,881 staff, and plans to review only 900 licensing actions. These licensing actions not only are safety related, but are often important to a nuclear plant's continued economic viability.

Yet in our December hearing, Chairman Macfarlane cautioned that if sequestration continued, and I quote, "nonemergency licensing activities," close quote, would be negatively impacted. So I would

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like to understand how, with 400 million more dollars and 800 more people, the NRC is struggling to review 40 percent fewer licensing actions.

Comparing today's NRC with the NRC of 10 years ago shows how management efficiency has degraded over the last decade. In 2004, the NRC expected the number of productive hours from their employees to be 1,776 per year. For fiscal year 2014, that number is 1,355, a decrease of 24 percent. In 2004, corporate support cost \$149 million and constituted 24 percent of the agency's budget. For fiscal year 2014, corporate support is now 46 percent, \$486 million, almost half of the NRC's total budget.

In nuclear safety, as with any regulation, a gold standard comes at a price, a price ultimately paid by the electricity consumers. The NRC simply must improve its financial discipline while continuing to deliver that gold standard. As the NRC's Principles of Good Regulation state, and I quote, "The American taxpayer, the rate-paying consumer and licensees are all entitled to the best possible management and administration of regulatory activities," and I close quote. The NRC should start by returning to its historic levels of efficiency.

And with that I yield back my time and recognize the acting ranking member of the committee Mr. Green for 5 minutes.

[The prepared statement of Mr. Shimkus follows:]

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Mr. Green. I am glad I am not just a substitute.

Mr. Chairman, thank you for holding this hearing on the fiscal year 2015 NRC budget and policies. I would like to thank Chair Macfarlane and the other Commissioners for joining us this morning.

On March 11, 2011, an unforeseen, unpredictable natural disaster created the worst nuclear disaster since Chernobyl in Japan. The incident at Fukushima reactors reminded us what can go wrong, but also created an opportunity to learn and implement new procedures and protections.

As a result of the Fukushima incident, many nations around the world curtailed the development and use of nuclear facilities. Germany and Japan moved rapidly towards natural gas and coal, in addition to wind and solar facilities, to offset the loss in power generation. Other countries have moved forward aggressively with new plants, including France and China. China has more than 30 plants under construction with more expected. The United States, for the first time in decades, we are moving forward with new nuclear facilities.

As we discuss lessons learned, and implement new standards, and look at long-term solutions to climate change, we must recognize that nuclear energy will play a critical role. The Nuclear Regulatory Commission has many responsibilities, most importantly protecting public health and safety. The Commission is also responsible for

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licensing and regulating our civilian nuclear power, including new designs.

As we look towards the future of nuclear power, it is important that the Commission balance safety and oversight with review and certification. The 21st century power-generation sector requires a 21st century regulatory scheme. The Commission needs to ensure its staff and procedures include enough flexibility and resources to encourage the development in the nuclear sector. Businesses require certainty from regulatory agencies to invest in the hundreds of billions of dollars necessary for the design and construction of the new facilities. The Commission must also retain the best people possible as new designs and new technology will test the limits of the old way of doing things.

Finally, the NRC must face significant challenge related to nuclear waste storage. While many on this committee, including myself, believe that Yucca Mountain would resolve many of these issues we face today, it is not a near-term solution. The temporary storage of spent nuclear fuel located in sites around the country must continue to be secured until a permanent solution can be found. The courts have issued decrees that require NRC to complete the safety evaluation review. It is my hope that this will be done expeditiously. The American people deserve to know about an investment that has approximately taken billions and why or why not the spent nuclear



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repository is or isn't feasible.

Our country is in the midst of an energy revolution that the revolution should provide us room to develop all sources of power. Rather than relying on other countries, we will have the ability to design, construct, and operate as many power-generation stations as necessary to meet our domestic needs. The power-generation sector is the backbone of our economy of which nuclear power is a key component. Let us make sure our regulatory agencies have the talent and resources required to help grow that sector.

And, again, I would like to thank Chair Macfarlane and Assistant Secretary Lyons for appearing before the subcommittee. I look forward to your testimony.

Thank you, Mr. Chairman. I yield back my time.

[The prepared statement of Mr. Green follows:]

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Mr. Shimkus. Gentleman yields back the time.

The chair now recognizes the chairman of the full committee Mr. Upton for 5 minutes.

The Chairman. Thank you, Mr. Chairman.

I appreciate the Commissioners returning to the subcommittee today. Chairman Macfarlane, I am also pleased that you are going to be returning to southwest Michigan to visit both of my two nuclear plants in the next couple of weeks.

We know that nuclear energy is an indispensable source of clean, reliable, affordable power; however, economic headwinds are challenging the viability of some plants, with four closing last year and more to follow.

Budgets are, indeed, a statement of policy. The NRC budget for fiscal year 2015 shows an increase in resources and staffing despite a shrinking fleet of reactors. This will no doubt be a topic of conversation today as we look at the short- and long-term plans for the agencies and realistic expectations for funding levels.

NRC's gold standard for nuclear safety oversight is essential, absolutely, and something that I strongly support. I believe that the NRC has appropriately responded to Fukushima with several new requirements addressing Tier 1 issues, the most safety-significant issues like the station blackout scenario and seismic hazard reevaluations.

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As the NRC turns its attention to Tiers 2 and 3, I think that it is appropriate for the agency to assess the safety benefits that will be realized by the implementation of the actions already taken and view these other, less safety-significant items accordingly. It is incumbent upon the NRC to ensure meaningful safety benefits that warrant any further requirements.

And I yield the balance of my time to Mr. Shimkus.

Mr. Shimkus. Thank you, Mr. Chairman.

[The prepared statement of Mr. Upton follows:]

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Mr. Shimkus. I just to remind my friend from Texas that we do have a long-term storage solution, and it is called the Nuclear Waste Policy Act, which is the law of the land.

But let me also take this moment to compliment the Commission's professional staff -- and I hope that you would relate this to them -- who are reviewing the Yucca Mountain license application. While the review was slow to start, and the Commissioners even slower in providing the detailed schedule that I requested, now that I have received it, I am pleased with the staff's progress so far. While they may be a bit behind on two chapters, they are ahead of schedule on others, and their rate of expenditures appears to be appropriate. I commend the staff's effort, and, again, I am referring to the staff, and I hope you will convey that to them, because staff doesn't get thanked as much as they should. Right, Mr. Sarley?

While many aspects of the NRC's budget deserve scrutiny, I find one item missing in the budget proposal to be the most noteworthy. The D.C. Circuit Court upheld the NRC's statutory mandate to review and issue a decision on the Yucca Mountain license application. The NRC has repeatedly stated it lacks the resources to do so. Their response to a question from this committee was, and I quote, "The D.C. Circuit Court of Appeals mandamus order does not include a requirement for the Commission to request additional funds," close quote. Unbelievable.

What is more, I asked the Commission to provide this committee

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with a cost estimate of the resources necessary to fill their mandate and issue a decision. The Commission failed to provide Congress with this information. Not surprising. So the Commission has refused to share its estimate as to what those resource needs are so that Congress will know how much to appropriate.

One would think that the agency faced with the plain reading of the statutory mandate, a court order upholding that statute, and a constitutional duty to cooperate with Congress' oversight function would seek clearly to do the right thing. Apparently the Commission doesn't feel compelled to fulfill its mandate, only to spend down to zero, and DOE appears supportive of that strategy.

In February, the Department of Energy notified the NRC that it would not prepare a supplement to the Yucca Mountain EIS regarding groundwater issues even after assuring this committee that it would. This appears to be an attempt to undermine completion of the safety and evaluation report by driving the NRC to spread its scant resources even thinner. I urge the Commission not to take the bait.

The Commission was right to focus on completion of the safety and evaluation report as an important and achievable milestone. The NRC should not proceed to do DOE's work for them until having issued the safety and evaluation report.

And with that, I yield back the balance of my time, and I recognize the ranking member of the full committee Mr. Waxman.

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Mr. Waxman. Thank you very much, Mr. Chairman. I want to welcome the members of the NRC, and Chairman Macfarlane especially, and her colleagues.

The Nuclear Regulatory Commission has a lot of issues on your plate. Among them, the Commission continues to examine safety gaps revealed by the Fukushima nuclear accident in Japan, including the vulnerability of U.S. reactors to earthquakes. The Commission is examining the potential safety benefits of transferring more spent nuclear fuel from reactor pools to dry casks, and it is simultaneously overseeing and decommissioning five nuclear reactors and the construction of five new reactors, and we will explore those issues today.

But I want to focus on a subject that will be new to the members of this subcommittee, but one that I have been working on for years, the pervasive uranium contamination in and around the Navajo Nation in New Mexico, Arizona, and Utah. It is a modern American tragedy. For decades the Navajo Nation has been dealing with the deadly consequences of radioactive pollution from uranium mining and milling. During the Cold War, millions of tons of uranium ore were mined from the Navajo Nation in order to supply the Federal Government with the uranium yellowcake it needed to build a nuclear weapons stockpile. After the mining ended in the late 1980s, hundreds of radioactive mines were abandoned. The mining companies simply walked away without

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cleaning them up. Most mines were left wide open with no warning about the dangers they posed.

Over the years, open pit mines filled with rain, and Navajos used the unmarked pools for drinking water and to water their herds. Mill tailings and chunks of uranium ore were used to build foundations, floors and walls for some Navajo homes. Families lived in these radioactive structures for decades. Radioactive dust from abandoned mines and waste piles blew in the air. Navajo children played in the mines and the piles of radioactive debris.

This isn't something that happened in the distant past. Navajo kids were swimming in open-pit uranium mines in the 1990s, and people are still drinking contaminated water and breathing in radioactive dust today.

