

UNITED STATES OF AMERICA  
CENTERS FOR DISEASE CONTROL

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NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY  
AND HEALTH

+ + + + +

ADVISORY BOARD ON RADIATION AND  
WORKER HEALTH

+ + + + +

60<sup>th</sup> MEETING

+ + + + +

WEDNESDAY, DECEMBER 17, 2008

The meeting came to order at 9:00 a.m.  
in the Oglethorpe Room of the Augusta Marriott  
Hotel and Suites, 2 Tenth Street, Augusta,  
Georgia, Dr. Paul L. Ziemer, Chair, presiding.

PRESENT:

PAUL L. ZIEMER, Chair  
JOSIE M. BEACH, Member  
BRADLEY P. CLAWSON, Member  
MICHAEL H. GIBSON, Member  
MARK A. GRIFFON, Member  
JAMES M. MELIUS, Member  
WANDA I. MUNN, Member  
ROBERT W. PRESLEY, Member  
JOHN W. POSTON, Member  
GENEVIEVE S. ROESSLER, Member  
(via telephone)  
PHILLIP M. SCHOFIELD, Member

TED KATZ, Acting Designated Federal Official

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BARRIE, TERRI, ROCKY FLATS  
BISHOP, MYRA  
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HARMON, YVONNE, SRP  
HARTNETT, LOUISE G.  
HINNEFELD, STU, NIOSH  
HOMOKI-TITUS, LIZ, HHS  
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C-O-N-T-E-N-T-S

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Adjourn

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P R O C E E D I N G S

(9:11 a.m.)

WELCOME

CHAIR ZIEMER: Well, good morning, everyone. We are ready to reconvene the meeting of the Advisory Board on Radiation and Worker Health, meeting here in Augusta, Georgia.

This is day two of the meeting. The agendas, again, are on the back table as well as a variety of documents in support of the activities of the meeting.

Also another reminder to register your attendance in the registration book in the foyer. Even if you did that yesterday, we'd like you to do that again today. We track the attendance every day.

And then finally, members of the public, if you wish to make public comment during our public comment session this evening, please sign up in the book that is

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1 there in the foyer.

2 I also want to confirm the presence  
3 of our remote Board member, Dr. Gen Roessler.

4 Dr. Roessler, are you on the line?

5 MEMBER ROESSLER: I am on the line.

6 CHAIR ZIEMER: Okay, well you don't  
7 seem so remote.

8 MEMBER ROESSLER: Well, you know the  
9 connection is much better this morning. It  
10 was almost impossible to hear last night  
11 during the public comments.

12 CHAIR ZIEMER: Oh, really. I'm  
13 sorry to hear that.

14 MEMBER ROESSLER: Well, I think  
15 Ted's reminders always help.

16 CHAIR ZIEMER: Very good.

17 And the record will also show that  
18 Phil Schofield has joined the Board this  
19 morning. That is, well, he's joined the Board  
20 much earlier in this career, but he is with us  
21 this morning. We're glad to have you here as  
22 well.

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1           The only person really missing from  
2           our deliberations today is Dr. Lockey who is  
3           not able to be with us. But we do have a  
4           quorum.

5           Mr. Katz, do you have any remarks  
6           as we get underway?

7           MR. KATZ: Just a reminder for the  
8           folks on the phone, just a general reminder,  
9           please remember to mute your phones, and use  
10          \*6 if you don't have a mute button, and please  
11          don't put us on hold but hang up and dial back  
12          in if you need to break from the call for a  
13          while. Thanks.

14          CHAIR ZIEMER: Thank you very much.

15          We are going to follow the agenda  
16          pretty much as it's given, but let me indicate  
17          to you a couple of changes.

18          Number one, you may recall that  
19          yesterday we deferred the report from the  
20          Department of Energy because Dr. Worthington  
21          was not able to arrive because of difficulties  
22          in her flight, but she is with us now, and we

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1 are going to schedule the DOE update at the  
2 11:15 slot, which, on your agenda, is the  
3 location of the science update.

4 We will move the science update to  
5 the slot in the meeting which is labeled  
6 review close-out process, Dr. John Mauro.  
7 Because that report you will recall was given  
8 yesterday because we had the open time slot  
9 yesterday.

10 So with that slight juggling in the  
11 agenda, we will proceed.

12 The first item then, this morning  
13 is an 83.14 SEC Petition for Vitro  
14 Manufacturing. The petition evaluation report  
15 will be presented by Stu Hinnefeld. Also, we  
16 may hear from the petitioner if the petitioner  
17 so wishes. It was not absolutely sure when we  
18 last contacted the petitioner that that person  
19 wished to speak or comment, but we will have  
20 opportunity for that as well.

21 So let us proceed then with the  
22 evaluation report on Vitro. I don't know

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1 actually if it is pronounced Vitro or Vitro.  
2 Maybe it's Vitro, Stu. What is the official  
3 NIOSH pronunciation of this company?

4 MR. HINNEFELD: Vitro.

5 CHAIR ZIEMER: You call it Vitro.  
6 Okay.

7 MR. HINNEFELD: I don't know that  
8 that is the correct pronunciation.

9 CHAIR ZIEMER: I thought perhaps the  
10 people who worked there were in vitro, but  
11 Vitro sounds a little better, I think. So we  
12 might have to get corrected on that. In any  
13 event let's proceed.

14 VITRO MANUFACTURING 83.14 SEC PETITION

15 MR. HINNEFELD: Thank you, Dr.  
16 Ziemer. I suggested to LaVon last night that  
17 he might want to come and give a presentation  
18 with my name on it, but he didn't take me up  
19 on that, so here I am again.

20 This is, as introduced -- this is  
21 our presentation for the Vitro Manufacturing  
22 site, AWE site in Canonsberg, Pennsylvania.

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1 It's just a little ways south of Pittsburgh.

2 Here is a little bit of the history  
3 of the petition. The date, November 10<sup>th</sup>, when  
4 we notified one of the petitioners, or one of  
5 the claimants from Vitro Manufacturing that we  
6 were not able to do a dose reconstruction for  
7 his or her case, and we sent them a letter to  
8 that effect, and sent them a blank Form A  
9 petition, SEC petition.

10 They then returned the petition  
11 promptly and we qualified on November 26<sup>th</sup>, our  
12 finding being that we are unable to complete  
13 dose reconstruction with sufficient accuracy  
14 for the employees there.

15 The Vitro site is an atomic weapons  
16 employer. Its operational period is from 1942  
17 to 1957. That is the period we have evaluated  
18 for this petition, as the active period, the  
19 covered period.

20 They conducted chemical processing  
21 to extract uranium from ores and scrap AEC  
22 materials, and they were, actually before

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1 World War II, they were already engaged in the  
2 extraction of uranium and radium for  
3 commercial purposes. And then when the war  
4 effort was looking for uranium, they went to  
5 places like Vitro that already knew how to do  
6 it, and had them specifically for the  
7 Manhattan Engineer District then extract  
8 uranium for the government's purposes.

9 Physical forms were uranium ores,  
10 concentrates, U-308 is typically the product  
11 of the purification process, and then the  
12 byproduct materials containing uranium  
13 progeny.

14 So in other words, of course when  
15 you purify the uranium out of the ore you got  
16 all the stuff that is not uranium from the ore  
17 that is left over, many of those are  
18 radioactive elements, the progeny of uranium.

19 The data capture efforts are  
20 actually summarized in the petition evaluation  
21 report. There is a table in the back that  
22 describes documentation that was obtained, and

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1 the records that -- where they were obtained  
2 from, you will see that. We have used our  
3 existing database which we have populated over  
4 the course of the project from the DOE  
5 Germantown offices and National Archives and  
6 records centers, and a number of data capture  
7 activities. We have -- we looked at existing  
8 project technical documents to see if they  
9 would help to help inform us about this. We  
10 looked at the legacy management, considered  
11 site's database, a couple of open net  
12 databases, NRC ADAMS database, and a variety  
13 of other systems including the Hanford  
14 declassified document retrieval system, and  
15 the Office of Science and Technical  
16 Information, OSTI.

17 And we evaluated the interviews  
18 that had been conducted with the claimants,  
19 the computer-assisted telephone interview that  
20 is conducted on all the claimants. Didn't see  
21 any information in that, in those interviews  
22 that would cause us to think that we could

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1 feasilby reconstruct all the doses at Vitro,  
2 and we also concluded from that that we were  
3 not likely to learn anymore from interviews,  
4 or learn enough from interviews that would  
5 allow these reconstructions to be feasible  
6 given the limitations that we've encountered.

7           The radiological operations at  
8 Vitro Manufacturing, like I said, they were  
9 actually a uranium purifier and radium  
10 purifier prior to World War II. In 1942, the  
11 Manhattan Engineer District contacted them to  
12 produce purified uranium from ores and  
13 concentrates, and so the start date is  
14 actually an August date in 1942, which  
15 coincides with the establishment of the  
16 Manhattan Engineer District. So that is the  
17 start of the covered period.

18           In 1947 they received, essentially,  
19 some additional work from the AEC to process  
20 scrap and uranium-bearing residues. Now scrap  
21 materials as I understand it were often just  
22 off-specification manufactured products. It's

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1 not like there was scrap metal that was  
2 contaminated; it was mainly uranium product  
3 that just didn't meet specification, so it  
4 went back for the uranium to be reclaimed out  
5 of, and Uranium-bearing residues, et cetera,  
6 and a number of other products. I think there  
7 was something about Canadian slimes, which I  
8 guess is some sort of byproduct of milling.  
9 And these products then, or these were all  
10 processed for uranium extraction for AEC at  
11 this point.

12 In 1955 most uranium processing  
13 ceased. There were still some small-scale  
14 activities. The waste residue removal began  
15 in 1956, and the last AEC contract terminated  
16 in 1957, so that is the end of the covered  
17 period.

18 Not all radioactive waste was  
19 removed, and there is in fact a residual  
20 radioactivity period for this site beginning  
21 at the end of the covered period. Our  
22 evaluation doesn't extend into that at this

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1 point, and as I recall -- I don't know for  
2 sure -- as I recall, we don't have any  
3 claimants who are strictly in the residual  
4 period. I believe all claimants had some  
5 employment at least in the covered period, and  
6 then some of them do extend into the residual  
7 period as well.

8 The available monitoring data, we  
9 actually do have some monitoring data from  
10 employees there. We have some uranium  
11 urinalysis results for the years '50 to '54.  
12 It is not clear this is comprehensive. It's  
13 not clear we have all the samples, and there  
14 are some legibility issues with some of them.

15 Some of those you can't necessarily read.  
16 But there are a number of legible ones as  
17 well.

18 And then there are a limited number  
19 of radon samples from 1944 and from 1950, not  
20 from the entire period, just from those two  
21 years. But even at the time, the people  
22 taking the samples didn't express a lot of

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1 confidence in those results. So we don't  
2 think that they are going to be of much value  
3 to us; that is a radium body burden bioassay  
4 technique that given at the time that they  
5 were taken, they weren't considered very  
6 reliable. We feel we would be hard-pressed to  
7 put much confidence in those.

8 On the external monitoring side we  
9 do have external monitoring periods from  
10 February of 1944 through March of 1954, and  
11 those appear to be complete. It appears we  
12 have essentially a comprehensive list of the  
13 external results of the people who were  
14 monitored for those years.

15 Workplace monitoring, we have some  
16 area air sampling, a very limited number of  
17 breathing zone air samples for certain years,  
18 '49 to '53, those are in total alpha activity.

19 And the -- but the breathing zone samples are  
20 too limited to really draw conclusions about  
21 the entirety of the exposure situation, and  
22 the general area air samples are oftentimes

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1 difficult to correlate to what was actually in  
2 the breathing zone of workers from general  
3 area air sampling.

4           And there are some surface  
5 contamination surveys as well, but it is  
6 hardly a comprehensive survey, that we feel  
7 like we have a comprehensive knowledge of the  
8 contamination situation at the plant.

9           In talking about feasibility of  
10 dose reconstructions, the available bioassay  
11 that we have, the internal monitoring results,  
12 are for uranium only, and since this did  
13 purify uranium, it extracted uranium from ores  
14 and residues and other materials, the degree  
15 of disequilibrium between the uranium and the  
16 uranium progeny is variable, depending on the  
17 site location and the particular process. So  
18 we don't have a constant relationship between  
19 the progeny and the uranium, so we can't use  
20 the uranium bioassay results to deduce what  
21 the non-uranium intakes would be.

22           While I'm on the subject, and I

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1 don't think this comes up in a slide, I did  
2 want to mention also, we don't have, really,  
3 information that the material was well  
4 controlled or confined to some portion of the  
5 facility, and our indications are that anybody  
6 that worked at the facility could very well  
7 have been exposed to the material. It wasn't  
8 limited to certain job titles, for instance.

9           The limited breathing zone air  
10 samples we feel are not sufficient to give us  
11 an adequate view of what the exposure  
12 situation was over the whole period of time,  
13 and the general area air samples, we do have  
14 more of those, but it is very difficult to  
15 deduce breathing zone concentrations from a  
16 general area air sampling program.

17           The breath radon samples, as I  
18 said, were not considered reliable at the  
19 time, and so we don't feel like it would be  
20 appropriate for us to use them in any manner,  
21 and I don't know if we would have -- I'm not  
22 sure we have the technique to even interpret

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1 those, and so we don't know very much about  
2 them.

3 So in terms of our determination  
4 for internal dose reconstruction, we have  
5 determined that internal dose reconstruction  
6 is not feasible for uranium progeny.

7 For uranium exposure, we intend to  
8 use the bioassay if necessary, when it is  
9 necessary to do dose reconstructions, for  
10 members, for people who aren't compensated via  
11 the class, we intend to use their uranium  
12 bioassay core claimant. If a claimant has a  
13 uranium bioassay, we intend to use that to  
14 interpret their uranium internal exposure.  
15 But we don't have what we feel is a sufficient  
16 data set to allow us to build something like a  
17 coworker model to reconstruct internal doses  
18 for unmonitored people. If we have any  
19 claimants who don't have bioassay data, we  
20 don't think we can do an internal uranium  
21 assessment for them.

22 For external, like I said we have

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1 external monitoring data for the years 1944 to  
2 1954, so for those years, certainly we can --  
3 we will use those if we need to do dose  
4 reconstructions, we will use those data for  
5 claimants who have it.

6 We have not really determined  
7 whether we feel it is a sufficient dataset to  
8 do coworker models. We might very well. We  
9 might be able to do a coworker study, satisfy  
10 ourselves that we feel like we have gotten a  
11 decent representation of the monitored people.

12 It appears -- we don't know for sure we have  
13 all of them, but it appears to be a complete  
14 set that we have.

15 And it may very well allow us to do  
16 some sort of coworker approach, certainly for  
17 those monitored years. And I don't know about  
18 extending it. We haven't really decided if we  
19 would extend it. These decisions will have to  
20 be made before we complete the partial dose  
21 reconstructions for people who aren't  
22 compensated through the class.

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1           There's where I am -- we have not  
2           made a determination as to whether we can  
3           reconstruct the external dose for people  
4           without exposure records. We do believe we  
5           can reconstruct occupational medical dose  
6           using some existing complex-wide documents  
7           that we use for medical dose reconstruction.

8           In terms of feasibility, I kind of  
9           decided I'd throw a curve ball in here on the  
10          internal uranium and say it's infeasible and  
11          not feasible both - or it's feasible and not  
12          feasible both. It's feasible for uranium  
13          bioassay that we have. We intend to use the  
14          uranium bioassay we have if it pertains to a  
15          claimant and that person's internal dose, if  
16          we need to do a dose reconstruction. But for  
17          people who don't have their own uranium  
18          bioassay samples, we don't believe we can do  
19          internal uranium doses.

20          We don't find that it's feasible to  
21          reconstruct the internal dose from the uranium  
22          progeny for anyone, and from an external

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1       standpoint we believe we can reconstruct the  
2       medical X-rays and for beta gamma we believe  
3       we can reconstruct it for monitored workers  
4       for sure, or for the ones who have it, we will  
5       include that. For the unmonitored workers, we  
6       have not yet determined yet whether we would  
7       try to include them.

8                   And our health endangerment  
9       determination, we have no evidence of a  
10      discrete incident that could result in  
11      extremely high doses like you would receive  
12      from a criticality accident. But the evidence  
13      does indicate that workers in the class may  
14      have accumulated chronic radiation exposures  
15      sufficient to cause harm.

16                   So we conclude that health may have  
17      been in danger for those workers covered by  
18      this evaluation who were employed for a number  
19      of workdays aggregating at least 250 in the  
20      class, or aggregated with other classes.

21                   Our proposed class definition is  
22      all atomic weapons employer employees who

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1 worked at Vitro Manufacturing in Canonsburg,  
2 Pennsylvania from August 13<sup>th</sup>, 1942 through  
3 December 31<sup>st</sup>, 1957, for a number of workdays  
4 aggregating at least 250 workdays, occurring  
5 either solely under this employment or in  
6 combination with workdays within the  
7 parameters established for other classes.

8 And this summarizes our  
9 recommendation for the period. This is the  
10 entire covered period for the site. We don't  
11 believe it's feasible to do a complete dose  
12 reconstruction, and we are recommending that  
13 the class be added for this facility for this  
14 period.

15 I didn't include it in the slide,  
16 but I did look awhile ago, we have 21 cases  
17 from this facility, some six of those have  
18 been compensated through dose reconstruction  
19 already.

20 So I believe that's the end. If  
21 there are any questions?

22 CHAIR ZIEMER: Thank you, Stu.

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1 Let's open the floor at this time for  
2 questions on Vitro.

3 MEMBER MELIUS: Yes, any idea of the  
4 overall size of the facility?

5 MR. HINNEFELD: It was on the order  
6 of 35 acres.

7 MEMBER MELIUS: Yes, but I mean,  
8 number of people working there.

9 MR. HINNEFELD: I do not. I don't  
10 know that we have a way to reconstruct how  
11 many people worked there, but I do not know  
12 right now.

13 MEMBER MELIUS: And you have not  
14 tried to reach out or do any community  
15 outreach there, talk to - I know you are not  
16 directly involved, so it may be hard to answer  
17 this.

18 MR. HINNEFELD: I don't remember any  
19 specifically for Vitro, no.

20 MEMBER MELIUS: Okay.

21 MR. HINNEFELD: We've been in the  
22 Pittsburgh area, but I don't believe that was

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1 associated with Vitro.

2 MEMBER MELIUS: Okay, I'm just  
3 trying to get a sense of the number of  
4 potential claims, and some of the, like we had  
5 with the canal site, there was a huge worker  
6 population, but there hadn't been enough  
7 outreach for people I think to know they could  
8 apply. And I'm just curious on this one also.

9 MR. HINNEFELD: I don't really know.  
10 Like I said, it's a 35-acre site. I guess  
11 that could be -- I guess you could put a lot  
12 of people in 35 acres.

13 MEMBER MELIUS: You can't say.

14 MR. HINNEFELD: You can't say from  
15 that.

16 MEMBER MELIUS: What they did after,  
17 other than --

18 MR. HINNEFELD: Yes, the site became  
19 - well, it was a storage site for a while, and  
20 then it became essentially an industrial site.  
21 There was a -- or actually it wasn't a FUSRAP  
22 mediation. The uranium mill tailings remedial

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1 action program, remediation was done I think  
2 in the 1980s, and there were some vicinity  
3 properties involved in that as well.

4 CHAIR ZIEMER: Stu, I'd like to  
5 follow up on that. Was it a multiple-building  
6 site? I think you said we really don't know -  
7 -

8 MR. HINNEFELD: We don't know --

9 CHAIR ZIEMER: -- the extent to  
10 which it was even controlled, right?

11 MR. HINNEFELD: Right, we don't know  
12 a whole heck of a lot about it. The tailings  
13 that were -- I believe we know that the  
14 tailings piles were just stored in piles at  
15 the site. I mean it wasn't like confined in  
16 any particular way, but there were tailings  
17 piles on the site, and some erosion from  
18 those, as well. There was some migration.