In 2007, the Oversight and Government Reform Committee held a hearing to examine this shameful legacy. There was bipartisan agreement that the Federal Government had a responsibility to right this wrong. At my request, five Federal agencies developed and implemented a 5-year plan to begin addressing the uranium contamination. Over the last 6 years, these agencies, working with the Navajo, made significant progress in assessing the contaminated mines, rebuilding contaminated structures, providing safe water supplies, and cleaning up some high-priority sites, but a huge amount of work still remains.

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At the top of that list is the cleanup of the Northeast Church Rock Mine near Gallup, New Mexico. Navajo families live close to the site, which holds an estimated 1 million cubic yards of radioactive mine waste. I raise this issue today because the NRC will soon be considering a proposal to dispose of this waste in a nearby mill site. The NRC must act expeditiously, while ensuring that the disposal is protective of human health and the environment.

Every day that passes is another day that Navajo families are exposed to radioactive mine waste. I believe the Commission needs to make this project a priority. I intend to ask about it at the hearing today to draw your attention to it again, and I look forward to hearing your testimony and discussing this issue further.

Thank you, Mr. Chairman. Yield back the time.

[The prepared statement of Mr. Waxman follows:]

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Mr. Shimkus. Gentleman yields back his time, and we want to welcome again the Commission. We will start with opening statements from all the Commissioners. The Chairman will get 5 minutes. The rest of you will get 2 minutes for your statements. And now again we want to welcome Chairman Macfarlane, and you are recognized for 5 minutes.

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STATEMENT OF ALLISON MACFARLANE, CHAIRMAN, UNITED STATES NUCLEAR REGULATORY COMMISSION; KRISTINE SVINICKI, COMMISSIONER, UNITED STATES NUCLEAR REGULATORY COMMISSION; GEORGE APOSTOLAKIS, COMMISSIONER, UNITED STATES NUCLEAR REGULATORY COMMISSION; WILLIAM MAGWOOD, COMMISSIONER, UNITED STATES NUCLEAR REGULATORY COMMISSION; AND WILLIAM OSTENDORFF, COMMISSIONER, UNITED STATES NUCLEAR REGULATORY COMMISSION

STATEMENT OF ALLISON MACFARLANE

Ms. Macfarlane. Thank you.

Good morning, Ranking Member Waxman, Chairman Shimkus, and distinguished members of the subcommittee. My colleagues and I appreciate the opportunity to appear before you today to discuss the U.S. Nuclear Regulatory Commission's fiscal year 2015 budget request.

The NRC's fiscal year 2015 budget request provides the necessary resources for the agency to continue to meet its safety and security objectives. The NRC's proposed fiscal year 2015 budget is \$1.059 billion, an increase of \$3.6 million compared with the fiscal year 2014 enacted budget. Detailed information about the resource requests for each business line and areas of corresponding work is available in my written testimony and in the NRC's congressional budget justification.

The NRC faces a different future from what we anticipated just

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a few years ago. We continue to assess the internal and external environments and project the agency's expected workload and critical skills needs through 2020.

While there are fewer operating plants and large light water reactor applications, the NRC's workload has increased in other areas. We will be making a licensing decision on Watts Bar Unit 2, for example, transitioning to operational oversight for the new Vogtle and Summer reactors, preparing small modular reactor design reviews, continuing to implement the Fukushima lessons learned and mitigating strategies, regulating the safety commissioning of shutdown reactors, and continuing to address the court's remands on waste confidence and Yucca Mountain.

The NRC is also actively reducing overhead by centralizing administrative support services. Since 2010, the centralization has achieved a net reduction of approximately 37 million in constant dollars, a 17 percent decrease. Additionally, we are in the process of consolidating our personnel from satellite buildings into a single campus.

As you know, the NRC is required by law to collect approximately 90 percent of its budget in the year appropriated through fees from its licensees. The NRC accomplishes this requirement by collecting fees for services and annual fees. Last month the NRC published its fiscal year 2014 Proposed Fee Rule for public comment. The rule calls

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for an increase in the annual fees of \$945,000 per reactor compared to the fiscal year 2013 amount.

We recognize that both regulatory and fiscal stability are important to our licensees, and we seek to provide both. Annual fees for both fiscal year 2013 and 2014, however, depart from this goal, with the 2013 fees lower than average and the 2014 fees higher than average. The unusually low reactor annual fee in 2013 resulted from a combination of reductions imposed by budget sequestration and a refund to licensees resulting from an overcharge collected during a prior fee period.

We then entered fiscal year 2014, anticipating a sequestration-driven budget reduction that didn't materialize. To the contrary, unfortunately, we received our requested funding level. Because the agency received these funds midyear, and also as a result of changing industry schedules, our agency will not be able to execute this budget as originally planned; however, we must still bill licensees to collect the required 90 percent of our budget before the end of the fiscal year. This places the NRC and the industry in a difficult fiscal posture, which I hope can be remedied in subsequent fiscal years.

The NRC believes that the safety and security requirements we mandate will be most effective if they are paced appropriately so that licensees can maintain focus on safe operations. We are carefully

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working to understand and address any cumulative effects of our regulations, including implementation timelines for new or revised requirements commensurate with the priority associated with each action and the availability of resources.

We have enhanced public participation in our rulemaking process and have engaged the industry to perform case studies reviewing regulatory costs and schedule estimates. The Commission has directed staff to continue to develop and implement outreach tools to understand cumulative impacts and to assess the effectiveness of NRC's process enhancements.

As we continue to rise to the challenges presented by this time of transition, I am confident in the NRC's ability to develop and execute the strategies necessary to achieve our essential mission effectively and flexibly.

Thanks for the opportunity to appear before you today. I would be pleased to answer your questions.

Mr. Shimkus. Thank you.

[The prepared statement of Ms. Macfarlane follows:]

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Mr. Shimkus. The chair now recognizes Commissioner Svinicki for 2 minutes. Welcome.

#### **STATEMENT OF KRISTINE SVINICKI**

Ms. Svinicki. Good morning, Chairman Shimkus and members of the subcommittee. Thank you for the opportunity to appear before you today at this hearing to examine the NRC's fiscal year 2015 budget request. The Commission's Chairman, Dr. Allison Macfarlane, in her statement on behalf of the Commission has provided key specifics of the agency's budget request and how these activities are intended to support the stated goals and outcomes of the NRC's strategic plan and to advance the NRC's important missions.

In light of her detailed statement, I will address only two brief areas of current focus. The first area is the NRC's effort to better align the application of its resources within each budget line with the work in front of us. Chairman Macfarlane's written statement describes the changes that have occurred in our projected regulatory workload and refers to an ongoing initiative led by NRC's Executive Director for Operations to take a hard look at each business line in the NRC's budget and propose adjustments to the application of both human capital and resources to better reflect not where we planned on being, but where we actually are in terms of budgets and programmatic

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activities.

This review is a matter of high agency importance. I will be working with my colleagues in the coming months to reflect the outcomes of this exercise in both fiscal year 2015 budget formulation as well as current-year and near-term budget implementation where permissible within agency authorities and beneficial to overall efficiency.

The second area is the cumulative impact of the NRC's activities on the regulated community and on the energy infrastructure of the Nation. Later this month our Commission will convene in a joint public session with the Commissioners of the Federal Energy Regulatory Commission. Among the topics we plan to receive expert testimony on is that of the dynamics that may be affecting the viability of the continued operation of nuclear power plants. It is my sense that both of our independent regulatory Commissions seek to better understand how a wider set of influences is altering the energy landscape and, more importantly, for our two Commissions in ways that may not be readily reversible.

Mr. Chairman, and members of the subcommittee, I thank you for the opportunity to appear today and look forward to your questions.

Mr. Shimkus. Thank you very much.

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[The prepared statement of Ms. Svinicki follows:]

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Mr. Shimkus. Now we turn to Commissioners Apostolakis and welcome you, and you are recognized for 2 minutes.

#### **STATEMENT OF GEORGE APOSTOLAKIS**

Mr. Apostolakis. Good morning, Chairman Shimkus, and distinguished members of the subcommittee.

I concur with Chairman Macfarlane's statements that we understand the need to be proactive about our future. I would like to offer a few observations regarding improvements to the infrastructure and regulatory framework of the agency in the next 10 to 15 years that, in my view, will most effectively ensure safety and security in an efficient manner.

Regarding the agency's future infrastructure, I support the vision of our Advisory Committee on Reactor Safeguards, ACRS, when it says, quote, the ACRS can foresee, for example, a time when regulatory staff have routine access to superior analysis tools for systems analysis, fundamental logical analysis, and risk assessment, end of quote. The development of such tools requires dedicated resources.

Regarding the regulatory framework itself, I believe that any future revisions should build upon well-established practices such as the defense in depth philosophy and risk-informed and performance-based approaches. After the Fukushima accident, there

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were many recommendations for regulatory action. Without the benefit of quantitative risk metrics, it was difficult to explain the basis for our prioritization of the Fukushima recommendations or how the prioritization of these new activities was being integrated with all other very important agency activities such as fire protection. We should take the time to develop the infrastructure improvements that we envision for the future. Unfortunately, long-term planning is often neglected during periods of difficult budgetary adjustments. It is often not until an accident occurs that we realize how very useful it would have been to have these tools, but it is then too late.

In closing, I would say that if we want a more effective and efficient regulatory commission in place 10 to 15 years out, we need to invest the resources necessary today. We need to develop a vision in investing the necessary infrastructures so that the appropriate tools will be available when we need them. Thank you.

[The prepared statement of Mr. Apostolakis follows:]

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Mr. Shimkus. The chair now recognizes Commissioner Magwood for 2 minutes.

#### STATEMENT OF WILLIAM MAGWOOD

Mr. Magwood. Thank you, Chairman Shimkus, and good morning. Good morning to you and members of the subcommittee and the committee. I thank you for the opportunity to speak to you today about our fiscal year 2015 budget request and related policy issues. As the chairman's statement has already highlighted important aspects for our budget request and our ongoing activities, I will only add a few brief comments.

First, I note that in the 3 years since the Fukushima Daiichi accident in Japan, I have seen nothing that would make me question the safety of the U.S. nuclear power plants. Since March of 2001, we have analyzed a vast array of technical issues, debated numerous complex regulatory policies, and engaged in an open public discussion about the lessons learned from the accident. After all that, the essential conclusion reached by the Near Term Task Force in the months after the accident remains inviolate: U.S. nuclear power plants are safe.

But I think it is important to emphasize the reason that our plants are safe. The reason is that in the United States, both the regulator and the regulator community places very high value in responding to

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operating experience. U.S. plants are safe because you have learned from six decades of operation and because you learned from TMI and from 9/11. We can do no less in learning from the Fukushima experience.

As a result we have taken clear, specific actions based on lessons learned. I believe the changes we have made thus far are appropriate and balanced, and I believe the steps that we and our licensees have taken have already made U.S. plants more resilient, and further enhancements will be completed over the next few years.

I will look forward to watching NRC's progress on these issues; however, as you know, I was the U.S. Government's candidate to serve as the next Director General of the OECD Nuclear Energy Agency, and I was selected formally for that position in March. I take up that new post in September and will therefore step down from this Commission this summer. Since this is most likely my final appearance as an NRC Commissioner before this committee, I take the opportunity to thank you for the serious and thoughtful manner in which this panel has overseen NRC's work since my tenure began. I very much appreciate the fact that you care so deeply about the important issues under NRC's jurisdiction, and that you have always engaged us with fairness and balance. We are a better regulator because of your oversight.

Thank you for the opportunity to appear before you today, and I look forward to any questions you may have.

Mr. Shimkus. Thank you, and I think we will get a chance to visit

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before whenever that magical date is, and we want to thank you for your service.

[The prepared statement of Mr. Magwood follows:]

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Mr. Shimkus. Now the chair recognizes Commissioner Ostendorff for 2 minutes.

#### STATEMENT OF WILLIAM OSTENDORFF

Mr. Ostendorff. Thank you, Chairman Shimkus and members of the committee.

As this is a budget hearing, I will comment that I think that we have tried to use the best available information we had in hand in order to project our future workload and our licensing activities.

In my experience, we have been successful in executing our oversight responsibilities and responding to challenges such as Fukushima, growing cybersecurity threats, and extended shutdowns of facilities such as the Fort Calhoun station in Nebraska and Honeywell's Metropolis facility in southern Illinois. However, as with all predictions, our budget estimates for future work are not always on the mark. Accurately budgeting for Fukushima work has been a significant challenge for this Commission and this agency, especially in areas where the work has evolved once it started.

As the chairman commented, we have made some changes to our structure over the last few years. I think those are good changes. I will also note that the nuclear industry and the landscape is very different from where it was 5 years ago. I think the agency must adapt

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to these changed circumstances and right-size accordingly. I am committed to helping ensure this occurs with my colleagues.

I fully support the chairman's written testimony in addressing the best estimate scenario for the NRC workload in the year 2019. I appreciate this committee's oversight role and look forward to your questions.

[The prepared statement of Mr. Ostendorff follows:]

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Mr. Shimkus. Gentleman yields back his time, and I thank you, and I recognize myself for 5 minutes for my opening questions.

I want to start with Chairman Macfarlane. Under the Atomic Energy Act of 1954 and Energy Reorganization Act of 1974, the NRC is required to provide safety oversight of its licensees, correct?

Ms. Macfarlane. That is correct.

Mr. Shimkus. Still directed to the Chairman Macfarlane, do you feel the NRC's fiscal year 2015 budget proposal requests the funds necessary to execute that responsibility?

Ms. Macfarlane. I do, yes.

Mr. Shimkus. Chairman Macfarlane, were there any court decisions issued last year requiring you to request the necessary funds to carry out those responsibilities?

Ms. Macfarlane. Any court decisions last year, being 2013?

Mr. Shimkus. Correct.

Ms. Macfarlane. That required us to -- sorry?

Mr. Shimkus. To carry out your responsibilities.

Ms. Macfarlane. To request additional funds. No, there were not any court decisions last year that required us to request additional funds.

Mr. Shimkus. The D.C. Circuit Court affirmed that the Nuclear Waste Policy Act, and I quote, provides that the Nuclear Regulatory Commission, and I -- in quotation, shall consider the Department of



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Energy's license application to store nuclear waste at Yucca Mountain and, and I quote again, shall issue a final decision approving or disapproving that application. The court went on to observe, and I quote again, yet the Commission still has not issued the decision required by statute.

In the case of Yucca Mountain, the NRC has statutory requirement, but you don't request funding to carry it out because the court didn't order you to. In the case of your safety oversight responsibility, you request the necessary funding without a court ordering you to do.

Chairman Macfarlane, can you describe for me the process the Commission uses to decide which statute you require a court order prior to the Commission requesting the necessary funds to carry out its responsibilities?

Ms. Macfarlane. Let me explain about the Yucca Mountain situation. We received an order from the court, remand, requiring us to continue the licensing process with our existing funds. We have done so. We are following the law. We are in the process of completing the safety evaluation report and the environmental impact statement --

Mr. Shimkus. Let me reclaim my time. The question is this: Can you describe for me the process the Commission uses to decides which statutes require a court order prior to the Commission requesting the necessary funds to carry out its responsibilities?

Ms. Macfarlane. The Nuclear Waste Policy Act requires us to hold

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hearings. It says, and I quote, nothing in this act shall be construed to amend or otherwise detract from the licensing requirements of the NRC, end quote. So our licensing requirements that deal with proceedings for developing a repository, 10 CFR Part 2, Subpart J, require us to follow Rule 2.325, which says, the --

Mr. Shimkus. Let me reclaim my time because we are running out of it, and you are not answering the question.

Let me go to each Commissioner. Do you support including funding a request to continue the Yucca Mountain license review in the NRC's budget proposal?

Ms. Macfarlane. I do not because the applicant --

Mr. Shimkus. Okay. The answer is no.

Commissioner Svinicki?

Ms. Svinicki. I do support seeking funding and have done so as part of the Commission's deliberations on the budget.

Mr. Shimkus. And we are going to pass you up, Mr. Apostolakis. Commissioner Magwood?

Mr. Magwood. Currently the Commission has been looking at having the staff perform an analysis to tell us what is actually required to request in terms of actually conducting such an activity. I haven't seen that yet, so I reserve judgment until I see that.

Mr. Shimkus. What does that mean?

Mr. Magwood. I don't know how much would be needed.

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Mr. Shimkus. But if you knew how much was needed, you would assume that there would be a request for it?

Mr. Magwood. I am willing to look at it.

Mr. Shimkus. Commission Ostendorff?

Mr. Ostendorff. Chairman Shimkus, as I testified before this committee back in December of 2013, I have supported funding for contending Yucca Mountain licensing activities. I took that position during our OMB passback process with the 2015 budget. That position did not prevail with the Commission.

Mr. Shimkus. Okay. So then the final question, the Commissioners have failed to request -- you all have failed to request additional funding for the license review, and very little funding will remain after the actions already ordered by the Commission have been completed.

Final question: Will you commit to oppose expenditures on any activities other than in support of the work already underway until the SER, Safety and Evaluation Report, is ready to be published?

Ms. Macfarlane. Will we commit to opposing?

Mr. Shimkus. In other words, the money going in different directions without finishing the money to comply with the law as required by the Federal courts.

Ms. Macfarlane. We have ordered the staff to complete the SER, complete the EIS, put the material from the licensing support

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network --

Mr. Shimkus. So you are going to make sure the funding is available for them to finish the job.

Ms. Macfarlane. And we have ordered the staff to tell us if they think the funding is not available.

Mr. Shimkus. So the answer is yes. So the answer is yes. Thank you.

Commissioner Svinicki?

Ms. Svinicki. Yes. That is our standing direction.

Mr. Shimkus. Commissioner Magwood?

Mr. Magwood. Yes.

Mr. Shimkus. I guess --

Mr. Apostolakis. Yes.

Mr. Shimkus. Okay. Great.

Mr. Ostendorff. Yes. I will add that I think we have appropriate internal controls in place to ensure that the funding is there to complete the SER.

Mr. Shimkus. And I guess we are going to be able to find that out, so we thank you.

The chair now recognizes the ranking member Mr. Green for 5 minutes.

Mr. Green. Just briefly, is there a time frame of when that will be available?

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Ms. Macfarlane. When what will be available?

Mr. Green. When the completed EIS --

Ms. Macfarlane. The completed SER should be available January 2015.

Mr. Green. Okay. Thank you.

There was considerable discussion among policymakers, you heard in the opening statements, in the industry related to NRC's budget. Industry fees have increased. The NRC's fiscal year 2015 budget has increased, and staff has increased, but the number of operating reactors and material licenses have declined.

I am concerned that forward-looking technology is not receiving the level of attention it may deserve. I am further concerned that most of the majority of the Commission's resources are being devoted to more than 50 rulemakings.

Chairman Macfarlane, can you provide a sense of why the Commission has 50 high-priority rulemakings underway?

Ms. Macfarlane. We have a number of rulemakings underway, that is correct. I want to point out that we don't have fewer licensees right now. We do have shut-down reactors, but we don't have fewer licensees. We have thousands and thousands of licensees. So I just want to be clear on that.

We now know that we face a different future than we expected a few years ago, and we are working very diligently to adjust our future

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budgets to this new reality. A few years ago we had 18 combined operating license applications. We now have eight. A few years ago we had a number of operating reactors. We now have a reduced number of operating reactors. We and the industry did not foresee this coming because we rely on industry estimates to develop our budget.

Mr. Green. Okay. Can you provide a sense of what percentage of the Commission's budget and fees fund these rulemakings?

Ms. Macfarlane. I will take that for the record, and I will get that number to you.

Mr. Green. Okay. I appreciate it.