19 CHAIR ZIEMER: And I think we should  
20 recognize, this was at a time period when a  
21 lot of uranium was being used in consumer  
22 products. I've wondered on this particular

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1 site, both from its name and location if this  
2 might have been the source of the uranium  
3 which was sent to the Homer Laughlin Company,  
4 which is near Pittsburgh, and which made  
5 Fiestaware during this -- just prior to the  
6 Manhattan Project. The folklore says that  
7 Homer Laughlin Company made the red or what  
8 looks like orange Fiestaware right up until  
9 the Manhattan project, at which point their  
10 source of uranium was diverted to the project,  
11 and they ceased to make that particular  
12 Fiestaware.

13 But my point is that uranium was  
14 widely used in consumer products, and the idea  
15 that it could be hazardous probably wasn't in  
16 the picture very much at that time.

17 MR. PROCTOR: Dr. Ziemer?

18 CHAIR ZIEMER: Yes.

19 MR. PROCTOR: This is John Proctor  
20 in Las Vegas. I grew up in Morgantown, West  
21 Virginia. That's home of the glass country.

22 CHAIR ZIEMER: Yes.

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1 MR. PROCTOR: We used a lot of that  
2 uranium for making yellow glass.

3 CHAIR ZIEMER: Yes, yellow glass is  
4 the so-called Vaseline glass which also  
5 contains uranium, and of course a lot of that  
6 material still exists, mainly in antique  
7 stores.

8 MR. PROCTOR: There's a lot of it in  
9 the old warehouses, a lot of glass company.  
10 I've got a friend who's got cobalt, gold, and  
11 uranium still to this day they -- the AEC  
12 comes by and checks it every year to see if he  
13 still has it.

14 CHAIR ZIEMER: Well, it's a good  
15 collector's item. Actually, the chair of this  
16 committee has a large collection of Fiestaware  
17 which is almost at critical mass in his house.

18 MEMBER ROESSLER: Paul, this is Gen.

19 CHAIR ZIEMER: Yes, Gen Roessler.

20 MEMBER ROESSLER: Yes, to answer  
21 some of the questions that Jim had, whoever  
22 would want to follow through on them I'd

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1 recommend health physicist Joel Lubenau. He  
2 has done a lot of work and a lot of writing  
3 about this particular site.

4 CHAIR ZIEMER: Well, it certainly  
5 will be important to try to identify actually  
6 what the total workforce was there who might  
7 be eligible for this particular cohort.

8 Let's see if there are other  
9 questions? Dr. Melius, do you have a follow  
10 on?

11 MEMBER MELIUS: No, not really.

12 CHAIR ZIEMER: Other board members?

13 I want to ask if the petitioner is  
14 on the line, and if so does she wish to  
15 comment?

16 PETITIONER: Well, I don't think I  
17 really have any comments. It's all been very  
18 interesting.

19 CHAIR ZIEMER: Okay, thank you very  
20 much.

21 MEMBER PRESLEY: Paul?

22 CHAIR ZIEMER: Yes, Bob Presley.

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1 MEMBER PRESLEY: I have a question  
2 for the petitioner. Can you hear me, ma'am?

3 CHAIR ZIEMER: Use your mike there,  
4 Bob. It might help.

5 MEMBER PRESLEY: Sorry. Ma'am, can  
6 you hear me?

7 PETITIONER: Barely.

8 MEMBER PRESLEY: Can you tell us how  
9 large the company was?

10 PETITIONER: Well, I would say they  
11 must have had over 200 employees, I would  
12 guess. I was in the lab all the time, and I  
13 wasn't really -- so many of the workers came  
14 into the lab, but usually they were the  
15 foreman who would bring samples in. So I  
16 really don't know how many laborers were  
17 there. But I would imagine it had to be  
18 around at least a couple hundred.

19 MEMBER PRESLEY: Thank you, ma'am.

20 CHAIR ZIEMER: Mike Gibson.

21 MEMBER GIBSON: Stu --

22 CHAIR ZIEMER: Use the mike, Mike.

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1                   MEMBER GIBSON: In Section 10 of the  
2                   evaluation report, you talk about the  
3                   evaluation of a second similar class that may  
4                   be needed. Could you just give us a few more  
5                   details about that?

6                   MR. HINNEFELD: Well, that would  
7                   have to be for the residual period, because  
8                   this class covers everybody during the  
9                   operational period. Any additional  
10                  consideration would have to be applied to the  
11                  residual period.

12                  And the residual reconstruction  
13                  approach is sort of a topic of discussion and  
14                  debate elsewhere, and we kind of rely on much  
15                  the same technique, and it is being reviewed  
16                  elsewhere.

17                  So we are kind of holding a  
18                  determination or a judgment on whether it's  
19                  feasible for that period.

20                  MEMBER MELIUS: And that is also  
21                  sort of boilerplate language in these reports?

22                  MR. HINNEFELD: Yes, the whole

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1 thing, we don't want to shut out -- if later  
2 on we learn something else we don't want to  
3 shut anybody out by writing this without that  
4 in there.

5 MEMBER MELIUS: One of the other  
6 reasons was, I kept looking trying to find out  
7 what the other class was. I finally called  
8 LaVon and he explained to me that there wasn't  
9 really one.

10 MR. HINNEFELD: Yes, I think you are  
11 right, it's just to make sure that what we are  
12 writing here doesn't close anybody out, that  
13 we might learn something later on.

14 PETITIONER: Could I add something?

15 CHAIR ZIEMER: Yes, certainly.

16 PETITIONER: When I said about 200,  
17 you might consider that a wild guess, because  
18 I am really not sure about that.

19 CHAIR ZIEMER: No, we appreciate  
20 that. I think we wanted to get a feel for  
21 whether it's a handful of people or thousands  
22 of people. At least it gives us kind of a

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1 ballpark idea.

2 PETITIONER: It was more than a  
3 handful of people; I know that.

4 CHAIR ZIEMER: And were there -

5 PETITIONER: There was a little  
6 community right in that area called Strabane,  
7 and so many of the workers were from that  
8 particular area, because it was right adjacent  
9 to the plant.

10 CHAIR ZIEMER: Okay, thank you.

11 Other questions? If there are no  
12 other questions, it would be in order to have  
13 a motion concerning this particular site.

14 Mr. Presley?

15 MEMBER PRESLEY: I move that we  
16 grant the class petition.

17 CHAIR ZIEMER: Okay, the chair will  
18 interpret that motion as a motion to recommend  
19 to the secretary that this become a class of  
20 the SEC. And seconded by Dr. Poston.

21 Is there any discussion on the  
22 motion? If there is no discussion we will

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1 have a roll call vote.

2 We will, after the vote, also seek  
3 the vote of Dr. Lockey, and his vote will be  
4 recorded as soon as we are able to get it. So  
5 let us proceed.

6 Mr. Katz.

7 MR. KATZ: Ms. Beach.

8 MEMBER BEACH: Yes.

9 MR. KATZ: Mr. Clawson.

10 MEMBER CLAWSON: Yes.

11 MR. KATZ: Mr. Gibson.

12 MEMBER GIBSON: Yes.

13 MR. KATZ: Mr. Griffon.

14 MEMBER GRIFFON: Yes.

15 MR. KATZ: Dr. Melius.

16 MEMBER MELIUS: Yes.

17 MR. KATZ: Ms. Munn?

18 MEMBER MUNN: Yes.

19 MR. KATZ: Dr. Poston.

20 MEMBER POSTON: Yes.

21 MR. KATZ: Mr. Presley.

22 MR. PRESLEY: Yes.

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1 MR. KATZ: Dr. Roessler.

2 MEMBER ROESSLER: Yes.

3 MR. KATZ: Mr. Schofield.

4 MEMBER SCHOFIELD: Yes.

5 MR. KATZ: Dr. Ziemer.

6 CHAIR ZIEMER: Yes.

7 The motion carries, and we will  
8 again develop the precise wording that will go  
9 to the secretary and have that ready for the  
10 Board's perusal tomorrow together with the  
11 other action that we took yesterday.

12 Now we are just slightly ahead of  
13 schedule. I am looking to see whether or not  
14 we will have Mallinckrodt petitioners on the  
15 line. According to my notes, we will not have  
16 any Mallinckrodt petitioners on the line, so I  
17 think we can probably proceed then with the  
18 next item on the agenda, and that is the 83.14  
19 SEC Petition, and Dr. Neton from NIOSH will  
20 present the evaluation report for this one.

21 MALLINCKRODT (1958) 83.14 SEC PETITION

22 DR. NETON: Thank you, Dr. Ziemer.

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1 Good morning, everyone.

2 I'm going to continue on the theme  
3 of discussion of uranium processing facilities  
4 and SECs by bringing forth the evaluation  
5 report for the Mallinckrodt Chemical Company,  
6 Destrehan Street plant for a very specific  
7 time period, that is calendar year 1958.

8 Okay, a little bit of a petition  
9 overview here. This was a petition that NIOSH  
10 evaluated in accordance with the requirements  
11 of 83.14, 42 CFR 83.14, that is, which is a  
12 petition submitted by a claimant whose dose  
13 reconstruction could not be completed by NIOSH  
14 because we didn't have sufficient information  
15 available to do the reconstruction.

16 This particular claimant was  
17 employed as a clerk-typist at Mallinckrodt  
18 from 1957 through 1960.

19 A little bit of the background  
20 here. Mallinckrodt should be very familiar to  
21 everyone; it was one of the first SEC classes  
22 granted under this program, and there were

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1 actually two classes added for Mallinckrodt.  
2 There was a period of time between 1946 and  
3 1948 where it was determined that some data  
4 were technically unreliable. There were  
5 questions regarding the integrity of the data,  
6 and a determination was made that we couldn't  
7 reconstruct dose except occupational medical  
8 dose during that timeframe.

9 The latter period at Mallinckrodt  
10 was covered, 1949 to 1957, and it -- after  
11 some lengthy discussion with the Board and  
12 others, it was determined that the class would  
13 be added because there was insufficient  
14 information to reconstruct dose from the  
15 radium progeny, the long-lived progeny of  
16 radium or uranium, in particular, thorium-230,  
17 protactinium-231, and actinium-227 that's  
18 present in the raffinate material, which is a  
19 byproduct of uranium processing.

20 We did conclude, though, that we  
21 could construct external dose and some  
22 internal dose, depending on the availability

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1 of data.

2 I just want to go over this  
3 raffinate term a little bit, because it is a  
4 term of art that is not, maybe, understood by  
5 all. It's used specifically to find the  
6 residues created from the refinement of ore in  
7 a facility. And in fact the chemical  
8 extraction process that creates this material  
9 as Stu pointed out in his presentation creates  
10 a disequilibrium in these streams.

11 It's most important for these  
12 isotopes, radionuclides listed here, that is  
13 radium, actinium, thorium and protactinium.

14 To refresh your memory, I've just  
15 presented a slide that we went over in some  
16 detail during our deliberations for the SEC on  
17 Mallinckrodt originally, and you will see that  
18 the pitchblende ore is cleaned up through a  
19 chemical extraction process outlined here --  
20 there's a pointer -- and as the pitchblende  
21 ore goes through it is resolved in the  
22 sulfuric acid material, and you create these

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1 cakes on the right-hand side that are lead  
2 sulfate and barium sulfate. The radium comes  
3 out of the process there, so you have an  
4 extraction of radium there, and then as you go  
5 further down the process, you end up on the  
6 right-hand side with the Sperry Cake and  
7 Airport Cake, and that is where the  
8 disequilibrium products occur for the thorium,  
9 actinium and protactinium in these cakes here.

10 And that in fact is the basis for our  
11 inability to reconstruct dose at Mallinckrodt,  
12 very much like the Vitro facility. We just  
13 don't know how much of this material was  
14 generated and became airborne, because there  
15 was no monitoring program, bioassay, or area  
16 monitoring program that could be used to  
17 establish the internal exposure to those  
18 workers.

19 We reviewed the documentation and  
20 it indicated that operations similar to those  
21 that granted the class between 1949 and 1957  
22 existed at Mallinckrodt into the 1958 time

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1 period. And in fact, no substantial  
2 difference could be found in those operations,  
3 and in looking at it we knew that the  
4 operations terminated some time in 1958, but  
5 it wasn't very clear as to when in 1958 that  
6 stopped. So we decided to include the entire  
7 calendar year to bound this particular class.

8 In addition to that, there was  
9 insufficient information to limit the class  
10 based on work location. These people often  
11 changed jobs; did not work in the same  
12 location of the plant at any given time. So  
13 very much consistent with what happened in the  
14 early class at Mallinckrodt; we couldn't  
15 create a class, for instance, of raffinate  
16 workers, because we just couldn't tell who was  
17 a raffinate worker at any given point in time  
18 during the operation of the plant. And this  
19 is the same limitation that existed in 1958 in  
20 our opinion.

21 After '58 however the plant  
22 operations went into decontamination and

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1 decommissioning activities, very much  
2 different type of monitoring occurred. The  
3 large raffinate materials were no longer being  
4 generated, so we believe that we can do dose  
5 reconstructions in the D&D period at  
6 Mallinckrodt.

7           Much of this I have gone through  
8 for the feasibility of dose reconstruction.  
9 They continued to handle raffinate through  
10 '58. No individual bioassay does exist. And  
11 as I talk about it, records indicate workers  
12 rotated jobs.

13           The last bullet is important as  
14 well, because we believe that workplace  
15 materials and controls were insufficient to  
16 provide us any confidence that exposures were  
17 limited to what we would consider  
18 traditionally occupational radiation exposed  
19 categories, that is rad workers, chemical  
20 operators and those types of people. We  
21 really don't know whether administrative  
22 personnel were located very close, adjacent to

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1 the production activities, how often they had  
2 to traverse the work area, that sort of thing.

3 So this class has no limitation based on job  
4 category at all.

5 We do believe however that we have  
6 sufficient data for reconstructing external  
7 and medical X-ray doses. We have external  
8 film badge data, and at a minimum we can apply  
9 the technical information bulletin we have for  
10 reconstructing medical X-ray doses, that we  
11 have used at many other facilities.

12 And internal exposure to other  
13 radionuclides, for instance, the uranium, will  
14 be reconstructed using the data that we have  
15 available. So we are going to do whatever we  
16 can do with the remaining data that exist  
17 outside of the raffinate materials to  
18 reconstruct doses in this class.

19 So to get to the health  
20 endangerment issue, we do have evidence that  
21 these workers accumulated chronic radiation  
22 exposures. There is no evidence that there

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1 was an acute incident such as a nuclear  
2 criticality that created -- the class should  
3 be based on presence.

4 So therefore we are recommending  
5 the class be based on a chronic exposure  
6 scenario for workers who have aggregated at  
7 least 250 days within the parameters  
8 established for this class.

9 And the proposed class definition  
10 here would be, all employees of DOE, its  
11 predecessor agencies, and their contractors  
12 and subcontractors who worked in the uranium  
13 division at the Mallinckrodt Chemical Company  
14 Destrehan Street plant in St. Louis,  
15 Missouri, from January 1, 1958, to December  
16 31<sup>st</sup>, 1958, for a number of workdays  
17 aggregating at least 250 workdays occurring  
18 either solely under this employment or in  
19 combination of workdays with the parameters  
20 established for one or more other classes of  
21 employees included in the SEC.

22 And the final slide is our

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1 recommendation that dose reconstruction is  
2 infeasible for members of this class, and  
3 health was endangered, and the covered period  
4 would be calendar year of 1958.

5 That completes my presentation.  
6 I'll be happy to answer any questions if there  
7 are any.

8 CHAIR ZIEMER: Thank you, Jim.

9 Is it safe to assume that actually  
10 a good portion of the people in this time slot  
11 would already have been covered by the  
12 previous SEC? I'm just wondering --

13 DR. NETON: I believe that is a very  
14 good assumption. There are very few people in  
15 this class. In fact part of the delay in  
16 getting this class out was, we had identified  
17 one person who was a plant worker, a regular  
18 traditional-type rad worker, and they ended up  
19 being compensated in the first class.

20 So we had to go back to the table  
21 and identify another candidate for the  
22 petition.

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1 CHAIR ZIEMER: So this would be  
2 mainly people who, perhaps, didn't have enough  
3 time in the earlier class?

4 DR. NETON: Correct.

5 CHAIR ZIEMER: Or maybe started at  
6 this time period.

7 DR. NETON: If they started in 1958  
8 early, or maybe late 1957.

9 CHAIR ZIEMER: So the numbers  
10 involved here, we don't know exactly.

11 DR. NETON: Yes, I'm sorry I don't  
12 have an exact number here, but it's a very  
13 small number of people that are affected by  
14 this designation.

15 CHAIR ZIEMER: Okay, thank you.

16 Other questions? Dr. Melius?

17 MEMBER MELIUS: That was actually --  
18 I was trying to understand why -- because I  
19 thought we'd discussed this a little bit three  
20 or four years ago. I thought we were sort of  
21 aware of this potential issue.

22 DR. NETON: I think it picks up a

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1 few more people.

2 MEMBER MELIUS: I was just trying to  
3 figure out why it took so long.

4 DR. NETON: Well, part of it was  
5 that we lost our what we called our litmus  
6 candidate who ended up being compensated. We  
7 had to go back to square one.

8 The other part was, we had to  
9 substantially rewrite the site profile after  
10 the Mallinckrodt class was added. I think it  
11 became final in November of 2005. So we  
12 pulled back that entire site profile and  
13 rewrote it so we could do non-presumptive  
14 cancers. And when we started to apply it I  
15 think the site profile was issued in 2007. It  
16 was only then that we realized that this 2008  
17 period was substantially the same as the class  
18 between `49 and `57, because originally if you  
19 recall it was our contention that we could do  
20 all of Mallinckrodt until the SEC  
21 determination finalized, and then we  
22 recommended that we add the class.

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1                   MEMBER MELIUS: My memory is too  
2 foggy to remember. There was some issue about  
3 we weren't quite sure about where to draw the  
4 line. I can't remember why we ended up  
5 choosing `57.

6                   DR. NETON: Actually I think the  
7 petition only requested the class through `57,  
8 so we only evaluated through `57. Then it  
9 dawned on us later on, in trying to  
10 reconstruct `58, that it substantially had the  
11 same characteristics as the class through `57.

12                   CHAIR ZIEMER: Denise can add to  
13 this, please.

14                   MS. BROCK: That is correct. The  
15 original petition ran from 1942 to 1957. I  
16 think the slide said `46. But the petition  
17 was from 1942 on.

18                   CHAIR ZIEMER: Was the first class -

19                   MS. BROCK: Yes. I think I had `42  
20 through `57, and I think the first estimate  
21 was `42 --

22                   DR. NETON: `42 through `46 based on

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1 the data reliability issue.

2 MS. BROCK: Then we went for the  
3 rest of it.

4 DR. NETON: Then the raffinate. I  
5 apologize for that error. But for some reason  
6 `46 to `48 did seem like kind of a short  
7 period. Thank you, Denise.

8 CHAIR ZIEMER: Josie.

9 MEMBER BEACH: When did operations  
10 end there; what year?

11 DR. NETON: That is a good question.  
12 The cleanup persisted for some time, and I  
13 believe that the residual contamination goes  
14 through the 1990s or somewhere thereabouts.

15 MS. BROCK: That is correct. I  
16 believe that that actually stopped in 1962,  
17 and Weldon Spring started in 1955, at least  
18 that was prior to production, but when they  
19 were getting everything ready. And I think  
20 the production actually started at Weldon  
21 Spring in 1957/58 timeframe, and went into  
22 like 1967 or `68.