[The information follows:]

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Mr. Green. For the panel, small modular reactors technology holds the promise of scalable and cost-effective and inherently safer nuclear power for the future. SMR is a technology that can play a key role in our energy future. However, I am concerned that the NRC lacks the flexibility and has not dedicated adequate resources to the next generation of technologies. Does the growth in fees and staff of the NRC indicate a focus on the small modular reactors in the next-generation technology?

Ms. Macfarlane. Let me assure you, Congressman, we have been working very hard to prepare ourselves and to prepare the industry for small modular reactor design certification applications. We have been working with the vendors and the manufacturers to make sure they understand our regulations and they are prepared. We have developed a guidance for them. We have been working very closely with them.

Mr. Green. Any other responses from the Commissioners?

Mr. Ostendorff. I agree, Congressman, with the Chairman's statement. I think we are waiting for industries to submit these applications to our staff. We are ready.

Mr. Green. Businesses involved in these SMR technology require certainty to make the investments and secure capital. This requires the NRC to prioritize and focus on these SMR applications. The NRC has published a 39-month schedule for smaller reactor design certification reviews. In order to achieve the schedule, the NRC must

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resolve a number of issues. What is the NRC doing to ensure that the Commission meets the 39-month schedule?

Ms. Macfarlane. We are -- as I said, we are working very hard on this. Unfortunately, we are hearing from the industry that they are slowing down their plans for submitting license applications, and so we are having to adjust our schedules, too.

Mr. Green. Do you know how many license applications you have now?

Ms. Macfarlane. We don't have any.

Mr. Green. None at all?

Ms. Macfarlane. None at all. We were expecting two in 2014, and they have been pushed back to either 2015, or 2016, or indefinite.

Mr. Green. Do you know, do they give you a reason for why?

Ms. Macfarlane. They don't have adequate financing right now, and they don't have adequate customers.

Mr. Green. And do you think that reason is because, you know, of course natural gas is historically low. Do you think it is just the market conditions?

Ms. Macfarlane. You know, we are a safety regulator. The Department of Energy is the agency working with the industry to develop these new designs.

Mr. Green. Okay. Thank you, Mr. Chairman. I yield back.

Mr. Shimkus. The gentleman yields back his time.



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The chair now recognizes the chairman emeritus Mr. Barton for 5 minutes.

Mr. Barton. Thank you, Mr. Chairman, and thank our NRC Commissioners for being here. Mr. Magwood, we wish you the very best in your next position. We will miss you, but I doubt that you will miss us.

I have a little bit different view than Chairman Shimkus of Yucca Mountain. I do want Yucca, if it is shown to be safe. I want it to be the final repository and the permanent repository, and I want the NRC to expedite its review and complete it, and I hope that the review is positive, positive in the sense that it says it is safe to store our high-level nuclear waste there for whatever time we need to. So I am pro-Yucca Mountain, but I am not Yucca Mountain or nothing.

The State of Texas is moving along at the legislative level and at the local level to come up and support an interim storage facility if and when the NRC decides to move that way. And, again, I want to emphasize that I would rather do Yucca, I would rather do it sooner, I would rather have it permanent, and let's get on with it.

So there is no daylight between Chairman Shimkus and myself on that, but if we are not going to do Yucca, or if Yucca is going to take a long, long time, or some other permanent repository other than Yucca is going to be reviewed, I am not an opponent of doing interim storage.

So my first question, and I will go to the Chairwoman, in your

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opinion is it either/or, we either do permanent at Yucca or do nothing; or could we have a parallel path that involved interim storage while we are reviewing Yucca?

Ms. Macfarlane. Thanks for the question, Congressman. We at the NRC don't set policy for the Nation on its plans for nuclear waste disposal. So right now we have the Nuclear Waste Policy Act that is the law of the land, and that is controlling what happens. Personally, as a former Blue Ribbon Commission member, we endorsed following parallel tracks.

Mr. Barton. Okay. Any of the other Commissioners want to address that question? Mr. Magwood, you don't have anything to lose.

Mr. Magwood. You always have something to lose, Congressman.

My view is that whatever solution is found, whether an interim solution or a final solution, it will take time; and as has already been mentioned by the panel, our biggest responsibility is to make sure that the spent fuel is safely stored where it is now. So I think the NRC's attention is best placed today on assuring the spent fuel pools and dry cask storage are implemented as safely and effectively as possible, and I have put my focus on that. For the longer term, there is still a lot of decisions to be made nationally, so we will just have to see.

Mr. Barton. Okay. What is the best case -- if the review at Yucca is completed in a timely fashion, and if it is shown to be safe

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to store permanently our high-level waste there, when would we actually begin to move waste to Yucca, best case? And, again, anybody can answer that.

Ms. Macfarlane. You know, again, this is not in our purview. You would have to ask the applicant who --

Mr. Barton. I am not asking -- just a general ballpark. The next 5 years, next 10 years?

Ms. Macfarlane. No. I think you are looking at a long time frame.

Mr. Barton. Longer than that?

Ms. Macfarlane. Yeah, I would imagine.

Mr. Barton. Okay. My last question I will go to Commissioner Ostendorff. Are you former military?

Mr. Ostendorff. Yes, sir. I served in the submarine force.

Mr. Barton. I kind of figured that.

What do we do with the high-level waste at plants that we are decommissioning, and we have decommissioned several? Do they stay on site, the waste, or does it move to another active site owned by the same utility?

Mr. Ostendorff. The Naval Reactors Program has cognizance over the spent fuel from decommissioned aircraft carriers, nuclear cruisers and submarines. That fuel has been removed to the Idaho facility.

Mr. Barton. No. I am talking about a commercial reactor that

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has been decommissioned in the private sector. Some of our plants are being deactivated. I am sorry I didn't --

Mr. Ostendorff. I am sorry. That fuel currently is still on site.

Mr. Barton. Even though the plant doesn't work anymore, you keep it on site in the pool or in the cask storage, I guess?

Mr. Ostendorff. That is correct.

Mr. Barton. And how long can we do that?

Mr. Ostendorff. That is the subject, quite frankly, of our ongoing waste conference decision that we are addressing right now as an agency, because that is a pending adjudication from the D.C. Circuit Court of Appeals. I can't really make a statement that directly answers your question, but I would say that my personal view is that we believe that spent nuclear fuel is safely and securely being stored on site today.

Mr. Barton. Thank you.

Thank you, Mr. Chairman.

Mr. Shimkus. Gentleman's time has expired.

The chair now recognizes the gentlelady from California Mrs. Capps for 5 minutes.

Mrs. Capps. Thank you, Mr. Chairman, for holding this hearing, and I want to thank all of our Commissioners for your presence here today and your testimony.

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Chairwoman Macfarlane, last December I asked you about the differing professional opinion -- I think the parlance is DPO for shorthand -- of Dr. Michael Peck regarding the seismic safety of Diablo Canyon Nuclear Power Plant, which, of course, is in my district. And as you know, Dr. Peck is the former senior resident inspector at Diablo Canyon, so I believe his views on this issue are significant. And as I understand it, the NRC has a process it follows to review and respond to a DPO when it is filed.

I wondered if you would please explain briefly this review procedure, and give us an update on where Dr. Peck's DPO stands in the review process today.

Ms. Macfarlane. Certainly. Thank you, Congresswoman, for that.

We have a process by which if a staff member disagrees with a decision going forward, they can either submit a nonconcurrency or differing professional opinion, and they will be evaluated by the other staff and management. And if they still disagree, they can appeal a further time, and then the decision works its way up the management. I can tell you in the case of Michael Peck and his differing professional opinion, it is still with the differing professional opinion panel for a decision.

Mrs. Capps. Okay. So do you know when this review will be completed and published?

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Ms. Macfarlane. I don't at this moment, but I can take that for the record and get back to you.

Mrs. Capps. Thank you. I would appreciate that very much, and I hope this review can be completed soon, as you understand.

[The information follows:]

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Mrs. Capps. I believe Dr. Peck in his report raised several important questions, and I know my constituents who live right adjacent to Diablo Canyon nuclear facility are eager to see the NRC's full response.

Another question for you, Chairwoman Macfarlane. In your testimony, you discuss the rationale behind the sharp increase in the fiscal year 2014 fee schedule. As you know, this sudden increase is concerning to many utilities, including PG&E, which operates Diablo Canyon. According to your testimony, one of the main reasons behind the sharp increase is sequestration and the resulting irregular appropriations process. Am I correct?

Ms. Macfarlane. You are correct.

Mrs. Capps. Obviously NRC did not create the sequestration, but I see this as a prime example -- and I just want to point that out to our committee members -- a prime example of the lasting and significant impacts of this policy, which I believe to be misguided, because who would have predicted? I mean, the public wouldn't have guessed that it would have such long-lasting effects on your agency and your abilities to continue your work.

While a fee increase is understandable, it is obviously difficult for utilities, or really for any business, to plan their budgets when significant increases are now coming so late in the year, and I know you appreciate that, but you probably feel like you had no choice. This

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late and significant fee increase is going to force utilities to rework their budgets and take funding from other priorities, tough choices to make.

So looking forward now, Chairwoman, to fiscal year 2015, would a return to regular order in our appropriations process without the threat of sequestration, would this help to alleviate your current planning constraints?

Ms. Macfarlane. Yes, that definitely would.

Mrs. Capps. Well, you know, I appreciate that for the record, because while we have temporarily removed the threat of sequestration with the Murray-Ryan budget, we clearly continue to feel the widespread and serious impacts of sequestration. I hope we can keep this in mind as we work through our appropriations process this summer.

Now, I have 50 seconds or less. I will just try this, if I can do it. As you know, the budget for 2015 eliminates funding for your successful Integrated University Program, IUP. As I understand it, this cut is part of the administration's broader efforts to reorganize STEM programs across Federal agencies. I want to know your take on this. Is this accurate, the rationale, and can you explain why the funding for IUP was eliminated?

Ms. Macfarlane. It was eliminated as a result of a request from OMB, and so it is not included right now.

Mrs. Capps. Well, this program has been successful and very



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popular, and I am concerned about the impacts it will have on the program. I believe NRC's expertise has been key to the successful -- if mean, if they are not experts, how can they really help to guide what the programs are doing, and I hope it continues to be funded somehow through the NRC. And I thank you for your time.

Mr. Shimkus. Gentlelady's time is expired.

The chair now recognizes the gentleman from Nebraska. You are going to yield your time to Mr. Pitts. So the chair now recognizes the gentleman Mr. Pitts for 5 minutes.

Mr. Pitts. Thanks to the chair.

The Department of Energy is currently analyzing the impact of a scenario of one-third of our 100 reactors closing. Chairman Macfarlane, have you begun to examine the impact of a similar scenario on the NRC's resources?

Ms. Macfarlane. We have not been looking that far out to the future. I think that is a 25-year look out to the future, and we have not gone that far out.

Mr. Pitts. In 2013, the NRC charged each operating reactor \$4.39 million in fees. In 2013, four reactors closed, which would suggest a shortfall in NRC's fee collection of over \$18 million. Yet the NRC is increasing fees on the remaining reactors by almost \$1 million each, totaling \$100 million, even though the NRC's industry trends assessment once again showed no adverse safety trends and several positive trends.

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I would like to ask the clerk to put on the screens the graph "Increase in Operating Reactor Fees Billed under 10 CFR Part 171."

Now, you can see that even if you set aside 2013 because of the sequester, that still leaves a 12 percent increase in fees from the prior year in spite of four reactor closures. One industry executive was recently quoted as saying reactor closures are not a matter of whether or when, but how many.

For your fiscal year 2016 request, it is under preparations now, Chairwoman Macfarlane, what changes do you think should be made to the basis for next year's budget request to reflect this dynamic?

Ms. Macfarlane. Of course, in our fiscal year 2016 budget, which we are developing now so I can't say much in detail about, we will be cognizant of these changes, and we will be cognizant to the best of our ability of any other changes that may occur in the industry over the next few years.

Mr. Pitts. I would like each of the Commissioners to give me your reaction to that question.

Ms. Svinicki. I agree that we will take these external factors into account, but, again, under provisions of current law, we are required to collect 90 percent of our annual budget. So unless that provision of law is modified, we will end up doing a similar formula to what we do now.

Mr. Apostolakis. I agree with my colleagues.

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Mr. Magwood. I agree with what the previous Commissioners have said. I would also add, though, that I particularly would be interested in looking at potential legislative approaches to make the fee a bit more moderate. I think the fee has been in place for quite some time, and it might be worthwhile taking a good look at the structure.

Mr. Ostendorff. Congressman Pitts, I would agree with my colleagues and also add that consistent with Chairman Macfarlane's testimony submitted to this committee, that I believe we need to take a hard look at our 2019 sizing 5 years out and see where that has the agency headed given the changes in the nuclear industry.

Mr. Pitts. Thank you.

In 2004, the NRC expected the number of productive hours from the employees to be 1,776 per year. For fiscal year 2014, that number is 1,355, a decrease of 24 percent.

Chairman Macfarlane, can you explain this decrease?

Ms. Macfarlane. I would have to look at those numbers to accurately address that, but what I can tell you is that the situation that we face now has changed. We have fewer new reactor licensing actions, but we have additional work in waste confidence, in Yucca Mountain, in decommissioning, in other areas that we had not expected.

Mr. Pitts. And finally as I understand it, post-Fukushima items have been a categorized into three tiers, with Tier 1 items carrying

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the greatest safety benefits. Can you tell me the level of resources, both funding and staffing levels budgeted, for each tier for fiscal year 2015?

Ms. Macfarlane. I will take that one for the record and get those numbers to you.

[The information follows:]

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Mr. Pitts. Thank you, Mr. Chairman. I yield back.

Mr. Kinzinger. [Presiding.] The gentleman yields back.

The chair recognizes the gentleman from New York Mr. Tonko for 5 minutes.

Mr. Tonko. Thank you, Mr. Chairman.

I note that on page 4 of your testimony, Chair Macfarlane, that you list within the plan licensing activities for fiscal year 2015 15 ongoing reviews of compliance with the National Fire Protection Association standard for the 25 reactors that will transition to a risk- and performance-based set of standards.

Last year the Union of Concerned Scientists released a report critical of the NRC's enforcement of fire protection standards. The two sets of fire regulations were established quite some time ago, I believe in 1980 and 2004. The UCS report claimed that almost one-half of our Nation's operating reactors are not in compliance with these regulations. Your budget request suggests there are at least 25 reactors that are still in the process of adopting these standards. It is more than 30 years since the first set of standards was established and now 10 years since the 2004 revision.

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[11:04 a.m.]

Mr. Tonko. So the question is what is taking so long for these plans to come into compliance with fire safety standards?

Ms. Macfarlane. Let me first say that all plants are in compliance with fire safety standards. We have offered the -- all plants an opportunity to meet their fire safety requirements a different way, and that was the 2004 option, where we offered them to meet the National Fire Protection Association 805 regulations, which allowed the plants to do a performance assessment evaluation to meet fire safety regulations. So some plants have chosen to do that. That is a fairly long-term project that takes a few years to do that. So some plants are working that way. Other plants are remaining with the old Appendix R method.

Mr. Tonko. Thank you.

The Fukushima disaster illustrates for us just how spent fuel pools can quickly become unstable when a nuclear power plant loses the power needed to cool them.

In the U.S., many spent fuel pools are overcrowded. Currently the United States spent fuel pools overall contain five times more radioactive fuel than is in all the reactor cores, and some individual

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reactor pools contain more than eight times as much fuel in the reactor core. These spent fuel pools are not focused within containment structures or reinforced concrete like the reactor cores. So the question here, Chair, is is the water in spent fuel pools in need continuously to be cooled?

Ms. Macfarlane. Is the water -- yeah, the water does need to be actively cooled.

Mr. Tonko. Okay. And if the ability to cool the pools is lost, the spent fuel can overheat and catch fire, potentially releasing radiation into the environment. Is that a correct statement?

Ms. Macfarlane. If there is a loss of coolant, loss of water in the pools, in some situations that is possible.

Mr. Tonko. And are densely packed pools more at risk of overheating in the event of a cooling system failure?

Ms. Macfarlane. I think it may in part depend on the arrangement of the fuel in the pool.

Mr. Tonko. One option to enhance safety is to remove some of the spent fuel in these pools and place them in dry casks, which are steel cylinders encased in concrete and stored outdoors on concrete pads.

Does reducing the amount of fuel in cooling pools reduce the potential consequences of an accident if the fuel does overheat?

Ms. Macfarlane. So this is an area that we are actively considering right now. We have some staff reports on this topic, and

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the Commission is actively voting on this issue. So I don't want to say more until the votes are complete.

Mr. Tonko. Okay. In 2005, the National Academy of Science has concluded that moving spent fuel from pools to dry casks reduces the likelihood of an accident since wider spacing between spent fuel handles -- or bundles in a pool improves cooling. The casks themselves do not rely on electricity to cool the spent fuel?

That is why I was confused when I saw the NRC staff concluded in November that expediting the transfer of spent fuel pools to dry casks does not provide a substantial safety enhancement.

NRC staff stated that, and I quote, spent fuel pools continue to provide adequate protection of public health and safety.

So Chairman Macfarlane, if reducing the amount of spent fuel in pools lessens the likelihood of an accident and reduces the consequences of an accident, doesn't it make sense for nuclear facilities to think about moving to dry cask storage sooner rather than later?

Ms. Macfarlane. Again, this is an area that we are actively voting on, so out of respect to my colleagues, I will not make any comments.

Mr. Tonko. Okay. Well, I just do hope that you and your colleagues will take a close look at this whole phenomenon.

Thank you very much. I yield back.



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Mr. Kinzinger. Gentleman yields back.

Chair recognizes the gentleman from Nebraska Mr. Terry for 5 minutes.

Mr. Terry. Thank you, Mr. Chairman, Acting Chairman.

Now, Chairman, appreciate -- I am still caught up in some of the same issues that you and I have had some discussions about already, and I am still concerned about the emergency declaration and who has the power. And, of course, the Commissioner has that power to declare it, but I am still confused on where in the internal rules and regulations define what is an emergency so you -- so a Commissioner knows what the criteria is to declare an emergency.

Ms. Macfarlane. I appreciate your interest in this topic very much, and I -- the appropriations last year required us to put the emergency delegation back in our -- in our internal Commission procedures. We have done so. And I think it is very clear to all of us on the Commission, but I suggest you ask my colleagues if this clear to them.

Mr. Terry. Okay. Tell me, though, before I ask them if it is clear to them, what is the standard, then, for declaring an emergency pursuant to the internal Commission procedures? I am actually more concerned about the one who has to declare it --

Ms. Macfarlane. Right.

Mr. Terry. -- which is you.

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Ms. Macfarlane. The Chairman or the Acting Chairman. So if I travel overseas, for instance, I will declare or request that one of my colleagues stand in for me, and were there to be an emergency, it would be up to them. And we all train and practice scenarios so that we are prepared --

Mr. Terry. What is the criteria?

Ms. Macfarlane. -- to do this.

What is the criteria?

Mr. Terry. For an emergency.

Ms. Macfarlane. For an emergency? I will take that for the record and get you the exact wording.

[The information follows:]

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Mr. Terry. I would appreciate that, because that is one of the basic reasons for the bill that our committee has drafted is there was really no definition of what an emergency is, and that allowed there to be abuse by your predecessor.

Ms. Macfarlane. Yeah. I think there has to be a little leeway with this, because if you try to specify too much, they -- you say only in something that affects a plant within the United States. If there is an emergency in Canada, it might affect us, and we may have to activate.