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1 DR. NETON: That's part of our  
2 problem is identifying who actually worked at  
3 Mallinckrodt, Destrehan Street versus Weldon  
4 Springs, because same company.

5 MS. BROCK: Same company, and then  
6 there was also United Nuclear which ran about  
7 the same time, that was in the hematite area,  
8 and that ran at the same time as Weldon Spring  
9 did, so it's very confusing.

10 CHAIR ZIEMER: Thank you. Other  
11 comments or questions? Jim.

12 MEMBER MELIUS: Yes, I have one just  
13 general question. It seems that we get in  
14 these situations where we are sort of stuck by  
15 what the petitioner has put in for numbers of  
16 years, and they are -- depending on who is  
17 involved in the petition they may not know the  
18 exact time frames that are appropriate.  
19 Sometimes NIOSH modifies it as it comes  
20 forward, but then we end up in like this  
21 situation where we closed off at '57, and then  
22 you have to wait until you find an 83.14

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1 person.

2 DR. NETON: Well, this is a little  
3 unique in this respect. If you remember,  
4 NIOSH's official position was that we could do  
5 dose reconstruction through `57. It was only  
6 until the Board deliberated, and the decision  
7 was made through the secretary that we  
8 couldn't do it. And that's why -- we would  
9 normally expand the class beyond the `57 and  
10 look to see, is that an arbitrary date or is  
11 there reason to continue forward. In this  
12 particular case it was NIOSH's position we  
13 could do it, so there was no reason to look  
14 about that at that juncture.

15 CHAIR ZIEMER: Denise may have an  
16 additional comment.

17 MS. BROCK: If I remember correctly,  
18 and it's been quite some time ago, I think  
19 that the designated timeframe was 1942 through  
20 `57, then sometimes it happens that additional  
21 years are added. Because I would have  
22 actually petitioned for that entire timeframe.

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1       So it was my understanding that, during that  
2       initial period, it was just showing `42  
3       through `57, and I think after that we started  
4       seeing additional time in the Federal  
5       Register, that DOE had actually extended that  
6       if I remember correctly.

7                   CHAIR ZIEMER: But I think the  
8       comment that Jim made probably is -- has been  
9       the pattern where NIOSH says we can't  
10      reconstruct dose, and they have expanded in  
11      some cases based on what they know about it.

12                   DR. NETON: We would normally do  
13      that, to look about that -- the proposed end  
14      date to make sure that some other situation  
15      doesn't exist.

16                   MS. BROCK: I thought that was the  
17      situation in this one.

18                   DR. NETON: But this one I think we  
19      just flat out thought we could do it from the  
20      very beginning, and there was no reason to  
21      look past `57 because if we could do `57 we  
22      thought we could surely do `58; that was our

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1 position at that time.

2 MS. BROCK: But at the beginning  
3 didn't they believe there really wasn't  
4 production going on after that, that it had  
5 actually went out to Weldon Spring? That was  
6 my thought.

7 DR. NETON: That was also part of  
8 it, the production we thought ceased in `57,  
9 and then when we looked closer at the records,  
10 there is a piece going into `58. We are not  
11 sure when it stopped in `58, but it clearly  
12 did continue into 1958.

13 MS. BROCK: Thank you.

14 CHAIR ZIEMER: Well, in any event,  
15 we are sort of correcting past oversights  
16 here.

17 MEMBER MELIUS: No, I just worried  
18 sort of about the potential petitioners, that  
19 they are told `57, so anybody that started  
20 working in `58 -- and there has been all this  
21 outreach and publicity; Denise was part of  
22 that. Now we have this new sort of very small

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1 class, and might have -- in retrospect it  
2 would have been better. So I was just  
3 thinking procedurally -- and again I don't  
4 think we all remember -- at least, I don't  
5 remember the details of this, but whether we  
6 are better off leaving open the possibility to  
7 go and review just rather than start doing a  
8 total close-out and trying to keep some of  
9 these open for review. I'm not sure it was  
10 possible in this one.

11 CHAIR ZIEMER: Well, in fact we've  
12 had a couple of fairly recent SECs where we  
13 were told at the time we approved them that  
14 the end date was somewhat uncertain and that,  
15 if necessary, it would be extended even after  
16 we had approved it.

17 DR. NETON: Los Alamos falls in that  
18 category right now.

19 CHAIR ZIEMER: So I think to the  
20 extent that NIOSH is able, at least they are  
21 trying to accomplish that, perhaps not always  
22 successfully. We obviously don't want to

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1 piecemeal it year by year and month by month.

2 MEMBER MELIUS: And if we rely on  
3 the 83.14 then NIOSH has to wait until it  
4 finds the right candidate case, track them  
5 down, and as Jim said, this case wasn't the  
6 right case. So they are compensable, and it's  
7 difficult.

8 CHAIR ZIEMER: But your point is  
9 well taken, thanks.

10 Other comments on this? If not, it  
11 would be appropriate to have a suitable motion  
12 for action.

13 Brad Clawson.

14 MEMBER CLAWSON: I move to accept  
15 it.

16 CHAIR ZIEMER: A motion to accept,  
17 which is a motion to recommend to the  
18 secretary that this class be added to the SEC.

19 MEMBER MUNN: Second.

20 CHAIR ZIEMER: And seconded by, I  
21 think, Wanda Munn.

22 Further discussion? Then let's

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1 proceed. Again, a roll call vote, and we will  
2 seek Dr. Lockey's vote as soon as possible.

3 MR. KATZ: Ms. Beach?

4 MEMBER BEACH: Yes.

5 MR. KATZ: Mr. Clawson.

6 MEMBER CLAWSON: Yes.

7 MR. KATZ: Mr. Gibson?

8 MEMBER GIBSON: Yes.

9 MR. KATZ: Mr. Griffon?

10 MEMBER GRIFFON: Yes.

11 MR. KATZ: Dr. Melius.

12 MEMBER MELIUS: Yes.

13 MR. KATZ: Ms. Munn?

14 MEMBER MUNN: Yes.

15 MR. KATZ: Dr. Poston.

16 MEMBER POSTON: Yes.

17 MR. KATZ: Mr. Presley?

18 MEMBER PRESLEY: Yes.

19 MR. KATZ: Dr. Roessler.

20 MEMBER ROESSLER: Yes.

21 MR. KATZ: Mr. Schofield.

22 MEMBER SCHOFIELD: Yes.

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1 MR. KATZ: Dr. Ziemer.

2 CHAIR ZIEMER: Yes.

3 There are no abstentions, at least  
4 not so far, unless Dr. Lockey abstains. But  
5 in any event, the motion carries, and we will  
6 proceed with the recommendation to the  
7 secretary, and the exact wording of the letter  
8 to the secretary will be provided later in  
9 this meeting to the Board members.

10 Now I'm wondering if we can go  
11 ahead with the Blockson report. According to  
12 my notes there may be a Blockson petitioner on  
13 the line to comment, also. And since we are  
14 ahead of schedule, I'm wondering whether we  
15 need to delay.

16 Ms. Munn, as I understand it, you  
17 may not have a specific recommendation for us  
18 but rather a report this morning, is that  
19 correct?

20 MEMBER MUNN: That is correct.

21 CHAIR ZIEMER: I wonder if we could  
22 go ahead and proceed with the report. If the

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1 petitioner is not on the line now, we would  
2 allow that petitioner to make additional  
3 comments.

4 MR. KATZ: Let me see if the  
5 petitioner is on the line. Are either of the  
6 two petitioners for Blockson on the line? If  
7 you would let us know if you are already  
8 listening.

9 (No verbal response.)

10 MR. KATZ: Apparently not.

11 CHAIR ZIEMER: Okay, let us proceed,  
12 I think, with the Blockson report, and then if  
13 petitioners are on the line later we will give  
14 them the opportunity to add any comments.

15 BLOCKSON CHEMICAL SEC PETITION STATUS UPDATE

16 MEMBER MUNN: Thank you, Dr. Ziemer.

17 Let me refresh your memories for  
18 those of you who are not a part of the  
19 workgroup involved in this particular site.

20 We have begun our deliberations  
21 based on seven specific findings which our  
22 contractor brought to us when they reviewed

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1 the site profile. And the bulk of those  
2 centered around the extraction process and  
3 concerns over what radionuclides were  
4 contained in the raffinates, and specifically  
5 whether thorium followed one stream or the  
6 other during the process.

7 We fairly quickly resolved all of  
8 those outstanding issues. After consultation  
9 with workers, two worker group meetings, and  
10 extensive deliberation among the members of  
11 the workgroup, the contractor and our NIOSH  
12 representatives, at a meeting earlier this  
13 year, we brought this to the Board with an  
14 unformed consensus from the workgroup.

15 At that time it was the direction  
16 of the Board for us to go back, address very  
17 specifically the concerns that had been raised  
18 with respect to radon, and focus on that issue  
19 and see if we could resolve it yet further  
20 down the line.

21 We did that. We had a workgroup  
22 meeting in Cincinnati on October 15<sup>th</sup>, and left

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1 that meeting with a number of questions  
2 relative to a few technical issues that had  
3 evolved from those discussions.

4           Throughout the month of November,  
5 there was a significant amount of information  
6 exchange: emails and technical conversations  
7 between NIOSH and the contractor. And on the  
8 3<sup>rd</sup> of December we had a technical call, not  
9 the Work Group itself, but the technical folks  
10 who were specifically concerned with what's  
11 possible and what is not possible in the real  
12 world.

13           Then on the 12<sup>th</sup> we had scheduled -  
14 - it was the only available date that we had  
15 following that technical call, that we could  
16 arrange to have the Board members who were  
17 involved in the Work Group present, and gave  
18 both NIOSH and SC&A an opportunity to produce  
19 a couple of additional background papers, one  
20 involving an outside expert on air movement.

21           At this juncture, we are down to a  
22 primary concern with respect to radon and air

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1 exchange rates inside Building 40, because of  
2 power outages and problems that some of our  
3 work group members had with the weather last  
4 week we were unable to conclude our  
5 deliberations on our meeting on the 12<sup>th</sup>  
6 primarily because some of us had not had an  
7 opportunity to fully digest the material which  
8 had just been produced in the technical papers  
9 that I mentioned.

10 At that time it was suggested that,  
11 rather than try to move further until the Work  
12 Group members themselves had all satisfied  
13 themselves with respect to the content of that  
14 material, we would instead continue to delay  
15 this process. The Work Group Chair was really  
16 very concerned about that, because we have  
17 been attempting to bring this to closure now  
18 for quite some time, and I'm concerned about  
19 any further delays on behalf of the claimants.

20 But we didn't see any way around it  
21 in this particular instance. So what we  
22 expect to do at this juncture is, during our

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1 Board administrative time tomorrow, we want to  
2 set up work group call time for all of us to  
3 have had an opportunity to review all of the  
4 material from the beginning to satisfy  
5 ourselves that there is no further item of  
6 interest to anyone to be addressed, and  
7 present this matter for a vote at the  
8 Albuquerque meeting.

9 That is the current plan. My  
10 apologies to all of you, and especially to the  
11 Blockson claimants for the length of time that  
12 is being involved here. We are trying to  
13 follow every thread that has been presented to  
14 us, and every potential concern that has been  
15 raised to its ultimate end.

16 It remains my personal opinion as  
17 the chair that we have the body of evidence  
18 supporting our ability to address dose  
19 reconstruction here, but that is not the  
20 opinion of the Work Group. I'm only  
21 expressing a personal opinion; that is not the  
22 position of the workgroup.

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1           We will certainly, of course,  
2 address that issue at our work group meeting  
3 when we determine that date.

4           We hope to be able to do that by  
5 telephone, hopefully toward the end of  
6 January, in adequate time to have a good  
7 presentation available for Albuquerque.

8           CHAIR ZIEMER: Thank you very much.

9           Let me see if there is any question  
10 that Board members have concerning the  
11 Blockson report, or any comments from other  
12 members of the workgroup, or others.

13           Mark.

14           MEMBER GRIFFON: Wanda, at this  
15 point I was following some of the documents  
16 and I was considering dialing in Friday but I  
17 had no phone or electric at that time. But  
18 the radon, I know there was some discussion on  
19 the radon model -- has NIOSH put forward a new  
20 model? Or are we at this point are we still  
21 discussing SC&A's model for the radon? In  
22 other words, I know, initially in the

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1 evaluation report, there is a certain approach  
2 described, and I don't know where -- whether  
3 NIOSH has revised that approach, or whether  
4 that is still the approach we are considering.

5 CHAIR ZIEMER: Jim Neton.

6 DR. NETON: During deliberations of  
7 the working group NIOSH put forth that they  
8 would adopt the model prescribed by SC&A with  
9 one exception, and that would be the lower  
10 bound air exchange rate for Building 40, we  
11 would adopt one air exchange per hour versus  
12 their I think recommended .25 or something  
13 like that, and then we would end up with a  
14 Monte Carlo generated distribution of possible  
15 potential air concentrations within the  
16 building. So that is where we're at.

17 MEMBER MUNN: This is why I said, we  
18 are down to the question, the sole question of  
19 air exchange.

20 CHAIR ZIEMER: Thank you. Further  
21 questions? Ted Katz.

22 MR. KATZ: Let me just add something

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1 to this report. I think there was a very  
2 illuminating dialogue as part of this process.

3 So we will have a verbatim transcript, and I  
4 think one of the reasons for postponing also  
5 was so that the full Board could have the  
6 benefit of that transcript. And I have asked  
7 for it to be expedited. It will be available  
8 to us early in January, and we will distribute  
9 it to the full board. But I think it helps,  
10 because it was an extensive dialogue and very  
11 clear and raised a lot of important issues,  
12 and we thought that that would really be  
13 helpful to the full Board when it begins its  
14 deliberations as well. So I just want to add  
15 that point.

16 MEMBER MUNN: That's doubly  
17 important in light of the fact that several  
18 Board members made the comment in previous  
19 presentations that they had not investigated  
20 themselves the material that was available,  
21 and I was asking for a packet of information  
22 and I had directed them to the record that

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1 exists.

2 So thank you, Ted, for reminding me  
3 that one of the items that we hope you will  
4 take an opportunity to look at even before it  
5 comes to you is the transcript when it comes  
6 out.

7 CHAIR ZIEMER: Thank you.

8 Other comments or questions?  
9 Perhaps let me check again to see if either of  
10 the Blockson petitioners are on the line at  
11 the moment.

12 Either Blockson petitioner on the  
13 line or wish to comment?

14 Okay, we will check again after the  
15 break to see if they are here.

16 I think what we will do at this  
17 time is go ahead with our morning break. We  
18 are a little bit ahead of schedule, but let's  
19 plan to reconvene at 10:40. That will give  
20 you a decent size break and still keep us a  
21 little ahead of schedule.

22 (Whereupon, the above-entitled matter went off

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1 the record at 10:13 a.m. and  
2 resumed at 10:42 a.m.)

3 CHAIR ZIEMER: If you would take  
4 your seats, we will reconvene the meeting.

5 I'd like to double check the phone  
6 line. Dr. Roessler, are you on the line?

7 MEMBER ROESSLER: Paul, you said  
8 something about the phone line, and then I  
9 unmuted. This is Gen.

10 CHAIR ZIEMER: Oh, Gen, I was just  
11 checking to see if the phone lines were on,  
12 and if you were on.

13 MEMBER ROESSLER: Yes, I am. When  
14 you unmute, you can't hear anything for a  
15 minute.

16 CHAIR ZIEMER: Okay, thank you, Gen,  
17 we are getting ready to reconvene here.

18 Before we have our next  
19 presentation, I do want to check at this time  
20 to see if either of the Blockson participants  
21 or petitioners are on the line. Either of the  
22 Blockson petitioners.

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1 MS. PINCHETTI: Kathy Pinchetti is  
2 here.

3 CHAIR ZIEMER: Okay, Kathy, thank  
4 you for being on the line. This is Dr.  
5 Ziemer, and I want to tell you that just prior  
6 to our break, since we got a little ahead of  
7 schedule, Ms. Munn, the chairman of the  
8 Blockson workgroup reported to the Board  
9 basically that the workgroup had no  
10 recommendation at this time because they are  
11 still dealing with the radon issue.

12 I'm assuming that the workgroup has  
13 kept you apprised of the issues that they are  
14 working on; is that correct, Ms. Munn? Have  
15 the petitioners been involved in those  
16 deliberations?

17 MEMBER MUNN: We have not had  
18 specific communication with them. It has been  
19 our desire and our hope that they have been  
20 joining us on our open -

21 CHAIR ZIEMER: In any event, Kathy,  
22 I just wanted you to be aware that the

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1 workgroup has indicated to us that they are  
2 not prepared to make a recommendation yet -  
3 are you still there? I'm hearing a lot of  
4 noise.

5 MS. PINCHETTI: Yes, I'm still here.

6 CHAIR ZIEMER: Still dealing with  
7 the radon issue and they are hopeful that they  
8 will be ready at the next Board meeting to  
9 make a more definite recommendation.

10 But we did want to give you an  
11 opportunity if you had some comments at this  
12 time to make those. You may or may not, but  
13 you are certainly welcome to do so if you had  
14 any comments for the Board.

15 MS. PINCHETTI: Well, I did get a  
16 copy of the SC&A report from Laurie Breyer, as  
17 well as the Harley report. And it still seems  
18 like the focus is on the 25-year-old spot of  
19 radiation that was found in '83, and that was  
20 20 years after the contract ended. So in  
21 other reports it seemed like there was  
22 discussion about how the radiation dissipates,

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1 you know with the exchange of air over time.  
2 And it just seems like a 1983 spot would have  
3 lost a lot of the radiation by the time it was  
4 found. And I'm not clear if that spot was  
5 found in Building 40 or Building 55.

6 CHAIR ZIEMER: Okay, I'll let Ms.  
7 Munn address that, and also the issue of the  
8 air turnover rates in one of the buildings was  
9 under discussion. But maybe Ms. Munn can add  
10 to that. Did you understand the question that  
11 was being asked?

12 MEMBER MUNN: Yes, I did understand  
13 the question.

14 CHAIR ZIEMER: Can you hear Ms. Munn  
15 okay?

16 MS. PINCHETTI: I can.

17 MEMBER MUNN: The issue with respect  
18 to the air sample is not as pertinent actually  
19 as the issue of the air exchange. And that's  
20 what we've been focusing on. The reason I  
21 made that statement is because you are  
22 correct, some of the measurements that have

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1 been provided to us were made after the  
2 covered period. But they have been used as  
3 verification that the levels could not have  
4 been higher than that. The process is now  
5 quite well understood, and the amount of radon  
6 that could be possible is now - could be  
7 available from the process is now quite well  
8 understood.

9 Our issue is primarily how much of  
10 that stays in the building and how it is being  
11 transferred by the normal airflow through the  
12 building.

13 So that is our focus at this  
14 moment. So far as I understand that is the  
15 final aspect of the full production picture  
16 that has not yet been tied down.

17 CHAIR ZIEMER: I am going to suggest  
18 - the workgroup plans to schedule another  
19 meeting I believe by phone, and I'm going to  
20 suggest that you make sure that the  
21 petitioners are aware of the time of that  
22 meeting so that they can listen in and

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1 participate with that. Kathy, is that  
2 agreeable with you?

3 MS. PINCHETTI: Yes, that's fine.  
4 It's just that there is a big time zone  
5 change. It's approximately 7:45 right now.  
6 And I work.

7 CHAIR ZIEMER: So we need to make  
8 sure that we can find, perhaps can find a time  
9 that is also convenient for the petitioner in  
10 some way.

11 MS. PINCHETTI: That's okay. I'm  
12 not asking for any accommodations. It's just  
13 that I need to make arrangements at work so I  
14 can listen in.