Mr. Terry. Sure. But also then the alternative of saying that White House says we don't want Yucca Mountain, and then the Chairman declares an emergency that truly isn't an emergency. So we also have to prevent against those type of abuses as well.

Ms. Macfarlane. Certainly. I understand you wanting to do that.

Mr. Terry. Now, let us talk a little about the internal Commission procedures. And there is a process in place when an emergency is called, and the executive team is activated, and you are the head then, you become the head of or the Commission -- the chairperson becomes the head of the executive team, right?

Ms. Macfarlane. That is correct.

Mr. Terry. And then the internal procedures then also list then what the executive team -- as whoever is leading it, the Acting Chair

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or the Chair. Those are spelled out in those internal procedures, correct?

Ms. Macfarlane. Yes.

Mr. Terry. Those series of things that have to be done by the executive team, those were in the internal procedures when Mr. Jaczko was Chairman, correct?

Ms. Macfarlane. I don't know. The procedures did change in 2011, and I am not aware of what they looked like before and after.

Mr. Terry. All right. So we will ask the few people that were there then.

Ms. Svinicki and Mr. Magwood.

Ms. Svinicki. The Commission's internal procedures are not where one turns for the detailed procedural outline of how to conduct an emergency response. There are other agency documents that would guide that management directives and emergency procedures. So I would need to look to those as the authoritative source, not the Commission's internal procedures.

Mr. Terry. Well, I do have the executive team response procedure. Is that one of them that you are discussing?

Ms. Svinicki. Yes, it would be.

Mr. Terry. Mr. Magwood?

Mr. Magwood. Yes, I agree that with that. That is where the procedures would be. And those procedures were in place 3 years ago.

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Mr. Terry. They were in place.

Mr. Magwood. Yes.

Mr. Terry. I appreciate that.

And that kind of begs the question of why I push statutory correction, because they weren't followed 3 years ago just by whim, but yet they existed.

Also in regard to the executive team response procedure, it says, within those procedures, when the executive team is enacted, that the Chair, the Director has to inform the Commissioners. Is that correct, Ms. Svinicki and Magwood?

Ms. Svinicki. Yes. There are those notification requirements.

Mr. Magwood. Yes.

Mr. Terry. And, Chairman Macfarlane, that is one of the issues that was questioned in the bill, because it does say within 24 hours, you have to inform the Commissioners, but yet it is already written in the procedures, although they could be whimsically pushed aside, as we have learned in the past.

One last thing is in regard -- I am just going ahead, Acting Chairman.

Mr. Kinzinger. Without objection.

Mr. Terry. And also, and Mr. Tonko was kind enough to mock me on this, and you kind of participated in that, as my memory serves me, is also notifying press. But also within the ET response procedure,

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it actually says that you have to have a designee to issue a press release. That wasn't by magic; that wasn't put in the bill because we thought it was some whimsical issue that we thought would anger you. That is already part of the procedure. So I kind of just wanted to point that out to you.

Yield back.

Mr. Kinzinger. The gentleman yields back his remaining time. Always running over the young guy.

Chair recognizes the ranking member of the committee chairman -- or the gentleman from California Mr. Waxman for 5 minutes.

Mr. Waxman. Thank you very much, Mr. Chairman.

Earlier in my opening comments, I discussed the tragic impacts of widespread uranium contamination in the Navajo Nation, and it has been devastating for the Navajo people and their lands. By the late 1980s, 500 radioactive mines were abandoned in the Navajo Nation. The Northeast Church Rock Mine near Gallup, New Mexico, was the second largest of these uranium mines, and it is the highest priority for cleanup because of the high radiation levels and the large number of families living nearby.

An agreement to clean up the site was reached with GE, which acquired United Nuclear Corporation, the mining company that once operated that mine. Under the agreement the mine waste will be placed in a new disposal cell to be built on top of the existing Church Rock

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uranium mill tailings disposal cell nearby. The design of the new disposal cell and placement of the mine waste will require NRC approval of a license amendment request by United Nuclear Corporation.

Chairman Macfarlane, the preparation of the license amendment application and NRC's review of that application are key steps in finally getting the Northeast Church Rock Mine cleaned up. How can NRC help ensure that it receives a complete high-quality application that is ready for NRC review?

Ms. Macfarlane. Well, we are meeting with the licensee. We are trying to be proactive and meet with them and make sure they understand our requirements and understand our needs, that we need a high-quality application. So we have been proactively working with them.

Mr. Waxman. As I understand, the NRC recently requested soil samples of the mine and mill sites to better understand the volume and characteristics of the material that will be moved and how well the existing cell at the mill site is functioning; is that right?

Ms. Macfarlane. I think that is correct. This is a new, novel way of dealing with this, so we have to make sure we really understand the situation.

Mr. Waxman. When do you expect United Nuclear Corporation to submit a license amendment application?

Ms. Macfarlane. According to the Environmental Protection Agency, they suggested 2016.

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Mr. Waxman. As I understand it, this will be a unique application. It is the first time NRC will be reviewing a proposal to place one waste cell above another waste cell. Once the application is submitted, how long do you anticipate it will take for NRC to complete a safety evaluation report and environmental review?

Ms. Macfarlane. It will probably take about 2 years to do the safety and environmental reviews.

Mr. Waxman. The safety and environmental reviews are obviously very important. NRC should be thorough and get it right; but, of course, the process should proceed expeditiously so the Navajo families can finally move back and live in their homes, or live in their homes even if they are not moving back, and work and play outdoors without sacrificing their health.

Chairman Macfarlane, will you commit to making this project a priority for the Commission and to ensuring that the necessary resources are available to complete the review as expeditiously as possible?

Ms. Macfarlane. Yes. We are committed to doing a high-quality review in a timely manner.

Mr. Waxman. And let me ask your fellow Commissioners, do you agree that this project should be a priority for the Commission?

Ms. Svinicki. I agree. Sir, if I may add that the NRC staff also informs the Commission that there are hearing rights attached to this



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process, and that if there is a hearing, although the staff can complete its safety and environmental reviews in 2 years, if the hearing process takes longer than that, sometimes applicants are hesitant to move forward until a hearing itself is concluded, and that may -- that may prolong the process. But on the shorter question of the priority, I agree.

Mr. Apostolakis. I agree it should be a priority.

Mr. Waxman. Mr. Magwood?

Mr. Magwood. I agree. And I would also add, Congressman, that you may be aware there is a documentary known as "Navajo Boy" that talks about the tragedy associated with these mine wastes, and that documentary was screened at NRC with NRC staff. So we are very familiar with the issue.

Mr. Waxman. Good. I am pleased to hear that.

Mr. Ostendorff. Congressman, I agree with the comments of my colleagues.

Mr. Waxman. I appreciate your commitment. It will be several years before this site is finally cleaned up, but we should do everything we can to make that day a reality. American citizens live near this radioactive waste every day, and they deserve nothing less than our best efforts.

Thank you so much. Yield back the time.

Mr. Kinzinger. Gentleman yields back.

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Chair now recognizes the gentleman from Ohio for 5 minutes  
Mr. Latta.

Mr. Latta. Thank you, Mr. Chairman. And thank you very much for the Commission members to be with us today.

Commissioner Ostendorff, if I can start with you. Under the law, NRC is required to recover 90 percent of its budget from fees paid by licensees, and they bill operating reactors in two ways. The first is under 10 CFR Part 170, and it is for the licensee-specific work, such as a new plant review or license extension. The second, under 10 CFR Part 171, is an annual fee billed to all operating reactors.

This means that the NRC's workload and, hence, fee collection under Part 170 falls short, then the NRC has to make it up by raising the Part 170 fees paid by all reactors; is this correct?

Mr. Ostendorff. I am not looking -- Congressman, I appreciate the question. I am not looking at the parts in front of me, but that sounds to me to be correct.

Mr. Latta. Okay. Thank you.

And for this year, Part 171 fees billed to each reactor have increased almost \$1 million per reactor. Given we have 100 operating reactors, that is nearly \$100 million. Chairman Macfarlane, would you explain to the committee why there is such an increase?

Ms. Macfarlane. Sure. I would be happy to. And I am going to use a graphic because I think that will help explain it.

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So this is a little pie chart, and it shows you in blue, because that is probably all you can make out in this circle, 65 percent of the fee increase comes because -- as a result of sequestration. In fiscal year 2013, we were sequestered, and the budget -- the fee was reduced because of that, because the budget was reduced. And so the annual fee in fiscal year 2013 was significantly lower because of that.

Sequestration did carry over into some of fiscal year 2014. We did not get our appropriation until halfway through fiscal year 2014. So that is in part why the licensees are being hit with such a big number in their last quarter. If we had gotten the full budget, full 2014 budget, at the beginning of the fiscal year, things would have been a little bit better. That was 65 percent of the fee increase.

Twenty percent of the fee increase comes from a correction that we had to do. We overbilled in prior years for services. In fiscal year 2013, the fee was reduced because of that, in part. And so, again, it was anomalously low, the fee was anomalously low in fiscal year 2013.

Mr. Latta. Pardon me, if I could, let me reclaim my time. I want to read something to you. This is from the NRC's proposed rule on fee recovery, explains the reason for the large increase this way: The annual fees for power reactors increased primarily as a result of the decreased 10 CFR Part 170 billings that decline in current-year licensing reactions, delays in major design certification applications and combined operating licensing, and shutdown of two operating

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reactors.

So I guess in looking at this, then, so NRC's own document doesn't say anything about the sequester. It says NRC's declining workload and productivity are primarily to blame for the increased Part 171 fees, reinforcing points that several of our Members made in our December 12th hearing that we had last year regarding NRC's declining workload and licensing actions and the new reactor licensing.

The NRC document also makes clear that the two reactors shutting down and remaining reactors all have to pay more to make up that difference. So with these rosy assumptions out there about the level Part 170 work, that work doesn't materialize, and then the operating reactors paying the price -- pay the price via increased 171 fees.