15 CHAIR ZIEMER: Okay.

16 MS. PINCHETTI: One other question I  
17 had was about Florida. I don't know if we are  
18 basing the Florida comparison based on that,  
19 because that is where the rock came from. I  
20 don't know if there are purchase orders that  
21 show that data was actually from Florida or  
22 somewhere else, or if the Florida comparison

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1 is because - they also had a phosphoric  
2 process going on there.

3 But in the reports that I just got  
4 they are making reference to the 25-foot doors  
5 being open, and in Illinois I don't think that  
6 is possible for probably nine months out of  
7 every year, because it is either snowing, or  
8 there are sub-zero wind chills, or there's a  
9 tornado brewing. So I don't know.

10 And also that the vents were frozen  
11 shut in some of the buildings because it was  
12 so cold, the vents in the ceilings.

13 MEMBER MUNN: Let me address your  
14 first issue with respect to time. You  
15 certainly have this voice's sympathies. I  
16 also live on the West Coast, and am not happy  
17 with being on the phone at six o'clock in the  
18 morning either. And so I feel fairly sure  
19 that we will be scheduling - we will be  
20 attempting to schedule a time that - certainly  
21 during the day, during the normal workday, and  
22 it will be at such a time that hopefully it

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1 will be convenient for you also.

2 We will have that time established  
3 after our work period tomorrow afternoon, and  
4 it will be posted on our information website.

5 I'm not certain, but it will appear on the  
6 website as scheduled workgroup call.

7 Yes, the material that was used at  
8 Blockson did in fact come from Florida. That  
9 has been fairly well documented now. And we  
10 are aware of the fact that the doors certainly  
11 would not be open throughout the year. That  
12 is a part of the discussion that - several of  
13 the workers did mention however that they were  
14 greatly relieved during the summer months to  
15 be able to have them open because of the  
16 chemical fumes that accumulated during the  
17 process.

18 So it was our understanding that  
19 when they could be open they made every effort  
20 to do that.

21 MS. PINCHETTI: Okay.

22 CHAIR ZIEMER: Well, thank you. Did

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1 you have any additional comments then, Kathy?

2 MS. PINCHETTI: No, no, I'm fine.  
3 Happy holidays to the Work Group. I know you  
4 guys have been putting in a lot of work on  
5 this.

6 CHAIR ZIEMER: Thank you for being  
7 with us this morning. Thank you.

8 We will proceed then to the next  
9 item on the agenda, which is the Department of  
10 Energy update. And we are pleased that Dr.  
11 Patricia Worthington is with us this morning.

12 She had a difficult time getting here with  
13 fog and other issues yesterday. But Pat,  
14 welcome, and we are pleased to have your  
15 update at this time.

16 DEPARTMENT OF ENERGY UPDATE

17 DR. WORTHINGTON: Good morning. I'm  
18 pleased to be here. I certainly was  
19 challenged quite a bit yesterday to try to fly  
20 here. A lot of fog in the Augusta area. But  
21 I am pleased to be here today, and thank you  
22 for readjusting the schedule to fit me in.

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1 I wanted to give you an update on  
2 where we are in supporting this program. No  
3 major changes in the roles and  
4 responsibilities of DOE, but I want to give  
5 you a few statistics, and talk about some  
6 initiatives, and to address any questions you  
7 may have. And I have two members of my staff  
8 that are in the audience as well, Greg Lewis  
9 is here and Isaf, she's here as well. So we  
10 are happy to give this update.

11 A little bit about the activities  
12 again. We have sort of three main areas, and  
13 we continue to focus on those areas. One is  
14 to provide information for the individual  
15 claims. Those are primarily employment  
16 verifications and exposure records. We  
17 provide support to the Department of Labor, to  
18 NIOSH, and to the Board and its contractors  
19 through research and retrieval of documents  
20 from various DOE sites, and we update our  
21 covered facilities information.

22 I mentioned that I would give a few

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1 statistics, and here are just some, to give  
2 you an idea of sort of the magnitude of the  
3 support that we provide. In terms of  
4 employment verification, nearly 7,000 a year  
5 dose records for NIOSH, about 4,000, and then  
6 employee work history and exposure rates,  
7 about 7,500 per year.

8 Again just a few more statistics.  
9 A little bit about what we did in 2007 and  
10 2008. Basically we had almost 22,000  
11 completed requests in 2007 and about 18,000 in  
12 2008. Again those were the numbers for those  
13 years. It's not intended to reflect a trend  
14 that things are going down, but just to give  
15 you sort of the stats.

16 For example in 2006 I think we had  
17 about 16,000 completed.

18 The SEC support is certainly a huge  
19 effort for us. You see on this slide that we  
20 are supporting a number of them. Probably the  
21 biggest ones for us right now are Hanford and  
22 Savannah River, and I will talk a little bit

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1 more in detail about what we are doing in  
2 those areas.

3           The Savannah River one, we have  
4 certainly been active, and since June up to  
5 this point we've hosted seven visits for  
6 NIOSH, major visits there. And we've been  
7 doing a number of things to improve access to  
8 documents, and to make those things more  
9 available. And you see a term here called,  
10 electronic document work flow system. It's  
11 something that we made available to NIOSH so  
12 that they can on their own search it for key  
13 words and key phrases and be able to get a  
14 better feel for what kind of things they might  
15 need.

16           We have completed document reviews  
17 for over 2,000 documents, nearly 300,000  
18 pages. That certainly was a significant  
19 effort on the part of getting things ready at  
20 Savannah River.

21           And the last bullet is intended to  
22 talk about document reviews for what we call

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1 classified documents. There were 157 of those  
2 documents.

3 Let me back up a little bit to this  
4 almost 300 pages of documents. When I say  
5 that we have conducted those reviews, we have  
6 actually conducted reviews, we've gathered  
7 information, we've scanned the materials and  
8 they have actually been transmitted to NIOSH  
9 for their use.

10 I will switch now and talk a little  
11 bit about the Hanford SEC, and the kinds of  
12 things that we are doing there, and continue  
13 to do. The first bullet is intended to talk  
14 about 400 unique boxes. There are many boxes  
15 at the site. There are certain things that  
16 characterize those boxes. We have pulled 380  
17 boxes, and there was an opportunity to go  
18 through those boxes and determine exactly what  
19 is needed, because typically you may not need  
20 everything that's in a box.

21 And as a result of nearly a million  
22 pages, 1,000 specific documents were

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1 identified.

2 The same with Savannah River.  
3 We've hosted six major visits at the site for  
4 NIOSH, and a number of smaller visits.

5 I want to go to the next slide and  
6 talk a little bit about the tours in terms of  
7 hosting a visit and what does it mean.  
8 Certainly we are always talking about  
9 documents and retrieving documents. But it's  
10 nothing like being on the ground and kind of  
11 getting a sense for the operations and what  
12 went on there and the size of the facilities  
13 and the types of operations. So at Hanford  
14 there were multiple facility tours in various  
15 kinds of buildings. Some of the buildings  
16 were actually contaminated. Some of the  
17 buildings were undergoing demolition or D&D,  
18 so a wide variety of buildings and activities.

19 As you know Hanford is a very  
20 complex site. There are many different  
21 contractors with different missions going on  
22 at that time. We have great cooperation from

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1 all of those contractors, and all of them are  
2 involved in participating in making the  
3 information available and looking for ways to  
4 better do that.

5           Again, about improving access, we  
6 are looking at record systems access so that  
7 NIOSH can search the systems themselves for  
8 key words and key activities, and look for  
9 ways to determine what kind of information  
10 might be needed.

11           In terms of additional staff,  
12 certainly when you have a big project like an  
13 SEC, the existing staff that were available at  
14 that site to do records retrieval might not be  
15 sufficient. So a number of people were added,  
16 I think six additional individuals added to  
17 help with that process, including individuals  
18 that are cleared and that would understand  
19 classification.

20           Office space and computing  
21 equipment, that is very critical that we make  
22 that available so that people can have space

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1 to look at documents to do staging of  
2 documents and so forth, and they have  
3 computers that they can use right there and  
4 work on the information.

5 So all of these are part of our  
6 initiatives to make the information more  
7 available, and make the individuals that need  
8 to do the review more knowledgeable about the  
9 kinds of things that went on at those sites  
10 and those operations.

11 The next slide is just intended to  
12 provide a quick overview of the things we do  
13 in terms of supporting the Department of  
14 Labor. Ultimately we want to make sure that  
15 they have all the information available to  
16 them to be able to make decisions on claims.  
17 So this was part of working our interface.

18 Again, I've talked before about  
19 tours. We've made sure that the Department of  
20 Labor had an opportunity to tour facilities as  
21 well.

22 We met with Department of Labor

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1 staff in Seattle to discuss issues related to  
2 the tank farms. There are a lot of complex  
3 issues associated with that, again, it's a way  
4 of making people more familiar with these  
5 unique activities that have gone on within the  
6 Department of Energy.

7 The last bullet is just making sure  
8 that where we have SMEs that are available and  
9 are knowledgeable about hazards, where it's  
10 appropriate we can make them available to the  
11 Department of Labor to provide some additional  
12 insights.

13 Again this is about the covered  
14 facilities. We continue to do that as more  
15 information becomes available, if there is a  
16 need for additional research to work on  
17 expanding that, we certainly take an  
18 opportunity to do that.

19 A little bit about initiatives: I  
20 talked about making people familiar with the  
21 operations on the sites and the facilities.  
22 Another thing we want to continue to work is

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1 our interfaces, to make sure that we are  
2 communicating with the various groups we have  
3 to work with. We have designated a specific  
4 point of contact within our organization to  
5 work regularly with the Board and the  
6 contractors and NIOSH to make sure we  
7 understand all their issues. We hold weekly  
8 conference calls with the members of NIOSH and  
9 its contractors to make sure that they are  
10 receiving the information, there aren't any  
11 problems or concerns, or if there are things  
12 we need to do different or to work on those  
13 things. We don't want to wait until things  
14 build up. So we're looking to a designated  
15 individual, weekly interactions, and in some  
16 cases daily if things are - if we need to do  
17 that.

18 We talked at the last few meetings  
19 here about our Office of Legacy Management.  
20 They have great experts there who are very  
21 familiar with record retrieval that continue  
22 to support us in looking for covered facility

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1 information, any of the things that we need  
2 additional research, we certainly reach to  
3 that organization to help us do that.

4 A little bit more about the  
5 initiatives. This process of retrieving  
6 information and developing reports and making  
7 sure that documents are reviewed certainly is  
8 one that we've worked on quite a bit this  
9 year, and we continue to collaborate with the  
10 various organizations, and we believe that  
11 we've streamlined that process and that we are  
12 able to do things much faster and much more  
13 efficiently than we were in the past.

14 We attended the NIOSH Advisory  
15 Board Meeting and the Department of Labor town  
16 hall meeting, so whenever DOE can be available  
17 to support those activities, we want to do  
18 that.

19 The next initiative I want to spend  
20 just maybe a moment talking about that, in  
21 terms of how do we do things better? How do  
22 we improve the record retrieval and retention

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1 process in the department? We wanted to start  
2 at the head of the Department of Energy, at  
3 the Department of Energy. The records issues  
4 are owned by the CIO's office. So we've been  
5 working with that organization, and working  
6 with our procurement and contract  
7 organizations to ensure that we have a  
8 contract mechanism in place that will make  
9 sure that we can access and maintain ownership  
10 of records. We look to our contractors when  
11 we employ them at the sites to do certain  
12 things to be able to help us do that. So we  
13 want to make sure the contract language is  
14 clear. This certainly is very important in  
15 the area of subcontractors, because they are  
16 workers too, and we want to be able to  
17 retrieve information regarding subcontractors  
18 when it's needed, and that's been a challenge,  
19 much more so than some of the other things  
20 that we've been doing. So we are trying to  
21 make sure that we have a process in place that  
22 we can do a better job in that area.

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1           The next bullet deals with a site  
2 specific one that we have been working on.  
3 And that is to work with the Los Alamos  
4 medical center to get records there of DOE  
5 workers. Before 1964 the hospital was a part  
6 of the DOE and its predecessor organization.  
7 After that time it was a separate private  
8 organization, and some records, worker  
9 records, were left at the hospital. We have  
10 been working with the hospital. We have a  
11 mechanism now. We have a process in place  
12 where we can go in and clean up those records,  
13 sort them, package them, retrieve them and  
14 have them available so that if people request  
15 them that information can be provided.

16           The next slide is intended to kind  
17 of summarize some DOE activities. This is  
18 primarily about the DOE oversight POCs. We  
19 have them at every one of our major sites, and  
20 they play a major role as part of the site and  
21 part of the federal organization to help in  
22 this process they attend public meetings.

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1 They work with DOE and NIOSH to facilitate the  
2 interviews with current and former workers.

3 In one of our sites in particular  
4 this particular POC actually goes out and  
5 meets with former workers in their homes there  
6 they are comfortable in having discussions,  
7 and talk with them about EEOICPA and what they  
8 can do and how they might apply.

9 So again, looking for other ways to  
10 reach out to these organizations, to these  
11 individuals, and make sure that they are aware  
12 of information and mechanisms and processes  
13 that might be available.

14 The next slide is intended to be  
15 one that will spark some questions and I'm  
16 here certainly to answer any questions that  
17 you might have. I do want to reflect back on  
18 one of the slides that I put up earlier, and  
19 that was about streamlining the process. And  
20 I want to mention sort of the role of our  
21 organization in terms of streamlining that  
22 organization in terms of HSS. If there are

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1 documents that are subject or need to be  
2 reviewed, it is a high priority of our own  
3 organization, the people that you see here  
4 that you are working with to make sure that  
5 they happen, but it's also a high priority  
6 across the HSS organization. So at any time  
7 if we need to involve the security  
8 organization, this becomes the highest  
9 priority for them, and there are individuals  
10 that have been designated to work with us and  
11 to quickly act upon these things that need to  
12 be reviewed.

13 Having said that, I am available  
14 now for questions or for further elaboration  
15 on any of the quick topics that I've mentioned  
16 today.

17 CHAIR ZIEMER: Thank you very much,  
18 Dr. Worthington.

19 Let's open the floor for questions  
20 or comments. Brad Clawson.

21 MEMBER CLAWSON: First of all, I'd  
22 like to thank you. I just returned from

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1 Hanford, and the tours we had up there were  
2 tremendous. It was very beneficial to us,  
3 especially the 300 area, the 100N area,  
4 because these are very complex sites, and they  
5 are hard to be able to keep up.

6 But one of the problems that I do  
7 see is that up high they're understanding what  
8 we need as far as being able to get documents  
9 processed through and so forth, but whenever  
10 we review documents, as a subcontractor or as  
11 a Board member, before we can take notes or  
12 anything else like that, they have to be  
13 cleared by you, which we understand, but it's  
14 taking a tremendous amount of time.

15 Some of our records are six months  
16 old. I still haven't got any of my notes from  
17 Mound. And I know that we are just getting  
18 this started, but I feel like this is an area  
19 where we can make some improvements.

20 DR. WORTHINGTON: We believe that we  
21 have made some improvements. There is  
22 certainly a ways to go, and some of the things

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1 are legacy things that happened before we set  
2 these particular processes in place. So we  
3 are looking to hear back from all the  
4 organizations in terms of real time if they  
5 believe that documents are held up. And Greg,  
6 you may have a comment on that. I'm not aware  
7 that there is a holdup on the Mound documents.  
8 You may want to comment on what.

9 MEMBER CLAWSON: Actually, I'm  
10 speaking more to the notes.

11 DR. WORTHINGTON: To the notes?

12 MEMBER CLAWSON: The notes that we  
13 took when we reviewed some of the  
14 documentation and stuff. And this was done in  
15 the Federal Building in Cincinnati, and then  
16 we turned over all of our notes, and we are  
17 still waiting for them.

18 DR. WORTHINGTON: What timeframe was  
19 that? Was it several months?

20 MEMBER CLAWSON: What, four or five  
21 months? It's when we went to Cincinnati. It  
22 was SC&A and myself. What it came down to was

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1 worker interviews.

2 DR. WORTHINGTON: Worker interviews?

3 MEMBER CLAWSON: Yes.

4 CHAIR ZIEMER: Greg, did you have a  
5 comment on that, or can you enlighten us?

6 MR. LEWIS: Yes, this is Greg Lewis.

7 That may be an issue of what the notes ended  
8 up being marked as, and who we can release  
9 them to, which speaks to the security plan  
10 we're working on how. But to my knowledge all  
11 of the notes were reviewed and released back  
12 to the person who submitted them.

13 DR. WORTHINGTON: And there's no  
14 reason that they would be held up for six  
15 months. So we need to follow up on that and  
16 make sure that they weren't directed to the  
17 wrong individual, or that we have made a  
18 mistake and they are still there and we need  
19 to forward them on, because six months is  
20 extremely long. Our process isn't designed  
21 for it to take that much time.

22 MEMBER CLAWSON: Well, and part of

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1 it too I think that we'll come to find out is  
2 that sometimes when we - especially with a  
3 worker's interview that has to go through a  
4 clearance process, and sometimes they get  
5 redacted or whatever else like that, at some  
6 point we are falling into a glitch because  
7 they get classified as somewhat classified or  
8 whatever, and we are losing track of where  
9 they are going, because they are going to have  
10 to go through a redaction process, and we  
11 never figure out - it's kind of hard to track  
12 where they are at.

13 Now we have made some substantial  
14 changes with that because through our  
15 subcontractor they are starting a process to  
16 be able to track where stuff is at. It'll  
17 make it a little bit easier. I know this is  
18 kind of the grass roots. But I hope that we  
19 can make sure that we can process through this  
20 as easy as possible. But there have been some  
21 issues.

22 MR. LEWIS: This is Greg again. I

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1 understand tracking is an issue and a  
2 difficulty. But for the most part on our end  
3 we have had notes back to you within - we're  
4 working on a 7 to 14-day turnaround period.  
5 I'm not sure if we have always been hitting  
6 that, but certainly our recent experience is  
7 we have been. And in addition as far as  
8 reviewing original copies of notes, that is  
9 also available for someone with the right  
10 clearances and in the right setting in a  
11 cleared location. They can always review the  
12 originals if it happens that the specific  
13 piece of information that was removed is  
14 something that is important - typically that's  
15 not the case - but they can be reviewed in  
16 their original form as well.

17 DR. WORTHINGTON: But this action we  
18 will take back and look for notes from  
19 Cincinnati about six months ago that were  
20 submitted for review never should last this  
21 long. So we will get back to you. We will  
22 look into that and see what happens.

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1 CHAIR ZIEMER: Maybe you can get the  
2 exact date of that before you leave and that  
3 would simplify this.

4 MEMBER CLAWSON: I can probably get  
5 the exact date because what this covered was  
6 on Mound. But and this is - you probably hit  
7 the nail on the head when you said this is  
8 probably a legacy of before we kind of got  
9 into some of this process. And I think it's  
10 trying to catch up with a lot of the notes and  
11 interviews and so forth that we need to do,  
12 and maybe we can sit down with our contractor  
13 and make sure where all this stuff is at.

14 DR. WORTHINGTON: And make sure of  
15 it, because we aren't aware that anything has  
16 fallen through the cracks in that period of  
17 time. But if that is the case we need to fix  
18 it.

19 Joe has a comment, I think.

20 MR. FITZGERALD: Yes, this is Joe  
21 Fitzgerald. This is one I think I just talked  
22 to you a little earlier on. I've been to DOE

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1 Germantown twice on those interview notes. So  
2 they are being reviewed, but the issue is,  
3 when things are identified there is a dialogue  
4 that is needed just to kind of move things  
5 forward. And I think that part of that is  
6 something that we're working on. That process  
7 is not probably where it needs to be right  
8 now.

9 DR. WORTHINGTON: And that's the one  
10 that I said I would follow up with you, Joe,  
11 on too, because there shouldn't be any  
12 documents there from six months ago that was  
13 just for an interview and that they've been  
14 cleared by one group, and an action should  
15 have been taken, and a document that is  
16 suitable for release should have been made  
17 available or whatever. We need to follow up  
18 on that and make sure.

19 MR. FITZGERALD: Yes, and we've  
20 discussed this process issue. There is a  
21 process issue though, and I think it was  
22 probably unduly delayed, but that I think

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1 needs to be addressed.

2 MEMBER CLAWSON: But we are  
3 addressing those issues though?

4 MR. FITZGERALD: Oh, yes. These  
5 interview notes are pretty critical time wise  
6 for the SEC review. So I've basically been  
7 following up and working with the reviewers in  
8 Germantown to make sure they don't get hung  
9 up. But the one thing I particularly think we  
10 are looking at, and I mentioned this to Pat,  
11 is that if there is an issue, feedback needs  
12 to come back.

13 DR. WORTHINGTON: We need it  
14 immediately.

15 MR. FITZGERALD: As quickly as  
16 possible, so we can go ahead and resolve the  
17 issue not when it hits the stand.

18 CHAIR ZIEMER: Let me insert  
19 something here, and we have several other  
20 comments. But there has been some concern in  
21 the last month or so, general concern on the  
22 part of the Board that the process seems to be

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1 developing in terms of how this is done,  
2 without Board input; that is, that our  
3 contractors seem to be in the loop and NIOSH  
4 and others, but the Board in general has felt  
5 like it's not been in the loop on exactly how  
6 this process is going to proceed. And we can  
7 discuss that some more.

8 But let's get the comments here.  
9 Josie?

10 MEMBER PRESLEY: My comment was just  
11 back on the notes. I actually got a clearance  
12 to go in and review Kathy's, from SC&A's  
13 notes, from Mound, from Germantown, and they  
14 weren't available. She had gotten Brant's  
15 notes, but not her own notes, which were the  
16 reason that we had actually met to  
17 specifically look at them.

18 CHAIR ZIEMER: Okay, thank you.

19 DR. WORTHINGTON: So this seems to  
20 be an issue on the Mound notes, and we need to  
21 get to the bottom of that and expedite getting  
22 that done and getting it back out to people in

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1 the form that they can use, or if there is a  
2 need for classified discussion of key  
3 individuals to arrange that as well. But yes.

4 CHAIR ZIEMER: Okay, Jim.

5 MEMBER MELIUS: My issue is the  
6 major issue that we have, this so-called  
7 security plan or agreement we have been  
8 waiting on for many, many months now. It  
9 appears to be in a draft form that goes back  
10 and forth. The Board has not been made privy  
11 to that documentation at all, and I think it's  
12 by itself causing major problems.

13 I have major concerns that somehow  
14 processes or procedures are being  
15 institutionalized that will cause major delays  
16 in our ability, the Board's ability, to get  
17 its work done. And we have sort of no  
18 involvement in this.

19 And secondly, I think to have to  
20 deal with these issues on a case-by-case  
21 basis, or individual basis like these notes or  
22 that note, or this situation and so forth, is

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1 difficult. It's difficult for you coming here  
2 to do that, because we don't know what the  
3 expectation should be. What's a fair amount  
4 of time that certain things should take?  
5 Which notes, which documents and so forth are  
6 subject to review, and what are ways that that  
7 can be appropriately expedited and so forth.  
8 And we are just being left in the dark on  
9 this.

10 I think it's a major problem, and  
11 continues to be a major problem. And no one  
12 from either the NIOSH or the DOE end seems to  
13 be willing to discuss it with the Board. Why  
14 we have not been able to see a draft document  
15 of this security plan is beyond me, since we  
16 are going to have to live with it and deal  
17 with it. We are not - and so forth, and we  
18 are going to have to explain and try to figure  
19 out why major reviews and so forth are going  
20 to be taking months and months longer because  
21 of these new procedures.

22 And I'm very disturbed by it, and

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1 mostly disturbed by the secrecy that seems to  
2 be surrounding this particular document.

3 I don't think anybody has any  
4 problem with security reviews as necessary.  
5 But the fact that we've been - it seems to me  
6 like it's over a year we've been aware of this  
7 issue, and the security plans being discussed,  
8 and we have yet to see a document.

9 DR. WORTHINGTON: Maybe this is a  
10 good opportunity for me to give a little bit  
11 more information, a little bit more insight  
12 into the process and what we are doing. And  
13 I'll start with the endpoint first.

14 And the endpoint is that various  
15 groups, NIOSH and Labor and DOE, we've been  
16 working together to come up with a security  
17 plan. And what we wanted to bring to the  
18 Board was a consolidated draft plan for Board  
19 comment and feedback. And we are still not at  
20 that point.

21 I believe that we are very close to  
22 doing that. We have some comments that we are

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1 working on with NIOSH, and so at some point I  
2 believe in the near future we would be in a  
3 position to be able to do that.

4 Your question about what kinds of  
5 things ought to be reviewed, and how much time  
6 should they take, because some things did  
7 occur over the last year or so, we have been  
8 working on that to make sure that we had a  
9 security plan in place that would clearly lay  
10 out a number of things. It would lay out  
11 access to the sites, how you get badges, how  
12 you get cleared, the kinds of documents that  
13 are generated and at what point in the  
14 generation of those documents would they be  
15 subject to reviews.

16 So we've been working on that.  
17 It's been lessons learned from some of the  
18 events that have occurred. And we think we  
19 are fairly close to having a plan that would  
20 in fact meet the national security  
21 requirements and also would expedite this  
22 process, and would be one that would minimize

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1 the possibility of reports that were not  
2 appropriate being generated, and then  
3 therefore cause a delay.

4 And I believe that what we put  
5 together typically would mean that when  
6 documents are subject to review that they  
7 would be 10 to 14-day reviews, and that we've  
8 been able to get them down now to days and  
9 not even weeks in terms of those things.

10 So I think that we are close, and  
11 certainly we were looking for the right time  
12 to come with a plan that would in fact address  
13 all of those things.

14 CHAIR ZIEMER: Thank you, Pat, and I  
15 think the intent there is certainly good.

16 One of the sort of concerns as I  
17 sense it or have sensed it over the past  
18 several weeks is that the agencies have sought  
19 input on the process from the Board's  
20 contractor, and it appeared that it was  
21 assumed that the contractor was speaking on  
22 behalf of the Board. And although the

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1 endpoint is that a document would come to the  
2 Board for a final review, a concern that  
3 perhaps there could have been input earlier  
4 from participating Board members, so that -  
5 not that we don't think the contractor's input  
6 is important. But the sort of assumption that  
7 the Board's contractor was speaking on behalf  
8 of the Board when we really had no input on  
9 that, I think, was a sort of concern. I think  
10 I've expressed, based on some email exchanges  
11 that I've seen on this issue, between Board  
12 members, and I've told the Board members, we  
13 can't do the business by email.

14 So if you have those kind of  
15 concerns, let's get them out in the open, and  
16 I'm trying to express, I think, what I've seen  
17 exchanges between Board members, concern that  
18 it was assumed that our contractor was  
19 speaking on our behalf.

20 MEMBER MELIUS: Can I just clarify?

21 I mean, Paul, we were informed after the fact  
22 on a meeting. John Morrow went to a meeting.

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1       So it's hard to express our concerns ahead of  
2 time when nobody informs us about what's going  
3 on.

4                   CHAIR    ZIEMER:   That's   what   I'm  
5 saying.

6                   MEMBER MELIUS: Number two, it was  
7 presented to us in that email as I recall that  
8 we would essentially get to see the final  
9 security plan. There was no talk about the  
10 Board, any involvement of the Board in  
11 reviewing that or having any input into that  
12 final security plan.

13                   I would also point out that this  
14 process has been going on at least since the  
15 St. Louis meeting which I believe was in June,  
16 and it started I think even a little bit  
17 before that. It's over six months, and if the  
18 three agencies can't get it together to  
19 produce a draft security plan, I'm sort of  
20 dumfounded that it should take so long. And I  
21 think it is - and the fact that we don't have  
22 one continues to cause delays and problems.

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1           And every time we raise these  
2 issues about delays or problems, they say,  
3 well, it's being taken care of in this plan,  
4 and the plan, which we've never seen, the  
5 process seems to go on and on forever.

6           CHAIR ZIEMER: Larry.

7           MR. ELLIOTT: Well, I think there is  
8 an opportunity here to apologize for any  
9 perception that was acquired by asking SC&A to  
10 be involved in examining the draft plan. And  
11 let me make it clear: there are two plans.  
12 There is an agency plan at DOL that serves  
13 right now to speak to an audience at DOL as  
14 well as an audience on our side, as well as  
15 DOL's side.

16           There is a plan that complements  
17 the DOL plan that is a NIOSH plan that is  
18 overarching that includes the activities of  
19 NIOSH as well as all of the contractors  
20 involved, SC&A, ORAU, and whichever contractor  
21 is named to be successors to those two.

22           We ask - I ask SC&A to review and

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1 comment on the draft plan that NIOSH had  
2 prepared, and was in negotiation with, DOL and  
3 DOE on, so that SC&A could comment on their  
4 ability to comply with such a plan.

5 We were in negotiations with the  
6 other two agencies, and primarily DOE here, to  
7 come up with a plan, and it didn't seem fair  
8 to share the draft with our contractor and not  
9 share the draft with your contractor to get  
10 their input on the ability to comply; also the  
11 ability to provide comment about difficulties  
12 that the plan might present.

13 There is a - these are pre-  
14 decisional documents, and until the agencies  
15 which have a management prerogative here come  
16 forward with their final negotiated and agreed  
17 upon plans, that is when I think the Board has  
18 an opportunity to provide comment on these  
19 plans.

20 Until then as they are being  
21 negotiated, they are considered pre-decisional  
22 and the agencies are not going to allow us to

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1 put them out into the public forum because  
2 they are in the process of negotiation and  
3 change.

4 DR. WORTHINGTON: And we wanted to  
5 have a consolidated view of the agencies that  
6 we would present rather than drafts that may  
7 have diverging views.

8 MR. ELLIOTT: And the fact that it  
9 has taken as long as it has I think is notable  
10 in the context that we are negotiating; we are  
11 going back and forth on some things that are  
12 fairly critical.

13 We recognize at NIOSH that DOE has  
14 the responsibility and the authority to  
15 protect national security information. And  
16 what they are asking of us is to review  
17 documents that are prepared based upon source  
18 documents that they have given to us or our  
19 contractors to make sure there is not any  
20 sensitive information. That's all they are  
21 reviewing, for sensitive information. And so  
22 that's about all I can say at this juncture.

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1 I wish the plans were out there, too. We both  
2 have been pushing to get these things  
3 finalized, and it's taken us this amount of  
4 time to come to a series of agreements as to  
5 what these plans need to look like.

6 CHAIR ZIEMER: Thank you, Larry.  
7 Brad, any additional comment?

8 MEMBER CLAWSON: Well, one thing I  
9 wanted to bring up, Pat, I do want to tell you  
10 how much I do appreciate Greg and Regina  
11 because they have been a great help.

12 DR. WORTHINGTON: Thank you.

13 MEMBER CLAWSON: But one of the  
14 things that I have seen that really comes  
15 down, and it's difficult, and I hope that we  
16 think about this, is like at Hanford, the  
17 Sigmas for us to be able to see certain  
18 things, it's not being portrayed down to the  
19 site or wherever we are going at. They didn't  
20 understand what we could really see and what  
21 we couldn't. There is a breakdown at the very  
22 bottom end of it that when this is set forth

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1 of what we can actually review. Because at  
2 Hanford I had the opportunity to be able to  
3 look at something from Pantex, and it'd  
4 already be prearranged. But the people at  
5 Hanford did not - they were scared to give me  
6 it, and it was through Greg and Regina that  
7 then I was able to get to it. So I just  
8 wanted to bring forth that there is a  
9 breakdown at the site of what can and can't -  
10 and nothing was sent to them saying, when my Q  
11 clearance comes up what Sigmas I actually  
12 have. And this may be something that I hope  
13 that we can look at, because I saw a great  
14 nervousness until Regina called and took care  
15 of it with them of them of being able to allow  
16 us to see anything. Because they felt fine  
17 with their Hanford stuff, but how could they  
18 speak for somebody else's site. And this is  
19 an issue that is going to be coming up again  
20 and again, and I hope that maybe we can work  
21 through it and so forth. Because they didn't  
22 understand what I had and what I could see.

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1 There was a breakdown there. And they were  
2 very reluctant, let's put it that way.

3 DR. WORTHINGTON: Greg, do you have  
4 a comment?

5 MR. LEWIS: Yes, I was just going to  
6 say, that speaks to, this Board is very unique  
7 in terms of what they do and how they interact  
8 with DOE sites, especially at a site like  
9 Hanford where we facilitated a workspace where  
10 you can review both Hanford documents and  
11 documents related to other sites. That's a  
12 unique situation, we've done that at both  
13 Hanford and at Livermore, and they are not  
14 used to that. That's very different than how  
15 they operate. And like you said, they are  
16 very used to making decisions on what and how  
17 to release and make Hanford documents  
18 accessible. It's a little bit different with  
19 other facilities. We are working that. There  
20 was a bit of a delay in the instance you're  
21 speaking of. But we do understand that is a  
22 unique situation at those two facilities and

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1 any others where we facilitate similar types  
2 of arrangements. We will make sure they are  
3 getting used to how to handle that, and what  
4 preapprovals and things like that we need.

5 DR. WORTHINGTON: And we think that  
6 is the role of our office that we need to make  
7 this clear. We are the champions, we are the  
8 people working with the sites to make it  
9 happen, to make sure they understand the  
10 clearances and what is required.

11 So we will certainly be more  
12 aggressive in making sure that people  
13 understand the clearance level, and that those  
14 things are made available to you.

15 MEMBER CLAWSON: Yes, because - like  
16 I say, this was a new situation and so forth  
17 like that. And I don't ever want to go into a  
18 site and have them scared that they are going  
19 to mess up, and this is kind of what I saw.  
20 Because I asked her about it, and they took me  
21 down, and they said, this is what your  
22 clearance shows. And it shows no Sigmas.

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1 We've got this and so forth. But I wanted you  
2 to be aware of those issues, because we are  
3 probably going to get into it. And like you  
4 said, this is still grassroots, and I  
5 appreciate everything that you have done, but  
6 I don't ever want to - I don't like the  
7 situation where a site is very, very scared to  
8 even talk with us because they are afraid of  
9 some of these issues.

10 And I think if we address this up  
11 front and stuff we will be able - it will work  
12 out. It did work out at Hanford, and that's  
13 where you and Regina came in, and I appreciate  
14 it very much.

15 CHAIR ZIEMER: Jim, do you have a  
16 comment?

17 MEMBER MELIUS: Yes, I would like to  
18 try to get a timeframe when this security plan  
19 is going to be made available and be  
20 completed.

21 CHAIR ZIEMER: Any reliable  
22 predictors, Pat or Larry?

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1 DR. WORTHINGTON: I know that Larry  
2 and I, we are working on it, and we will  
3 continue to expedite it. I don't want to make  
4 a commitment that we can't deliver. But it  
5 certainly is of highest priority and it's  
6 being worked on as we speak, as we are here at  
7 this meeting right now, so we hope to get back  
8 to the Board soon.

9 CHAIR ZIEMER: Can you give us an  
10 indication, at what level in the agency - for  
11 example at DOE, is this something that goes  
12 all the way up to the secretarial level, or is  
13 it an assistant secretary? Who approves, and  
14 also at NIOSH?

15 DR. WORTHINGTON: Within the  
16 Department of Energy it is our intent that it  
17 will be approved in Glenn's organization, the  
18 HHS organization. Yes, that is the intent  
19 unless something changes.

20 MR. ELLIOTT: And at NIOSH it will  
21 be approved at the agency level, NIOSH's  
22 level, not CDC; not the department. But we

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1 will have to have - there are elements in the  
2 plan that speak to how certain types of  
3 information are handled with regard to Privacy  
4 Act information which in DOE's parlance falls  
5 under official use only. We have to have our  
6 FOIA office and our Privacy Act office review  
7 what we are inserting into the plan in that  
8 regard, and so while they have helped us with  
9 language they haven't seen this yet in its  
10 full entire form. So they will have to look  
11 at that.

12 We also have - OGC has to put eyes  
13 on this plan as well, and they have not done  
14 that.

15 CHAIR ZIEMER: Larry, while you are  
16 at the mike, you may not be able to answer  
17 this, but to your knowledge is there anything  
18 in the Department of Labor's plan that would  
19 have a significant impact on what this Board  
20 does?

21 MR. ELLIOTT: I don't know that  
22 Labor is putting a plan together. Labor is

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1 mentioned in DOL's plan - or DOE's plan.

2 DR. WORTHINGTON: I think earlier  
3 you may have said Department of Labor one  
4 time.

5 MR. ELLIOTT: I'm sorry. DOE has a  
6 plan they are working up that speaks to the  
7 activities and an audience at DOE, but it also  
8 speaks to us and to DOL.

9 NIOSH has a complementary plan that  
10 speaks to the NIOSH audience and its  
11 contractors, as an overarching plan, which  
12 would include the Board's contractor and the  
13 Board's activities. And there would also be  
14 two procedures that will be OCAS based  
15 procedures that have to be followed. So you  
16 will have essentially two plans to look at,  
17 one DOE plan, one NIOSH plan. Both will speak  
18 - cross-walk each other. And then there are  
19 two procedures behind the NIOSH plan.

20 CHAIR ZIEMER: So the intent would  
21 be that we would have the opportunity to see  
22 both of those plans? I thought one was sort

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1 of independent as a Labor plan. But you are  
2 saying it's not a Labor plan; it goes up  
3 through their system.

4 MR. ELLIOTT: It goes - DOE is  
5 producing a plan, a security plan, that speaks  
6 to how NIOSH and Labor will interact with DOE.

7 DR. WORTHINGTON: Will interact and  
8 protect the information, yes.

9 MR. ELLIOTT: But I don't know that  
10 DOL is planning to put forward any kind of a  
11 plan.

12 CHAIR ZIEMER: Does that require  
13 approval by Labor, is what I am sort of asking  
14 too.

15 MR. ELLIOTT: Well, I'll let Pat  
16 answer that question.

17 DR. WORTHINGTON: The plan as  
18 written, Greg, I don't believe there is a  
19 line. We certainly will be sharing, and have  
20 been sharing with the Department of Labor.  
21 But try to remember that the plan as it exists  
22 now, is there a line for the Department of

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1 Labor, I don't recall. I know we have been  
2 interfacing with them.

3 MR. LEWIS: I agree with you. I am  
4 not sure whether they are going to be  
5 officially signing off, but they have been  
6 providing input, and they are going to be  
7 working with it.

8 And just to clarify, I believe DOL  
9 is drafting a plan, but it is much more  
10 limited, and it deals only with their  
11 interaction with DOE. I don't believe it  
12 would involve NIOSH and/or the Board's  
13 operations. But again that -

14 CHAIR ZIEMER: But I guess if that  
15 is occurring, my original question still  
16 applies. Do we know whether there is anything  
17 in their plan which directly impacts - well, I  
18 guess impacts on NIOSH or this board?

19 MR. LEWIS: Yes, as I said, I don't  
20 believe there is again -

21 DR. WORTHINGTON: I don't think we  
22 can speak for Department of Labor. But we

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1 certainly have been working with them on  
2 elements of the plan to make sure, where there  
3 might be inconsistencies that we can work  
4 through those.

5 CHAIR ZIEMER: Thank you.

6 Josie, another comment?

7 MEMBER BEACH: This may be a  
8 separate situation, but I want to know if the  
9 plan will cover a situation that I encountered  
10 last week. I was trying to get clearance to  
11 view Mound documents at Hanford, and through  
12 second and third people was told I needed  
13 approval from NIOSH to be able to view those  
14 documents and have approval - will this plan  
15 help that?