And so for 2 years in a row, the NRC has accounted for the shutdown of the reactors and the resulting loss of those fees by simply billing the remaining reactors more to make up that difference.

And so, Chairman, do you believe it is acceptable for NRC to increase the fees billed to reactor operators by \$100 million in a single year?

Ms. Macfarlane. Congressman, thank you.

We are required to collect fees in the year appropriated, 90 percent of the fees in the year appropriated. So that is a requirement by law. We have very little flexibility with this situation. We regret the situation as well.

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Mr. Latta. If I could reclaim my time, because I am running out here.

Do you anticipate the Part 171 fees increasing again next year?

Ms. Macfarlane. The Part 171 fees. I don't at the moment, but we will see what happens with the larger environment in which we work.

Mr. Latta. Thank you very much, Mr. Chairman. My time has expired.

Mr. Kinzinger. Gentleman yields back.

Chair recognizes the gentleman from New York Mr. Engel for 5 minutes.

Mr. Engel. Thank you, Mr. Chairman. I would like to welcome Chairman Macfarlane and the Commissioners back to the committee, and thank you for your testimony.

Let me start with you, Chair Macfarlane. We have discussed Indian Point in the past. It is just about 10 miles or so from my district. I have been long in favor of closing it because of a number of difficulties that we have had with it. So I want to again revisit one of what I consider the most serious safety issues facing the New York metropolitan region and to urge continued vigilance from the NRC.

I note that the safety budget request for operating reactors is 577.3 million, which is an overall funding decrease of 12.8 million compared to the fiscal year 2014 enacted budget. I know that the number

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of operating reactors has decreased by four; another has announced its closer later on in the year. But I remain concerned at a time when there is pressure on the Federal budget at times at the expense of vital programs, I want to make sure the NRC maintains adequate funding to ensure the public safety of all of our nuclear facilities.

So let me ask you, under your current budget constraints, do you believe that the NRC maintains the operational ability to meet all of the safety requirements it is responsible for, even with the proposed decrease?

Ms. Macfarlane. Yes, absolutely, I do. And let me assure you that we take our mission to assure public health and safety very, very seriously. We would not -- we make sure that we budget appropriately to maintain that mission.

Mr. Engel. Would any of the Commissioners disagree with that?  
Okay. Thank you.

The last time the Commissioners were before our subcommittee, before our subcommittee, we discussed a bill, which was H.R. 3132, which would have dramatically altered the NRC's ability to respond to nuclear disaster. As the NRC continues to review the disaster at Fukushima and budget for that analysis, do you, Madam Chair, believe that the NRC has adequate resources to fully complete the review and implement necessary changes?

Ms. Macfarlane. We have adequate resources. We are a bit

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squashed in our skill sets. So, in particular, to do the Fukushima reviews, we need a number of seismologists, hydrologists, -ologists, and those are in somewhat short supply. They are required for Fukushima, they are required for waste confidence, they are required for Yucca Mountain, and they are required for new reactor reviews. So those folks are in somewhat short supply.

At the same time, because the Fukushima work is time limited, we don't want to go out and hire a bunch of people who won't have work to do 7 years down the road. So we are trying to manage our resources very carefully.

Mr. Engel. Thank you.

Anybody else care to comment on that?

Okay. I guess, Madam Chair, everyone agrees with you, so that is good news.

I want to go back to some of the things Mr. Tonko mentioned about dry cask storage of spent fuel rods. I know that you say you are discussing it, so some of the things you prefer not to comment on.

But risks from spent fuel in storage pools obviously can be reduced by moving some of it to dry casks. And again, the budget fiscal year 2015, the requests for spent fuel storage and transportation has overall decreased, again, by 2.3 million compared to the fiscal year 2014 budget.

So could you tell me, under the fiscal year 2015 budget request,

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how are you prioritizing the dry cask storage of spent fuel rods as well as any other hurdles that remain for the implementation of this safer storage system?

Ms. Macfarlane. I believe we have adequate resources to evaluate any new dry cask storage proposals that we receive.

Mr. Engel. Thank you.

Anybody else?

See, everyone agree with you. What a great Chair.

Thank you, Mr. Chairman. I yield back.

Mr. Kinzinger. Gentleman yields back.

Chair recognizes himself now for 5 minutes. And again, thank you all for being out here, thanks for your service to your country, and thank you for spending the time with us today.

So the 16th Congressional District that I represent in Illinois has four nuclear power plants. We also have the site in Morris, Illinois, where there was originally the idea of nuclear reprocessing and recycling, and, of course, a lot of spent fuel storage and everything there as well.

So this is a very, very important concern to me. And I would like to also make a plug for, you know, look, this is important that we open Yucca Mountain, follow the law, and move ahead on that.

But I have a couple of points -- of questions I want to make. According to the NRC's proposed rule on fee recovery, corporate



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support, a/k/a overhead, makes up nearly half of your Commission's total budget. That means that for almost every dollar being spent on substantive work, there is a dollar being spent supporting the people doing the work, at a total cost of \$486 million annually.

In fact, after looking at past fee recovery rules, it seems as though corporate support costs, with one exception, have increased every single year for the past decade.

In your written testimony, you state that the steps to reduce overhead have been taken, but the growing corporate support burden indicates that those actions so far have been ineffective. I believe this to be especially concerning given the reduced workload on the NRC with the decrease in the number of operating reactors and overall applications over the past few years.

Chairman Macfarlane, what are your plans to bring this under control? And are you planning any new actions that you haven't already taken over the past few years in the future?

Ms. Macfarlane. Thank you for your question, Congressman.

Corporate support, I believe, in 2015 would be 362 million out of the 1.06 billion, or 34 percent of the budget. And I will let you know that we have already been taking action to reduce that aspect of our budget. Since 2010, we have reduced significantly, 192 FTE and about \$30 million, by centralizing administrative functions, and we are going to continue to do that. But we are also going to take a larger

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look at where we are going to be and where the industry is going to be in 2019, 2020 and see how we can appropriately resize and restructure the agency to address that future.

Mr. Kinzinger. So is this a -- I mean, do you have future steps in mind that you have not implemented yet as a --

Ms. Macfarlane. Yes, we are in the process of developing that. Stay tuned.

Mr. Kinzinger. Do any of the other Commissioners have any comments on that at all?

Mr. Magwood. I would just make one comment that there is -- I think the agency has had to deal with the fact that, I think as the Chairman has mentioned, that the future wasn't -- hasn't turn out to be what we thought it was going to be several years ago. So we have structured ourselves and prepared ourselves for a much more vigorous level of licensing activity than has actually developed, but the infrastructure still is in place because we want to be ready. Now that that future has changed, we have to adjust again and turn the aircraft carrier around, and it takes some time. We are working on it, and it is something we take very seriously.

Mr. Kinzinger. Thank you. And there is a footnote that appears several times in the budget request. Says, the metric for number of license actions is challenged due to Fukushima-related work competing for the same critical area skill set branches and NRR, Office of Nuclear

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Reactor Regulation.

Chairman Macfarlane, how many NRC licensing actions and reviews have been delayed because of Fukushima-related work?

Ms. Macfarlane. I don't have an exact number. I can take that for the record and get you an exact number if you would like.

Mr. Kinzinger. Yeah. That would be great.

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Mr. Kinzinger. And, you know, I understand that because of what happened, it is important, but I definitely urge you all to return to a normal order of business for the sake of everyone, including my constituents who are being impacted by the continual diversion of resources to that task force.

And the last question for the Chairman: Wouldn't an effort to reduce corporate support costs free up resources to spend on regulatory reviews that the industry needs to operate economically?

Ms. Macfarlane. Yes. And as I said, we are -- we are looking at that issue, and we are in the process already reducing corporate support.

Mr. Kinzinger. Okay. Again, thank you all for your testimony.

I will yield back and recognize the gentleman from California Mr. McNerney for 5 minutes.

Mr. McNerney. Thank you, Mr. Chairman. And good morning. Thank you for coming to testify this morning.

I just have sort of a general question, Chairwoman. You know, we are all worried about climate change and so on. Do you see the future of nuclear power having the capacity to step in and help generate sufficient power and energy to reduce our consumption of fossil fuels in the next 10 years?

Ms. Macfarlane. As I said earlier this morning, we at the NRC are a safety regulator, so we are not in the business of prognosticating

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and developing energy policy for the Nation. Nonetheless, I will note that nuclear energy produces base load power that is largely carbon free.

Mr. McNerney. So do you see enough permits being issued in the next 10 years to double production?

Ms. Macfarlane. I can just give you some facts. The facts are that we have five reactors in the process of construction and coming online. And we have had five reactors either announce or actually shut down in the past 2 years.

Mr. McNerney. And it takes a good 10 years between the time a reactor is initially funded and designed and created and --

Ms. Macfarlane. It takes a number of years. I don't know if 10 is the exact number, but it takes a number of years, yes.

Mr. McNerney. Well, I am going to talk a little bit about the lessons of Fukushima. I think in 2011, the NRC created a task force to analyze the lessons of that disaster, and the task force found that the level of protection against natural phenomena differs from one plant to the next in the United States depending on when it was built and licensed.

Accordingly, the Commission ordered all U.S. nuclear reactors to reevaluate the vulnerability to earthquakes. The plant operators in the central eastern United States had to submit seismic hazard screening reports by the end of March. What is the status of these

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reports?

Ms. Macfarlane. We did receive them, and we have reviewed them. And in the next few days we will be issuing a letter to the licensees on our prioritization and schedule for those that have to do more analysis.

Mr. McNerney. Thank you.

If a nuclear reactor finds that it is unprepared for a seismic hazard, what action does it have to take in the short term to address this concern?

Ms. Macfarlane. It has to immediately be capable of dealing with a seismic hazard. We won't let plants operate that aren't capable of dealing with situations that they need to.

Mr. McNerney. So you will potentially shut down plants?