16 CHAIR ZIEMER: No. I don't know  
17 who is on the line, but you don't need  
18 approval from NIOSH to view the documents.  
19 But you do need to go through a NIOSH point of  
20 contact to facilitate your getting assistance  
21 from DOE to review those documents. If you  
22 approach DOE on your own they are going to of

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1 course say, what authority do you have? And  
2 NIOSH has got a point of contact identified  
3 for these sites that you are aware of that  
4 needs to facilitate getting you into to see  
5 what you want to see.

6 It's not that we are sitting as a  
7 gatekeeper and giving approval. We are trying  
8 to facilitate, trying to answer the questions  
9 for DOE that have been raised, like Brad  
10 brought up about what gives you the right to  
11 see certain types of information. That's what  
12 we want to be out in front of, and be pushing  
13 to DOE and to the sites. This person has that  
14 authority to see that information based upon  
15 these needs.

16 So I know Jess is coming up here,  
17 and I can't speak for DOL either. But I would  
18 say - maybe he is going to say this - DOL's  
19 part in the DOE plan is to subtitle E, not  
20 anything on B. It's for their ability to get  
21 toxic chemical exposure information from DOE.

22 DR. WORTHINGTON: At Department of

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1 Energy, as a way of getting a handle on these  
2 document requests. We were receiving at one  
3 point document requests from many individuals,  
4 and we look for a way to have some single  
5 point of accountability, and to be able to set  
6 some priorities, and to kind of manage and  
7 schedule and budget for these activities.

8 So we've asked NIOSH to designate  
9 points of contact or specific leads for those.

10 Because in the past we were receiving in some  
11 cases multiple requests, the same thing from  
12 different individuals. We needed a little bit  
13 more control over it, so that was the idea  
14 that NIOSH would have a designated individual  
15 for those sites, and those things would be  
16 better coordinated, and hopefully we could  
17 deliver better services that way.

18 CHAIR ZIEMER: Thank you.

19 Jeff, did you have a comment from  
20 labor?

21 MEMBER KATZ: Only to say that I  
22 think on the Part B side it would be

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1 employment verification with DOE. I don't  
2 think there is anything that impacts NIOSH.  
3 As Larry said, there is the Part E component  
4 for the chemicals.

5 CHAIR ZIEMER: Thank you. Any  
6 further questions or comments for Pat, or in  
7 general on this issue?

8 DR. WORTHINGTON: If not, I would  
9 want to make just a few closing remarks.

10 The intent of what we call process  
11 improvements, they are intended, in fact, to  
12 improve the process. There was never any  
13 intent to have secrecy or to eliminate the  
14 Board or others from participating or  
15 providing comments.

16 We were looking collectively, the  
17 agencies involved, for the right juncture, so  
18 it would be meaningful, rather than coming  
19 back to you many times with many different  
20 drafts, to say, this is DOE's position, but  
21 labor and NIOSH, they have a third or a fourth  
22 position. So we were trying to consolidate,

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1 and to come back to you.

2 So we hope to be able to get back  
3 into the Board soon with some additional  
4 information and insights.

5 But your questions are always  
6 welcome, and we want to hear what you are  
7 thinking, and hopefully answer those questions  
8 or look for ways to figure out how to do that.

9 CHAIR ZIEMER: And we appreciate the  
10 efforts to streamline this process.

11 Jim.

12 MEMBER MELIUS: This is not - well,  
13 maybe it is a question for you - but is there  
14 any reason members of the Board can't be  
15 involved in these activities, in these  
16 meetings, and to be informed about what is  
17 going on? I'm talking about specific  
18 individual members of the Board.

19 DR. WORTHINGTON: I believe that  
20 some specific things that we discussed about  
21 the process, there was a Board member present  
22 and participated in at least one of the

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1 meetings. So certainly some of them are  
2 meetings that require cleared individuals.

3 But again, the agencies are trying  
4 to come up with a process and then present  
5 that draft. I don't know if that answers your  
6 question.

7 Greg, you had a comment?

8 MR. LEWIS: Yes, I was going to say  
9 that I believe Mr. Presley and Mr. Clawson  
10 were involved in some initial discussions, at  
11 least as far as the role of the Board and how  
12 you operate and how we could help facilitate  
13 that.

14 DR. WORTHINGTON: There were a  
15 couple of meetings at least.

16 MEMBER CLAWSON: That was mainly  
17 though, that was how we were going to handle  
18 some Mound issues that we were doing.

19 As far as what Dr. Melius is  
20 talking about - about the procedure and stuff  
21 - I haven't been involved with it. But I was  
22 involved in D.C. with the issues we were

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1 discussing with Mound and how we would handle  
2 those.

3 DR. WORTHINGTON: We want to look  
4 for the - the agencies to look for the best  
5 opportunity, the most timely manner, to get  
6 back to the Board with something for their  
7 review.

8 CHAIR ZIEMER: I suppose part of the  
9 issue - and maybe we can think of how to deal  
10 with this - I know the agencies are reluctant  
11 to have something out in public before they  
12 have developed their policy, and our process  
13 in the Board is the things we do have to be  
14 made public. So I'm not sure where the  
15 balance is between that. If a Board member  
16 participates, does that force us to go into  
17 the public arena or not?

18 MR. ELLIOTT: Well, again, these are  
19 pre-decisional documents until the agencies  
20 decide that they have come to an agreement on  
21 what the document contents are going to be.  
22 And again, that is the point in time when the

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1 Board should become involved. It's not going  
2 to be helpful at this point in the process of  
3 negotiating these agreements.

4 We are very close. I was hopeful  
5 that we would have something for the Board to  
6 chew on at this meeting, and that just didn't  
7 happen. It didn't happen because, as I said  
8 earlier, the Privacy Act component of this, of  
9 our document and DOE's document just weren't  
10 ready for prime time, and we didn't have the  
11 authority to speak about that from the FOIA  
12 office or the Privacy Act office.

13 CHAIR ZIEMER: Well, certainly -

14 DR. WORTHINGTON: And this is a high  
15 priority. It really is for us, and we are  
16 trying to get it done.

17 CHAIR ZIEMER: Well, certainly, the  
18 intent of both agencies I believe is to  
19 streamline the process and minimize its impact  
20 on your activities and our activities. And so  
21 in that sense we have a common goal.

22 I guess one of the concerns is, if

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1 there is something in the agreement that  
2 somehow is not palatable to the Board is it  
3 too late? Are these - that is more of a -  
4 it's almost a rhetorical question.

5 MR. ELLIOTT: I don't presume to  
6 know what's going to be unpalatable to the  
7 Board in this.

8 CHAIR ZIEMER: I know that.

9 MR. ELLIOTT: I can only -

10 CHAIR ZIEMER: I think our goals are  
11 the same.

12 MR. ELLIOTT: Our goals are the  
13 same.

14 CHAIR ZIEMER: So we will be  
15 optimistic about the outcome.

16 MR. ELLIOTT: We don't want to see  
17 any obstruction. We don't want to see any  
18 delays. But at the same time we have to  
19 recognize that DOE has an authority and a  
20 responsibility to protect information here.  
21 And so we are trying to work across the  
22 agencies to make sure that we are not in

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1 violation of any national security issues in  
2 this whole process, and all I can say is,  
3 certainly we want to know what the Board's  
4 thoughts are on these two plans once the  
5 agencies have come to finalization.

6 DR. WORTHINGTON: And we want to  
7 listen to the Board and receive their  
8 comments. And certainly that is a strong  
9 statement from us that we want to do that; we  
10 want to bring it to you for you to look at and  
11 speak freely on what your thoughts are on that  
12 document.

13 MR. ELLIOTT: Depending on what your  
14 issues and concerns are, there may be room to  
15 move; there may be ways to change. But I will  
16 be frank and honest about it: in some  
17 instances there may not be. Our hands may be  
18 tied. And I'll give you an example.

19 We worked with one thing that Mr.  
20 Presley did work with us on in the early  
21 goings of the negotiations was to come up with  
22 a list of sites that would represent

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1 facilities or sites where DOE review for  
2 sensitive information was mandated. That  
3 didn't survive the day in the end.

4 So we are away from that list now,  
5 and we are at where right now all sites -

6 DR. WORTHINGTON: All sites.

7 MR. ELLIOTT: - are considered to  
8 be subject to this review for sensitive  
9 information.

10 We have also struck an agreement,  
11 and I think also an accord in this agreement,  
12 that as we move forward and DOE reviews what  
13 they review, if there are examples or  
14 instances where they find that they don't need  
15 to see that kind of a document, or that site  
16 has already been taken care of and we don't  
17 need to see that kind of information again,  
18 they will be quick to tell us and we can then  
19 draw the boundaries in on this.

20 And we have some experience, some  
21 examples to show to that effect.

22 We have also come to a place where

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1 in the process, as we are working with DOE, we  
2 identify a critical need on a certain review,  
3 and they have demonstrated an ability to turn  
4 those around. The three 83.14s that you have  
5 before you at this meeting are an example of  
6 that where in our planning to deliver an 83.14  
7 SEC or an 83.13 SEC; we had not anticipated  
8 DOE's need to have seven to 14 days to examine  
9 the document. So that had to be plugged in.

10 And for these three that you talked  
11 about at this meeting, Mallinckrodt, Vitro and  
12 the Met Lab, those weren't reviewed by DOE  
13 until late last week, early last week in fact,  
14 and they turned them around within a day.

15 DR. WORTHINGTON: But it is a  
16 commitment of our organization that these  
17 things get the highest priority. And so we  
18 will assign people to get on them and review  
19 them when they are needed.

20 And there has been, I think, sort  
21 of a feeling that this process is one for  
22 delay. Our lessons learned from the people

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1 that have been involved in it, is that it is a  
2 process that expedites things, and that it  
3 prevents a report that is generated that is  
4 inappropriate that will be investigated and  
5 delayed for long periods of time.

6 But the process will in most cases  
7 ensure that that wouldn't happen, so things  
8 are moving out in a timely manner. It is a  
9 process to help; it's not a process for  
10 secrecy or delays or whatever it is. And I  
11 think we've been able to demonstrate as we  
12 work through the plan that that can happen,  
13 and that we want to continue to move down that  
14 path.

15 CHAIR ZIEMER: Thank you, and we  
16 appreciate the commitment to that, and I think  
17 as I said, I think our ultimate goal for all  
18 of this is the same in that regard. So we  
19 look forward to receiving the documents soon.

20 Another comment?

21 MEMBER MELIUS: I did have another  
22 comment, but I will hold it.

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1 CHAIR ZIEMER: On this topic?

2 MEMBER MELIUS: I just fail to  
3 understand why expediting becomes as we had in  
4 the case of Hanford SEC now over a year  
5 waiting for access to documents. And an SEC  
6 evaluation that is going to go on for another  
7 couple of years because of the way NIOSH laid  
8 it out.

9 So I understand you are trying to  
10 expedite. I don't have any problems with your  
11 intent. But unfortunately, these things just  
12 -- at least in the implementation phase and  
13 the uncertainty over what is going to be in  
14 the plan and how these procedures would work  
15 are leading to long delays.

16 And the credibility of this program  
17 is very little to begin with, with the  
18 claimants, and this only makes it worse.

19 MEMBER ZIEMER: Thank you.

20 Greg?

21 MR. LEWIS: Yes, we have not to my  
22 knowledge limited access to any documents

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1 relevant to Hanford to those with the  
2 appropriate clearances, and they can review  
3 them in the appropriate setting.

4 We have in some instances limited  
5 our release of certain documents until there  
6 are assurances in place to make sure that  
7 people have appropriate plans to handle those  
8 documents. But on site in the proper location  
9 they can be reviewed by anyone.

10 DR. WORTHINGTON: I think we have  
11 done a number of things to expedite, I know  
12 that concerns you, but really to expedite the  
13 process by getting clearances for past workers  
14 to come forth so they can talk openly and  
15 freely about any of the processes they need,  
16 making sure that space is available to do  
17 those kinds of things.

18 And I guess at this point only time  
19 will show that we have been working on this,  
20 and it in fact is to improve the process, and  
21 it's not to hurt it and to make things  
22 available for these workers.

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1 CHAIR ZIEMER: Thank you.

2 Other comments? On this or  
3 anything related to the DOE report?

4 Again, thank you Pat.

5 DR. WORTHINGTON: Thank you for your  
6 attention.

7 CHAIR ZIEMER: And your other staff  
8 members who are with you today, Greg and Isaf,  
9 we appreciate your efforts as well.

10 I think it would be appropriate for  
11 us to go ahead with our lunch break. We are  
12 going to extend it. It is now quarter of  
13 12:00, and if we go until 1:15, that will give  
14 us an hour and a half for lunch rather than  
15 the hour that we had yesterday.

16 So let's recess for lunch, and plan  
17 to be back here at 1:15.

18 (Whereupon, the above-entitled  
19 matter went off the record at 11:45 a.m. and  
20 resumed at 1:18 p.m.)

21 CHAIR ZIEMER: We are ready to  
22 reconvene the afternoon session. I will check

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1 to make sure that everyone that needs to be on  
2 the phone line is on there, in particular  
3 Board member Dr. Gen Roessler. Gen, are you  
4 with us?

5 MEMBER ROESSLER: I'm with you.

6 CHAIR ZIEMER: Thank you very much.

7 We are going to begin our afternoon  
8 session today with the science update, and  
9 that will be Dr. Neton from NIOSH. So Jim, we  
10 are pleased to have you back for the science  
11 update.

12 SCIENCE UPDATE

13 DR. NETON: Thank you, Dr. Ziemer.

14 It's my pleasure to provide the  
15 Board what has sort of become a standard  
16 agenda item on the Board's schedule, and that  
17 is an update of the science issues, where  
18 NIOSH stands on science issues; past issues  
19 that were identified; our progress toward  
20 resolving those; as well as any -

21 MR. KATZ: Sorry, one second please.

22 The folks on the phone, somebody has not

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1 muted their line and it's interfering with the  
2 conversation. Can you mute your line? If you  
3 don't have a mute button, please use star six.

4 DR. NETON: Okay, I guess I can  
5 continue now.

6 So update on any progress on past  
7 issues, and also discuss any emerging issues  
8 that are coming out that we think the Board  
9 might be interested in hearing.

10 Unfortunately the Board meets so  
11 frequently it seems that I have trouble  
12 putting out any ground-breaking progress in  
13 between some of these meetings, but we do have  
14 some news to report this time.

15 One thing I would like to discuss  
16 is, we've had a number of science issues on  
17 the table, and made various progress -  
18 progress on various of them over time that I  
19 report to the Board. But this year - and I  
20 think Larry might have alluded to this in his  
21 earlier presentation, we have adopted some  
22 specific science goals for this fiscal year.

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1 These of course are listed here; they are not  
2 all of the goals, all the science issues that  
3 are out there. The ones that appear here are  
4 the ones we've identified as being  
5 particularly important to get moving in a  
6 rapid timeframe. I've listed them here, we  
7 can just go over them briefly.

8 One is the review of the new solid  
9 cancer instance data reported from the  
10 Radiation Effects Research Foundation. We are  
11 committed to doing that in this fiscal year.  
12 These are formally acknowledged and published  
13 by NIOSH as our science goals.

14 As you are aware the new data came  
15 out a few months back, and we are going to  
16 review those data against what's currently  
17 used in the NIOSH IREP model to see if there  
18 is any indication that the risk factors might  
19 change for certain cancers.

20 The second issue is in development  
21 of the chronic lymphocytic leukemia model. We  
22 have committed to that by the third quarter.

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1 That would be a fiscal year quarter, so  
2 sometime in the April to June timeframe we  
3 intend to have at least this model developed  
4 and out of our shop. This has to go through  
5 secretarial office review, so I can't predict  
6 how long it will take once it gets through our  
7 shop, but it will at least be released for  
8 external review by then; or actually internal  
9 departmental review by then.

10 I can report that we solicited the  
11 input from three subject matter experts;  
12 that's three research hematologists, for the  
13 lymphocytic leukemia model that was developed,  
14 and we have just received this week the third  
15 report. So we are in the process of digesting  
16 the reviews that were received, and we will be  
17 responding to the comments that we got.

18 This third one I know has been out  
19 there for quite some time and I'm a little bit  
20 sheepish to acknowledge that it is still not  
21 done. But this is to issue the formal NIOSH  
22 position paper on the ingestion and oral-nasal

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1 breathing issues. I reported several Board  
2 meetings ago that we completed the research on  
3 that. I know that these are holding up  
4 closure on outstanding issues on a number of  
5 reviews that SC&A has conducted, and we are  
6 committed to getting that done as fast as we  
7 can. It merely needs to be written up and  
8 formally documented.

9 The fourth bullet is a formal  
10 verification and validation of NIOSH IREP  
11 calculations. I reported on this I think at  
12 the last meeting. NIOSH IREP was checked for  
13 internal consistency and validated by several  
14 methods when it was being produced. However,  
15 as I think you heard in the public comment  
16 session last night, the level of formal rigor  
17 behind that review, that is a formal document  
18 that we can throw out on the table and say,  
19 this exactly is a consolidation of everything  
20 we have done, doesn't exist. So we are in the  
21 process of compiling that document, and we are  
22 committed to having that done by the third

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1 quarter of this fiscal year. That would be  
2 somewhere between April and June of this year.

3 The fourth one is a new issue that  
4 I don't think I've discussed with the Board  
5 before, and that is the development of a dose  
6 reconstruction methodology for RECA cases.  
7 Before I move on to that issue in the next  
8 slide, I do want to point out one bullet that  
9 is not on this slide, and it's not a science  
10 issue, but I think it's important to mention.

11 If you recall last June, a little  
12 over a year ago, we put a report out that was  
13 requested by Congress about the presumptive  
14 cancer list. NIOSH was asked to make a  
15 recommendation as to what cancers if any  
16 should be added to the presumptive cancer  
17 list.

18 We issued that report to Congress,  
19 to the Appropriations Committee I think it was  
20 that asked for that report. And we indicated  
21 that we believe that basal cell carcinoma  
22 should be added to the presumptive cancer

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1 risk. However we did also state that this was  
2 an interim report that would be updated when  
3 the UNSCEAR, the United Nations Scientific  
4 Committee on Atomic Radiation, UNSCEAR,  
5 released their forthcoming report. That  
6 report has been issued a couple of months ago.

7 We have looked at it. We see nothing in that  
8 report that would change our opinion of what  
9 we came to in that first report, so we are  
10 committed to following up with some type of  
11 communication back to Congress to let them  
12 know that our original recommendation stands.

13 Okay, with that aside, I would like  
14 to talk a little bit about this new RECA model  
15 that I have in my last bullet.

16 It turns out that the amendment  
17 that was issued in 2004 to the EEOICPA  
18 extended Part E coverage; that's the  
19 Department of Labor's part of this program, it  
20 extended Part E coverage to uranium millers,  
21 miners and ore transporters who worked at  
22 facilities covered under Section 5 of RECA.

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1 This is totally separate from Part B now, so  
2 take your Part B hat off and think about Part  
3 E.

4 That coverage is essentially Part E  
5 is exposure to toxic substances. Well,  
6 radiation is considered a toxic substance by  
7 Department of Labor regulations, but they also  
8 know that there is a more quantitative way to  
9 evaluate the probability that that toxic  
10 substance, i.e. radiation, was the cause of  
11 endangering health. So when DOL issued their  
12 regulation for Part E coverage, they required  
13 that NIOSH would perform a dose reconstruction  
14 for certain cancer claims that were filed  
15 under Part E.

16 So given that we have engaged in  
17 developing some models to determine how we  
18 could do dose reconstructions for these RECA  
19 cases. We have been engaged in this research  
20 for some time now. WE hope to have a draft  
21 model done sometime in January that we can  
22 start testing and moving some of these cases

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1 out. These cases have been on the books for  
2 awhile, but the good news I think is that we  
3 have been informed by Department of Labor that  
4 the number of cases expected under this Part E  
5 of RECA is small. Right now we're thinking  
6 it's somewhere in the vicinity of 50 cases.  
7 But one never knows in this program; numbers  
8 do have a tendency to change.

9 Okay, that's it for RECA dose  
10 reconstructions. I would like to just shift  
11 gears now and talk about something that is new  
12 in our program, and this has to do with the  
13 use of claimant data sets for coworker  
14 modelings, which will be coming out as TIB-  
15 0075. The TIB has been drafted; it's been  
16 internally reviewed, and it's undergoing some  
17 final tweaking. So we expect it to be issued  
18 in the next probably week or so. But I would  
19 like to bring this up for the Board's  
20 attention.

21 It is interesting that this is  
22 somewhat relevant to the discussion that Tim

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1 Taulbee had yesterday on Savannah River SEC  
2 evaluation report. Because he talked about  
3 using this type of analysis to reconstruct  
4 coworker models for Savannah River. This was  
5 not intentional. We did not intentionally  
6 collaborate these presentations. But it's  
7 actually sort of fortuitous that it came out  
8 this way.

9 Before I get you into this, I would  
10 like to actually acknowledge the contributions  
11 or the work of Tom LaBone and Janice Watkins  
12 of ORAU who conceived of and did the heavy  
13 lifting, the work on this project. I'm sure  
14 there are others at ORAU, but these are the  
15 two technical staff that did much of the work  
16 on this, and I'm grateful for their work.

17 A little bit about the background  
18 here. Personal monitoring data are not really  
19 available at all sites. There are a few sites  
20 out there that have collected large amounts of  
21 for instance bioassay samples, but they never  
22 computerize them. They are not available

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1 electronically for us to review, and frankly,  
2 there are issues with taking those hard copies  
3 and coding them and making them available to  
4 our health physicists, primarily because of  
5 issues raised by cost and timeliness. How  
6 long is it going to take us to go through  
7 several hundred boxes, extract the records,  
8 code them, do a validation, that sort of  
9 thing. So a solution was proposed some time  
10 ago that we would rely on the claimant data  
11 set.

12 I have to admit that the first time  
13 this issue was broached to me, I was very  
14 skeptical. Because I said, how can we prove  
15 that the claimant set was actually  
16 representative of the general population? Of  
17 course that's what would have to be  
18 established before we could use these data.

19 In other words, is the claimant  
20 data set an unbiased random sample of the  
21 general -- of all the workers at the site. A  
22 couple of thoughts come to mind. One is, all

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1 of our claimants have cancer, so could it be  
2 actually a biased high sample, because since  
3 they all have cancer, presumably they might  
4 have had higher exposures to give them  
5 cancers.

6 I can't think of another argument  
7 to the contrary, but there might be another  
8 argument that could be postulated why it would  
9 represent a sample bias low.

10 So we wanted to entertain this, but  
11 we thought, well, how could we go about doing  
12 this? And this is where Janice Watkins and  
13 Tom LaBone came in. They proposed a concept  
14 where we could use the complete data set that  
15 we have for the Y12 workers. It turns out  
16 that Y12 has been studied extensively through  
17 epidemiologic studies, and in these CEDR  
18 database, that is the Comprehensive  
19 Epidemiological Data Resource database that is  
20 managed by the Department of Energy, there is  
21 a very large set of electronic data available.

22 And in fact it essentially covers all workers

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1 at the Y12 plant between 1950 and 1988. That  
2 is all monitored workers.

3 It's a huge data set of the uranium  
4 urinalysis in particular, and it contains  
5 data for about half a million bioassay  
6 measurements. So it's a very huge  
7 comprehensive set of data.

8 And the idea was, could we use this  
9 to somehow test this hypothesis? This is just  
10 a histogram that shows the frequency  
11 distribution of the samples that were actually  
12 collected over the history of the Y12  
13 database. As you can see it starts in 1950,  
14 pretty low; peaks around 1958 to 1960; drops  
15 off in '66, and remains fairly constant. But  
16 you will note that the heyday of bioassay  
17 sample collection, there were upwards of  
18 almost 50,000 bioassay samples taken per year.

19 So this is sort of the universe of  
20 all samples. In statistical sampling, this is  
21 it. So this is the true value if you will of  
22 all samples that we are trying to model.

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1           So the concept was to test this  
2 database -- I did that already -- so we  
3 decided to do a feasibility analysis to test  
4 the claimant data against this database. So  
5 we thought, well we can easily develop an  
6 annual coworker model using the complete  
7 dataset. We have done that already for Y12,  
8 and we could establish the 50<sup>th</sup> and 95<sup>th</sup>  
9 percentiles like we do for our coworker models  
10 using the database, which although it had a  
11 half a million records, it represented 7,357  
12 workers as you see on the slide. That is  
13 still a lot of workers.

14           We decided to do a worker modeling  
15 effort and not an individual sampling effort,  
16 because really we are trying to reconstruct  
17 does to workers.

18           So we have a coworker model that we  
19 have already established using these 7,000  
20 plus workers. So now we decided, let's  
21 develop a coworker model using only the  
22 claimant data. Well it turns out that we have

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1 731 claimants who submitted about 68,000  
2 bioassay samples. So that is roughly 10  
3 percent of the total population. And what  
4 would happen if we compared the results of the  
5 coworker model developed using the complete  
6 set and the claimant data set.

7 This is a graphic that depicts the  
8 agreement at the 50<sup>th</sup> percentile, and you can  
9 see that there is fairly reasonable agreement  
10 between these two datasets. The pink line  
11 represents the claimant set, and the blue line  
12 represents the use of the entire data set.

13 There are some discrepancies  
14 though. If you look early on at 1950 the  
15 agreement is not quite so good, and there is  
16 also a little bit of a divergence after 1985.

17 When you go out to the 95<sup>th</sup>  
18 percentile which are at the extreme ends of  
19 the distribution, you expect there to be more  
20 fluctuation at the extremes of the  
21 distribution; and you in fact do see that.  
22 The agreement is not quite as good, but

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1       nonetheless it is fairly consistent across the  
2       Board, again, with the exception of the early  
3       years around 1950, and the later years after  
4       `85.

5                       But then the question remains,  
6       well, even though they look like they agree  
7       fairly well, how can we demonstrate that it  
8       really is a statistically valid comparison.  
9       Do they really represent the same population  
10      of workers?

11                      And so that is what we set out to  
12      do with a technique called a bootstrap  
13      analysis. A bootstrap analysis is, you select  
14      random sample distributions from the total  
15      population. In other words we had 731 workers  
16      that we are using for the claimant data set.  
17      So let's take 731 samples without replacement,  
18      a large number of times; in this case 10,000  
19      times, and develop a distribution of all of  
20      those samples.

21                      And this in fact is what this says.

22      This is a depiction of what the bootstrap

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1 analysis really is. And we chose to pick the  
2 95<sup>th</sup> percentile, because if we could get  
3 agreement at the 95<sup>th</sup> percentile, we are pretty  
4 sure the 50<sup>th</sup> percentile would agree, because  
5 again, the extremes of the distribution are  
6 where you see the largest fluctuations.

7           So the bootstrap analysis,  
8 calculate the 95<sup>th</sup> percentile of the bioassay  
9 results, of the dataset for each year,  
10 randomly draw K workers - in this case that is  
11 731 workers, because that is what the claimant  
12 data set had - and without replacement. And  
13 repeat step two N times. In this case we  
14 repeated this step 10,000 times. So we pulled  
15 10,000 sets of 731 people's records, and then  
16 we calculated the confidence interval that was  
17 generated from those sampling efforts, and  
18 that is what you see here, which is the  
19 results for -- this is only for 1953, but I  
20 just show this as an example of how the  
21 analysis would work. The solid red line in  
22 the middle is the -- wait a second -- the

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1 solid red line is the true 95<sup>th</sup> percentile.  
2 That is of the entire population, the 95<sup>th</sup>  
3 percentile is represented by the red line.  
4 The median of the bootstrap analysis is just  
5 to the left of that, very close which you  
6 would expect, based on that kind of sampling.

7 And then you see the lower 99 percent  
8 confidence interval and the upper 99 percent  
9 confidence interval identified.

10 Those are the confidence intervals,  
11 of those 10,000 runs, that is the range of the  
12 values that came out of that for the 95<sup>th</sup>  
13 percentile.

14 And then the dashed blue line  
15 represents the claimant -- 95<sup>th</sup> claimant  
16 database reconstructed 95<sup>th</sup> percentile.

17 So what we have here is the  
18 claimant database, the 95<sup>th</sup> percentile for the  
19 claimant database is well within the limits --  
20 is well within the 99 percent confidence  
21 intervals for -- using this bootstrap analysis  
22 technique. Which gave us confidence, okay,

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1 this is producing some fairly reasonable  
2 numbers, and this slide summarizes that. The  
3 bootstrap sampling demonstrated that the  
4 results were 36 of 39 years that were  
5 reconstructed - this is for the 95<sup>th</sup> percentile  
6 - were within the 99 percent confidence  
7 interval. Yes?

8 MR. KATZ: Jim, can you pause? Can  
9 people on the telephone hear us?

10 MEMBER ROESSLER: I can year, yes.

11 MR. KATZ: Have you been losing your  
12 connection?

13 MEMBER ROESSLER: No, I haven't lost  
14 it.

15 MR. KATZ: Okay, thank you.

16 CHAIR ZIEMER: Okay, go ahead.

17 DR. NETON: Okay, thank you.

18 So for those three years that were  
19 outside those 99 percent confidence limits,  
20 that was 1950, '87 and '88, it appears that  
21 the reason was that the claimant dataset  
22 contained less than -- fewer than 10 percent

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1 of the total data. So when you have fewer  
2 numbers, fewer than 10 percent of the  
3 represented samples, then you expect some  
4 statistical anomalies to occur.

5 And in fact there were a few other  
6 years that contained less than 10 percent of  
7 the data that were fortuitously within the 99  
8 percent confidence interval.

9 So what we have here is, we have  
10 identified that one of the limitations of this  
11 technique is, you have to be able to somehow  
12 convince yourself you've got at least 10  
13 percent of the real dataset being monitored,  
14 which is not exactly trivial in some cases.

15 So the conclusions of this analysis  
16 are that the feasibility did demonstrate that  
17 with certain caveats: you have to have at  
18 least 10 percent by year of the true data set,  
19 at least for the Y12 plant, it would produce a  
20 representative coworker model.

21 I talked about you need to have  
22 sufficient sample size. But then we thought,

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1 well, what if you didn't? What if you didn't  
2 have 10 percent, maybe you could go back and  
3 randomly sample the existing hard copy records  
4 that were there on a random basis, and pull  
5 out and supplement the coworker data until you  
6 got 10 percent, and then reconstruct the  
7 model.

8 We leave that open as a possibility  
9 for further thought.

10 And that's it. That is the result  
11 of that analysis, and I would be happy to  
12 answer any questions on the whole presentation  
13 if there are any.

14 CHAIR ZIEMER: Thank you very much,  
15 Jim.

16 Let's open the floor for comments  
17 or questions. Dr. Melius.

18 MEMBER MELIUS: One of the issues --  
19 and I think I brought this up in a work group  
20 setting -- what you are calling a coworker  
21 analysis is really based on all the workers  
22 within a given facility and so forth. It

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1 doesn't really take into account factors such  
2 as job task or job assignment or type of trade  
3 or whatever.

4 So an analysis based on -- even  
5 with a 95<sup>th</sup> percentile -- based on this general  
6 group of workers may not be appropriate for a  
7 subgroup that has much higher exposures.

8 And I think there are -- in our  
9 discussions we talked about the fact that you  
10 have information limitations. So you may not  
11 always have the information on the sampling by  
12 job task, or job assignment or something like  
13 that. Or you may not have adequate numbers to  
14 be able to do that.

15 But I think it's a significant  
16 problem, and it's something that you need to  
17 think about. Actually it should be that you  
18 have to demonstrate that whatever distribution  
19 you are putting forward is adequate to capture  
20 -- to be representative of those groups of  
21 workers, or somehow deal with a subgroup in  
22 some other way.

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1                   It's not a trivial issue, and it's  
2 not an easy issue to deal with.

3                   DR. NETON: No, I understand. You  
4 raise a good point, Dr. Melius. We have  
5 talked about this before. And this analysis  
6 of course presupposes that the workers with  
7 the highest potential for exposures were  
8 indeed monitored in the first place.

9                   MEMBER MELIUS: Well, that's my  
10 second point.

11                  DR. NETON: That's a precondition.  
12 And I think we have been held to that standard  
13 for a number of sites now. And we have had  
14 extensive discussions about -- for instance  
15 the Y12 site that issue came up. How do you  
16 know that the workers who had the highest  
17 potential for exposure were indeed the ones  
18 that were monitored? So we have gone down  
19 that path to some degree.

20                  Then you have to say well, even the  
21 highest exposed workers, is there a set of the  
22 highest exposed workers who were unmonitored.

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1       And I agree. We should have to be able to  
2 demonstrate that that is indeed true.

3                   MEMBER MELIUS: Then the further  
4 complication, is there a particular task or  
5 something that were not monitored. The kind  
6 of issues we hear about repeatedly at these  
7 sites where people are put into very high  
8 exposure environments where monitoring is  
9 deliberately not done or infeasible to do or  
10 whatever. And again there is a mathematical  
11 side to that. What is the potential exposure  
12 they may have experienced in those situations,  
13 and how would that compare to that, and does  
14 your coworker model, other model, incorporate  
15 that potential. Then that is even harder,  
16 because you are not measuring anything, so you  
17 are having to assume something. Then it is a  
18 repeated problem we have run across in these  
19 situations.

20                   DR. NETON: I totally agree with  
21 you. We have to use extreme care when we  
22 determine to whom this coworker model is

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1 applied. We have to justify that it is  
2 appropriate to apply to that particular group.

3 No disagreement there.

4 CHAIR ZIEMER: Mark.

5 MEMBER GRIFFON: Jim, I apologize, I  
6 walked in a little late, so I might have  
7 missed this in the beginning of your  
8 presentation. But I guess my fundamental  
9 question is, why are you going forward with  
10 this? Is this specifically for Savannah  
11 River?

12 DR. NETON: There are more than just  
13 Savannah River sites in mind. I mean there  
14 are sites with large amounts of uncoded data,  
15 bioassay information in particular that hasn't  
16 been coded. It is not necessarily even just  
17 for the main radionuclides. For instance,  
18 this would be applicable at Savannah River.  
19 Tim Taulbee actually mentioned that in his  
20 presentation yesterday, it could potentially  
21 be useful to reconstruct a coworker model for  
22 Savannah River.

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1           But you could also envision  
2 scenarios where the radionuclides of lesser  
3 usage at the sites that have not been coded  
4 could be brought into play with this type of  
5 analysis.

6           MEMBER GRIFFON: Then I guess to get  
7 back to the Savannah River question, there was  
8 a lot of data that wasn't uncoded, but I also  
9 see that -- it seems to me to do this, this is  
10 what I think Tim referred to as TIB XX -- I  
11 don't know if has a number yet.

12           DR. NETON: It's TIB-0075.

13           MEMBER GRIFFON: Oh, it's TIB-0075,  
14 okay.

15           DR. NETON: It's not been issued.  
16 It's imminent though.

17           MEMBER GRIFFON: Anyway, you went  
18 through quite a bit of work it seems to me to  
19 enter claimant data here to compare against  
20 the electronic Y12 data.

21           DR. NETON: No, it was actually --  
22 while these are all claimant data, and

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1 claimant data are coded as they come in.

2 MEMEBR GRIFFON: As they come in?

3 Okay, so it wasn't extra work for you.

4 DR. NETON: No, we didn't go and  
5 code 68,000 pieces of claimant data -- or  
6 6,800.

7 MEMBER GRIFFON: Well, I guess the  
8 question is - and I can appreciate that you  
9 don't want to code all the Savannah River data  
10 - but is it a question of, NIOSH doesn't want  
11 to go through and code all that urinalysis  
12 data for Savannah River? Or that Savannah  
13 River is not making it available to NIOSH?

14 DR. NETON: No, we have it available  
15 to NIOSH now. It's a matter of resources,  
16 time constraints. The question is, do you  
17 really need to code, say, 600,000 bioassay  
18 samples, or can you demonstrate that if you  
19 have a representative statistical sampling of  
20 those bioassay records and can construct a  
21 coworker model.

22 MEMBER GRIFFON: No, I understand.

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1 I wanted to make sure that it wasn't an access  
2 issue to the data.

3 DR. NETON: No, the data are  
4 available. Tim Taulbee assures me that he has  
5 found the records, and we have access to them.

6 CHAIR ZIEMER: Any comments? Larry  
7 Elliott?

8 MR. ELLIOTT: Well, I think also in  
9 response to Mark's last question, it also has  
10 to be considered that if we were to go look  
11 for an individual claimant's data in those  
12 boxes, how much time, how many pages would we  
13 have to go through just for each claimant?

14 So if we have a model that can be  
15 used to address that with perusing through  
16 piles of paper, that was also in this --  
17 factored into this consideration.

18 MEMBER GRIFFON: And does this -- I  
19 guess I assume we've got to review this TIB  
20 obviously, and it might even be part of the  
21 Savannah River review as well as procedures or  
22 something, I don't know. But I guess I would

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1 assume somewhere in this there is a  
2 justification of why -- I think this follows  
3 up a little on what Jim was talking about, why  
4 this Y12 analysis proves to me that this is  
5 useful with the Savannah River claim  
6 population.

7 DR. NETON: I would answer that with  
8 a question: why not?

9 MEMBER GRIFFON: Well, why not might  
10 be -- I don't know --

11 DR. NETON: That's why I'm saying,  
12 we thought about this part.

13 MEMBER GRIFFON: I mean there might  
14 be different percentages of construction  
15 workers applying for claims down there,  
16 because building trades are represented and  
17 the construction workers are not.

18 DR. NETON: Well, that gets to Dr.  
19 Melius' original question, we have to be  
20 careful to what subset of workers we apply  
21 this coworker model to, I'll grant you that.  
22 Because that is to me a more relevant issue.

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1 But I think the model itself it has merit, we  
2 have done a feasibility. We have demonstrated  
3 at least at Y12, that they are not -- this is  
4 not a biased population of the overall  
5 population at the site. That is all we are  
6 saying. Of the overall monitored workers, if  
7 you had more than 10 percent of the data in  
8 your hand, the claimant population in and of  
9 itself is not a biased sample of the overall  
10 population.

11 MEMBER GRIFFON: But all I'm saying  
12 is, in this case -- I mean I haven't seen it,  
13 so in this case it seems to me that you are  
14 comparing a claimant population that might  
15 have different sort of demographics than at  
16 Savannah River. And this at Y12 it seems that  
17 all worker data bounded claimant population  
18 data, but is that going to be the case  
19 necessarily at other sites.

20 DR. NETON: I understand what you  
21 are saying.

22 CHAIR ZIEMER: Mark, you are just

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1 asking if what shows up in the Y12 case, would  
2 that show up at a site that had different  
3 kinds of demographics and different kinds of  
4 jobs and so on.

5 DR. NETON: Right, because I think  
6 if we go around the country, the people more  
7 likely to file at different sites might look a  
8 little different.

9 CHAIR ZIEMER: Well, let's ask this  
10 follow up question, Dr. Neton, beyond your  
11 conclusions, which are on this dataset, what  
12 do you see as the next steps in terms of this  
13 particular type of analysis? Where do you go  
14 from here? Is it the intent to develop a more  
15 generalized model that could be used sort of  
16 system wide?