Ms. Macfarlane. If we need to, until they are ready, have done what we require to be prepared.

Mr. McNerney. Now, each of the plant operators will also undertake a longer-term seismic risk evaluation; is that right?

Ms. Macfarlane. Only if we decide that they need to, if their, in technical terms, ground-to-motion response spectrum exceeds their design basis.

Mr. McNerney. So how long do you think these really evaluations will take?

Ms. Macfarlane. If they have to do the detailed evaluation,

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those evaluations take a number of years. I believe for those plants that we will deem the highest priority, it will take probably 3 years.

Mr. McNerney. So we could conceivably see plants shut down for as long as it takes.

Ms. Macfarlane. The plants have been evaluating themselves, and we have evaluated them in terms of safety. So if there are plants that do have their -- these ground motion response spectrum exceeding the design basis, we will require interim actions.

Mr. McNerney. Okay. I am going to yield back.

Mr. Kinzinger. Good man. Gentleman yields back.

Chair now recognizes the gentleman from Texas Mr. Hall for 5 minutes.

Mr. Hall. Thank you, Mr. Chairman. And I thank the Commissioners for being here.

And looking at the NRC's proposal rule on fee recovery for fiscal year 2014, there have been a lot of numbers here on total cost, a million here and a million there, then and now. Let me ask you this: The number of licensing employees is now 2,254; is that correct?

Ms. Macfarlane. The number of employees at the Nuclear Regulatory Commission?

Mr. Hall. Licensing employees, yes.

Ms. Macfarlane. Licensing employees. I will have to check that number for you.



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Mr. Hall. Does it sound reasonable to you?

Ms. Macfarlane. It could be.

Mr. Hall. Anything could be. Does it sound reasonable to you?

We have these from the task force and from public numbers.

Ms. Macfarlane. I will check that number for you.

Mr. Hall. All right. That won't help me today, but I appreciate it.

[The information follows:]

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Mr. Hall. The number of licensing employees is now, what you don't know for sure, 2,254, according to our search. And it was 1,297 10 years ago. And the number of hours these licensing employees are expected to be productive is 1,355 hours each day. Do you know that figure?

Ms. Macfarlane. No, I don't.

Mr. Hall. Ten years ago, they were expected to be productive, according to your own records, for 1,776 hours.

The hourly rate that the NRC charge for licensing work is now 279 bucks an hour; is that right?

Ms. Macfarlane. It is in that area.

Mr. Hall. Do you not know that figure?

Ms. Macfarlane. Yes. You are correct.

Mr. Hall. Okay. Ten years ago it was only \$156. Did you know that?

Ms. Macfarlane. No, I did not.

Mr. Hall. If I have this straight, there are a lot more folks being paid a lot more money to work a lot fewer hours. I don't know how you can deduct anything other than that.

NRC is spending 486 million on corporate support this year. Chairman Macfarlane, given all the support these licensing employees are getting, shouldn't they be able to work as many productive hours as they used to work 10 years ago?

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Ms. Macfarlane. I believe we are spending 362 million on corporate support. But anyway.

Mr. Hall. Our figures show you spent 486 million on corporate support this year. Is that incorrect?

Ms. Macfarlane. I believe it is 362 million. In the congressional budget justification, page 151 of the congressional --

Mr. Hall. That may make it worse, then. We say that the NRC is spending 486 million on corporate support this year. Now, Chairman Macfarlane, given all the support these licensing employees are getting, look like they ought to be as productive as they were 10 years ago. Do you have any answer for that? Assuming that these figures are correct.

Ms. Macfarlane. Sorry, can you repeat the question?

Mr. Hall. Do you have any -- assuming that these figures are correct, and we said that the NRC is spending 486 million on corporate support, and if we have it straight, there are a lot more folks being paid a lot more money to work a lot few hours today; is that correct? Is there any reason for that?

Ms. Macfarlane. As I said in my previous statement, we are reducing corporate support by combining administrative and centralizing administrative functions across the offices at the agency. So those numbers will be going down. We are actively doing that.

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Mr. Hall. Well, you think that they will be able to work as many productive hours as they did 10 years ago?

Ms. Macfarlane. Absolutely.

Mr. Hall. Anybody else like to answer that, if she doesn't have an answer for it?

Ms. Macfarlane. Of course, our staff is very busy, and they are working as many productive hours as they have in the past. They are not working less.

Mr. Hall. Well, this -- your own record, you are talking for the record, and I am asking questions for the record, and these questions and your answers will be on the record. Will you please check those? It seems that that would free up enough resources, if our figures are correct, to review licensing actions in a timely fashion and eliminate the NRC's need for a budget increase.

Ms. Macfarlane. We have many responsibilities at the NRC besides licensing actions, and we are working very hard to be as timely as possible.

Mr. Hall. But I am only asking you about licensing. And the record is there, and I would ask you to review that record and give us some answer. Would you like for me to send you questions for further questions?

Ms. Macfarlane. Sure.

[The information follows:]

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Mr. Hall. I think my time is up, Mr. Chairman.

Mr. Kinzinger. Gentleman yields back.

Chair recognizes the gentleman from Ohio Mr. Johnson for 5 minutes.

Mr. Johnson. Thank you, Mr. Chairman. Thank the panel for being here with us today.

As my friend Mr. Shimkus noted, you failed to request any funding to proceed with the Yucca Mountain license review. And our questions for the record from the December 12th hearing, you were asked to provide, and I quote, detailed schedule and resource estimates to render a final decision on the issuance of a construction authorization for Yucca Mountain, but you failed to do that as well.

So, Commissioner Magwood, how is Congress supposed to know how much to appropriate if the NRC refuses to estimate the costs of carrying out its statutory mandate?

Mr. Magwood. Congressman, if I knew how much it would cost, I would tell you.

Mr. Johnson. On the 12th, you took that as a task, the Commission took that as a task, and we haven't seen anything.

Ms. Macfarlane. Yes. And I -- yes. We are in the process of developing that estimate, Congressman.

Mr. Johnson. When will we see it?

Ms. Macfarlane. As soon as we can. We are working very hard on

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that.

Mr. Johnson. Has OMB in any way instructed you either directly or indirectly to withhold such information?

Ms. Macfarlane. I do not believe so.

Mr. Johnson. No. Okay.

So the NRC failed to request funding for the spent fuel disposal enshrined in law, but I notice your budget includes language for modeling, and I quote, future alternate strategies for disposal of spent nuclear fuel, and for supporting, and I quote, changes in the national high-level waste and spent nuclear fuel management strategy.

This appears to be a reference to the DOE's Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste.

So, Chairman Macfarlane, are you aware that DOE strategy has not been authorized by Congress, and the D.C. Circuit Court stated the strategy is, I quote, based on assumptions directly contrary to the law?

Ms. Macfarlane. I was not aware.

Mr. Johnson. You are not aware. Okay. Well, you are now.

The NRC staff provided a briefing for the committee staff on the fiscal year 2015 budget. Our staff raised questions about the alternate disposal strategy language. And a response from NRC's Congressional staffers -- Congressional Affairs Office was, and I

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quote, the activities described in this bullet represent a nominal change in resources essential to maintain and enhance NRC capabilities to analyze risk and assess performances of geologic disposal of high-level waste and spent nuclear fuel in a variety of geologic settings. This effort is not related to any action before the Commission. Policy issues are the purview of the Commission, and this is a significant policy issue on which the Commission would have to direct the staff on how to proceed.

So, Ms. Svinicki -- did I pronounce your name right? I apologize. Do you support directing the staff to work on alternate disposal strategies? That is a yes or no. Do you support directing the staff?

Ms. Svinicki. I support their maintaining cognizance of the policy development for the Nation, yes.

Mr. Johnson. But do you support directing the staff to work on alternate disposal strategies?

Mr. Svinicki. If "working" is maintaining a level of cognizance of the scientific debate, then, yes.

Mr. Johnson. Mr. Magwood, do you support directing the staff to work on alternate disposal strategies?

Mr. Magwood. I would have said just no, but I actually agree with Commissioner Svinicki's comment. But beyond that, no.

Mr. Ostendorff. Congressman Johnson, I agree with Commissioner



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Svinicki, but I also must add for clarification, because I don't know that it has been clearly presented, is that we, the Commission, have or are working to provide this committee with an estimate for how long it would take and what budgetary resources to move forward with the Yucca Mountain --

Mr. Johnson. And I understand that. I understand that is what you are saying, but I also understand that what the law requires, you have got money in the budget for other things, but you don't have money in the budget for what the law requires.

So you failed to request funding for statutory mandate to review the Yucca Mountain license application to provide Congress with a cost estimate. Instead you are requesting funds to support a strategy that has not been authorized and is based on assumptions directly contrary to the law.

So, Chairman Macfarlane, will Yucca Mountain funds be used to support this effort?

Ms. Macfarlane. The Nuclear Waste Fund will be used for the --

Mr. Johnson. To do what is in violation or contrary to the law?

Ms. Macfarlane. It is licensed for. It is required for. I will not support anything else.

Mr. Johnson. Mr. Chairman, I have exceeded my time.

Mr. Kinzinger. Gentleman yields back.

We figured out the problem between the -- Mr. Hall's numbers and

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your number. Your number that you are talking about is the budgeted number. What we have here and we are happy to provide to you all if you need to see it is the actual expenditures in terms of corporate support. And we have seen that increase --

Ms. Macfarlane. For 2014.

Mr. Kinzinger. Right. For 2014 and 2013 and 2012. And it has been -- we are happy to provide that if you need to.

With that, if there are no other Members seeking recognition, I would like to thank all the witnesses and Members that have participated in today's hearing. Remind Members that they have 10 business days to submit questions for the record. And I ask that the witnesses all agree to respond promptly to the questions.

[The information follows:]

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Mr. Kinzinger. The subcommittee is adjourned.

[Whereupon, at 11:49 a.m., the subcommittee was adjourned.]