17 DR. NETON: Yes, that was the intent  
18 of this entire feasibility analysis was that -  
19 - to not go off and just apply this without  
20 some sort of statistical analysis. The Y12  
21 database was a convenient set, and I am  
22 totally understanding of what Mark was saying

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1 about the transportability of this to other  
2 sites. But we thought about this long and  
3 hard, and I'm still having trouble figuring  
4 out why these demographics would shift from  
5 site to site.

6 We are open to any suggestions, and  
7 of course this TIB will be I'm sure reviewed  
8 by the Board and others. It's out there. We  
9 haven't used it yet, and we are still thinking  
10 about it. I mean this TIB does not say go  
11 apply this everywhere.

12 It's really almost inappropriate to  
13 call this a TIB. This probably should have  
14 been a report.

15 CHAIR ZIEMER: Is there another site  
16 that you could look at to sort of get beyond  
17 the one data point to see if --

18 DR. NETON: Yes, I suspect there  
19 probably are, but I know this program well  
20 enough to know that N equal two, doesn't  
21 necessarily prove a point either.

22 CHAIR ZIEMER: I know.

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1 DR. NETON: But it's good for  
2 thought. We put it out there. We are not  
3 using it. Anybody that can come up with a  
4 justifiable reason why it wouldn't be  
5 transportable, I would love to hear it. I  
6 mean that's one reason to throw it out there.  
7 We are not necessarily asking for formal  
8 comment from the Board, but this is sort of a  
9 summary of where we are.

10 MEMBER MELIUS: What about -- one of  
11 the other factors that comes to my mind would  
12 be the sort of monitoring practices at the  
13 sites, which I've noticed seem to vary over  
14 time, and it was resource dependent, and  
15 method dependent, and I suspect it was  
16 dependent on the skills and interest of the  
17 health physics team at the site and the amount  
18 of resources available to them.

19 I thought that when we were dealing  
20 with the TIB-0052, the construction thing, I  
21 seem to recall there were certainly  
22 differences there in terms of how they

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1 approached it. That may be a special  
2 population and not appropriate.

3 The other question I would have is  
4 more related to the act. I think you need to  
5 -- in my mind, just thinking about this  
6 briefly, I think you would need a strong  
7 justification to use a method that is based on  
8 estimating a person's exposure when there are  
9 individual dose records available.

10 DR. NETON: We would fully use their  
11 records when they are available, if the  
12 claimants were going to ask for their records.  
13 But if we don't get them, we have to have some  
14 way of reconstructing them. We are not  
15 talking about substituting for their records.  
16 We are just saying, if we don't have your  
17 record we have developed a coworker  
18 distribution based on the claimant population.

19 MEMBER GRIFFON: But I think if I  
20 heard Larry right, you might be -- you might  
21 be, because they'd be so difficult to find, or  
22 pull out all those records.

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1 DR. NETON: We always ask the  
2 Department of Energy for the records, a  
3 person's monitoring records, when we get their  
4 case. And if we don't get them we don't get  
5 them; I mean there is not much more we can do.

6 MEMBER MELIUS: Yes, but if the  
7 Department of Energy is not bothering to get  
8 them then they are responsible for getting  
9 them, and there is something wrong -

10 DR. NETON: I understand what you  
11 are saying. This has to do with the uncoded  
12 records -

13 MEMBER GRIFFON: I don't want to get  
14 into that.

15 DR. NETON: Again, this is food for  
16 thought. I just throw it out there, and we  
17 can digest it and maybe talk about it at some  
18 other working group meeting or a future Board  
19 meeting.

20 CHAIR ZIEMER: Any other questions  
21 or comments? Very good, thank you.

22 Now we are scheduled to have an SEC

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1 petition update, and this is passed from LaVon  
2 to Stu to Larry. Larry Elliott is going to  
3 give us that update.

4 Welcome back, Larry, to the mike.

5 SEC PETITION UPDATE

6 MR. ELLIOTT: Thank you. I don't  
7 know if LaVon is on the phone or not, but if  
8 you are, LaVon, I hope I do you justice here  
9 this afternoon and present your material  
10 effectively.

11 The purpose of this special  
12 exposure cohort status update is in response  
13 to the Board's request to present the number  
14 of qualified petitions that are under  
15 evaluation, and the sites that are being  
16 evaluated through the 83.14 process.

17 This assists the Board in  
18 understanding that bit of work, and preparing  
19 and planning for it in their future meetings.

20 The petitions received to date are  
21 135. There are currently 17 petitions in the  
22 qualification process. There are 67 petitions

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1 that have qualified for evaluation; nine of  
2 those are still in the evaluation, are  
3 progressing through NIOSH evaluation, and 58  
4 have been completed.

5 There have been 51 petitions that  
6 did not qualify for evaluation.

7 So we'll go through the ones that  
8 are still active.

9 The petition, the Special Exposure  
10 Cohort petition evaluation reports that are  
11 currently with the Advisory Board for  
12 recommendation include Chapman Valve. The  
13 history of this petition is that the  
14 evaluation report was approved and sent to the  
15 Advisory Board and the petitioners on August  
16 31<sup>st</sup>, 2006.

17 NIOSH presented its evaluation  
18 report at the September, 2006 Advisory Board  
19 Meeting. The Advisory Board established a  
20 work group to review and evaluate the report  
21 at its September, 2006 meeting.

22 The Work Group then presented its

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1 findings at the May, 2007 Advisory Board  
2 Meeting, and a decision was made to postpone  
3 the recommendation until the July, 2007  
4 Advisory Board Meeting, allowing the  
5 petitioners time to review SC&A's report on  
6 the NIOSH evaluation report.

7 The Advisory Board voted six to six  
8 on a motion to deny adding the class to the  
9 special exposure cohort at its July 2007  
10 meeting, and following this vote the Advisory  
11 Board determined they would like to receive a  
12 response from the Department of Labor and the  
13 Department of Energy concerning potential  
14 covered work at the Dean Street facility.

15 Then prior to the October 2007  
16 Advisory Board Meeting, the Department of  
17 Labor provided a response to the Advisory  
18 Board's questions about the Dean Street  
19 facility. The DOE provided an update during  
20 the November 2007 advisory Board conference  
21 call and at that time they indicated they had  
22 not completed their investigation at the

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1 Department of Energy.

2 DOE then presented their findings  
3 at the January 2008 Advisory Board Meeting,  
4 and those findings were that the Dean Street  
5 facility should be included as a covered  
6 facility, but there was no indication of any  
7 additional radiological activities because of  
8 the addition.

9 NIOSH indicated at the January 2008  
10 Advisory Board Meeting that they would revise  
11 the Chapman Valve evaluation report based upon  
12 the DOE findings. But also we indicated that  
13 there would be no changes in our feasibility  
14 determination based upon those findings.

15 NIOSH issued a revised evaluation  
16 report on February 5<sup>th</sup>, 2008.

17 At the February 2008 Advisory Board  
18 conference call the Advisory Board asked SC&A  
19 to do a focused review of the new information  
20 provided by the Department of Energy, and  
21 asked that the information be made available  
22 prior to the April Advisory Board Meeting.

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1 SC&A produced a report to the Work  
2 Group on March 12<sup>th</sup>, 2008.

3 Next, NIOSH presented the revision  
4 to the evaluation report at the April Board  
5 meeting. This was also in 2008. The  
6 Advisory Board decided to reconvene the  
7 working group to discuss a path forward.

8 The Work Group met on May 1<sup>st</sup>,  
9 2008, and asked NIOSH to send a letter to the  
10 Department of Energy inquiring about the  
11 extent of their evaluation.

12 In addition NIOSH agreed to  
13 continue looking for the pedigree of the  
14 enriched uranium analysis.

15 The Advisory Board voted again on a  
16 motion to deny adding a class to the SEC at  
17 the June 2008 Advisory Board Meeting.

18 The vote ended in a six to six tie.

19 The Advisory Board then asked NIOSH  
20 to contact the Department of Defense about any  
21 radiation related contracts for Chapman Valve  
22 to explain the enriched sample.

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1           NIOSH has made that contact with  
2 the Department of Defense, and DOD responded  
3 with no confirmation that Chapman Valve did or  
4 did not do work for the Department of Defense.

5           And we have some additional status to report  
6 on that at the conclusion of this presentation  
7 if you would like to have it.

8           Currently the status of the  
9 petition and the evaluation report are with  
10 the Advisory Board for recommendation.

11           Blockson Chemical: the evaluation  
12 report was initially approved and sent to the  
13 Advisory Board and the petitioners on  
14 September 5<sup>th</sup>, 2006. NIOSH presented its  
15 evaluation report at the December 2006  
16 Advisory Board Meeting.

17           We then withdrew the evaluation  
18 report after it was determined that it did not  
19 address all covered exposures. At its  
20 December 2006 meeting the Advisory Board  
21 established a work group to review the  
22 evaluation report for Blockson.

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1 NIOSH issued a revised evaluation  
2 report on July 3<sup>rd</sup>, 2007.

3 NIOSH presented the revised  
4 evaluation report for the Blockson Chemical at  
5 the July 2007 Advisory Board Meeting.

6 The Work Group met in Cincinnati on  
7 August 28<sup>th</sup>, 2007. A public meeting was held  
8 on September 12<sup>th</sup>, 2007, to explain the changes  
9 that NIOSH had made to the dose reconstruction  
10 technical approach.

11 A Work Group conference call was  
12 held on November 2<sup>nd</sup>, 2007. At the January,  
13 2008 Advisory Board Meeting, Dr. Melius  
14 indicated he wanted to review the pedigree of  
15 the bioassay data, and he wanted to discuss  
16 the radon model with Mark Griffin.

17 There was no change in the status  
18 of the petition, and the evaluation report, at  
19 the April Advisory Board Meeting. The Work  
20 Group planned to meet to discuss a path  
21 forward.

22 The Work Group met on June 5<sup>th</sup>,

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1 2008. The Work Group met again on June 24<sup>th</sup>  
2 and 25<sup>th</sup>, 2008, to discuss a resolution of the  
3 radon issue and any outstanding action items.

4 The Advisory Board deliberated over  
5 the SEC petition at the June 2008 Advisory  
6 Board Meeting. The Advisory Board determined  
7 that they wanted to see the SC&A radon model  
8 in a white paper or a report to moving forward  
9 with voting on the SEC.

10 SC&A issued a draft report on the  
11 evaluation of radon levels in buildings 40 on  
12 August 12, 2008. The Work Group met again on  
13 October 15<sup>th</sup>, 2008, to discuss the resolution  
14 of issues.

15 A technical call with NIOSH and  
16 SC&A was conducted on December 3<sup>rd</sup>, 2008, and a  
17 Work Group conference call was conducted on  
18 December 12<sup>th</sup>, 2008.

19 Status of this petition and  
20 evaluation report are with the Advisory Board  
21 for consideration, an update from the working  
22 group was given at this meeting.

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1                   The Feed Materials Production  
2 Center, the evaluation report was approved and  
3 sent to the Advisory Board and the petitioners  
4 on November 3<sup>rd</sup>, 2006. NIOSH presented its  
5 evaluation report at the February 2007  
6 Advisory Board Meeting.

7                   At its February 2007 meeting the  
8 Advisory Board established a work group to  
9 review the evaluation report.

10                  In May of 2007 SC&A provided a  
11 draft review of the evaluation report to the  
12 Work Group, petitioners, Advisory Board and  
13 NIOSH.

14                  The Work Group met in Cincinnati on  
15 August 8<sup>th</sup>, 2007; again, November 13<sup>th</sup>, 2007;  
16 March 26<sup>th</sup>, 2008; September 15<sup>th</sup>, 2008; and  
17 October 28, 2008. The status of this petition  
18 for Fernald is involved in research and  
19 discussion among the Work Group, SC&A and  
20 NIOSH.

21                  Bethlehem Steel, the evaluation  
22 report was approved and sent to the Advisory

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1 Board and petitioners on February 27<sup>th</sup>, 2007.  
2 NIOSH presented the evaluation report at the  
3 May, 2007 Advisory Board Meeting.

4 At that time the Advisory Board  
5 determined that it needed further information  
6 before making a recommendation on the SEC  
7 petition.

8 The Board tabled its discussion of  
9 the Bethlehem Steel SEC evaluation report  
10 until the Work Group could look at - which is  
11 looking at the use of surrogate data reported  
12 back to the Board.

13 The status of the Bethlehem Steel  
14 is that the evaluation report is with the  
15 Advisory Board for recommendation.

16 Hanford, Part 2, which covers all  
17 employees during the time period 1947 to 1990.

18 The evaluation report was approved and sent  
19 to the Advisory Board, and the petitioners, on  
20 September 11<sup>th</sup>, 2007. NIOSH presented its  
21 evaluation report at the October Advisory  
22 Board Meeting, and the Advisory Board sent the

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1 report to their contractor and the Hanford  
2 Work Group for review.

3 The Advisory Board's contractor  
4 issued a white paper questioning whether the  
5 additional buildings should be included in the  
6 proposed class definition.

7 In March, 2008 NIOSH issued a  
8 revised evaluation report with a modified  
9 class definition.

10 NIOSH presented the revised class  
11 definition at the April, 2008 Advisory Board  
12 Meeting, and the Advisory Board concurred with  
13 NIOSH's recommendation to add a class status.

14 The research and discussion on the petition  
15 continues among the Work Group, SC&A and  
16 NIOSH.

17 Nevada test site for the time  
18 period 1963 to 1992, this evaluation report  
19 was approved and sent to the Advisory Board  
20 and petitioners in September of 2007. NIOSH  
21 presented the evaluation report at the January  
22 2008 Board meeting. The Advisory Board sent

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1 the report to SC&A and the Work Group for  
2 review.

3 The Work Group met on October 29<sup>th</sup>,  
4 2008 and the status is for the Nevada test  
5 site, 1963 to 1992, that the research and  
6 discussion on the petition continues among the  
7 Work Group, SC&A and NIOSH.

8 The Mound plant, time period 1949  
9 to present, the evaluation report was approved  
10 and sent to the Board and the petitioners in  
11 December 2007. The evaluation report was  
12 presented at the January 2008 Advisory Board  
13 Meeting. The Advisory Board concurred with  
14 NIOSH to add a class for the early years, but  
15 sent the report to SC&A for review, and  
16 established a Mound working group.

17 The Work Group met on April 1<sup>st</sup>,  
18 2008, July 14<sup>th</sup>, 2008 and October 27<sup>th</sup>, 2008.  
19 The status of the Mound petition is that  
20 research and discussion continues among the  
21 Work Group, SC&A and NIOSH.

22 Texas City Chemicals for the time

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1 period 1952 to 1956. The evaluation report  
2 was approved and sent to the Board and  
3 petitioners on January 18<sup>th</sup>, 2008. NIOSH  
4 presented the evaluation report at the April  
5 2008 Advisory Board Meeting. The Board gave  
6 the petition and evaluation report to the  
7 Surrogate Data Work Group for review.

8 SC&A completed a focused review of  
9 the Texas City Chemical, Inc. evaluation  
10 report in July, 2008. The status for Texas  
11 City Chemicals is that the petition and  
12 evaluation report are with the Advisory Board  
13 for recommendation.

14 Area four, Santa Susana, field  
15 laboratory, time frame, 1955 to 1958. The  
16 evaluation report was approved and sent to the  
17 Advisory Board and the petitioners on February  
18 15<sup>th</sup>, 2008. NIOSH presented its evaluation  
19 report at the April 2008 Board meeting, and the  
20 Board indicated they would not take action on  
21 this petition until SC&A had completed its  
22 review of the site profile.

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1           SC&A issued their draft review of  
2 the Santa Susana site profile on August 5<sup>th</sup>,  
3 2008. The Work Group had their first meeting  
4 on August 26<sup>th</sup>, 2008. And the status for area  
5 four is that the petition and evaluation  
6 report are with the Advisory Board for  
7 recommendation.

8           Dow Chemical, 1961 time period  
9 through 2006. The addendum two of the  
10 evaluation report was approved and sent to the  
11 Advisory Board and petitioners on June 3<sup>rd</sup>,  
12 2008. NIOSH presented addendum two at the  
13 June 2008 Advisory Board Meeting. To remind  
14 you what addendum two covers, it covers the  
15 residual period at Dow.

16           The Advisory Board asked the  
17 Procedures Work Group to review the recently  
18 approved dose reconstruction procedure for  
19 residual contamination. That is TIB, or  
20 Technical Information Bulletin 70, and  
21 assigned the petition evaluation to the Work  
22 Group on SEC issues.

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1                   In September of 2008 SC&A completed  
2 a focused review of addendum two to the Dow  
3 Chemical SEC evaluation report.

4                   November 17<sup>th</sup>, 2008, the Work Group  
5 for SEC issues met and discussed the SC&A  
6 report. The general conclusion from the Work  
7 Group was that NIOSH's dose model was  
8 bounding, but NIOSH needed to verify a couple  
9 of numbers for the Work Group.

10                  Status: the evaluation report  
11 addendum is with the Work Group for  
12 recommendation.

13                  Pantex, time period 1951 through  
14 1991: the evaluation report was approved and  
15 sent to the Advisory Board and petitioners on  
16 August 8<sup>th</sup>, 2008. The evaluation report was  
17 presented at the Board's September, 2008  
18 meeting, and the status: the petition and  
19 evaluation report are with the Advisory Board  
20 for recommendation.

21                  General Steel Industries: the  
22 evaluation report for this petition was

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1 approved and sent to the Advisory Board and  
2 petitioners on October 3<sup>rd</sup>, 2008. The  
3 petitioner requested that NIOSH delay  
4 presentation of this evaluation report until  
5 the February, 2009 Advisory Board Meeting  
6 which we agreed with.

7 Linde Ceramics, this covers the  
8 residual period at Linde. The evaluation  
9 report was approved and sent to the Board and  
10 petitioners on November 6<sup>th</sup>, 2008, and the  
11 petitioner requested that NIOSH delay  
12 presentation of the evaluation report until  
13 the May 2009 Advisory Board Meeting when the  
14 petitioner could be present, and we certainly  
15 agreed with that.

16 Savannah River site: the evaluation  
17 report was approved and sent to the Board and  
18 petitioners on November 18<sup>th</sup>, 2008. NIOSH  
19 presented the evaluation report at this  
20 Advisory Board Meeting.

21 Mallinckrodt, time frame 1958. We  
22 presented this evaluation report at this

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1 meeting, and you have taken your action on it.

2 Vitro Manufacturing, the evaluation  
3 report was presented at this meeting, and you  
4 have taken your action.

5 Metallurgical Laboratory, the  
6 evaluation report was provided and presented  
7 at this meeting, and you have taken your  
8 action.

9 SEC petitions currently in the  
10 evaluation process are presented in this side,  
11 and you can see that in August we received a  
12 petition regarding the Westinghouse Atomic  
13 Power Development Plant, which covers all  
14 employees in L and K buildings from the time  
15 period January 1, 1942 to December 31<sup>st</sup>, 1944.

16 We expect to be able to deliver an  
17 evaluation on Westinghouse Atomic Power  
18 Development and present that evaluation at the  
19 February Advisory Board Meeting in  
20 Albuquerque.

21 On October 31<sup>st</sup>, of 2007, we  
22 received a petition from the Massachusetts

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1 Institute of Technology which addressed all  
2 locations and all employees, January 1, 1942  
3 to December 31<sup>st</sup>, 1963. This was - as  
4 footnoted, this petition was initiated by a  
5 NIOSH finding that we couldn't reconstruct the  
6 dose. So it's an 83.14.

7 In November of 2008 a site visit  
8 was conducted - I'm sorry, a site visit was  
9 conducted in August of 2008, and NIOSH will  
10 present its evaluation report on the  
11 Massachusetts Institute of Technology at the  
12 February Board meeting.

13 On April 3<sup>rd</sup>, 2008 we received a  
14 petition regarding the LANL. All service  
15 support employees who worked in operational  
16 technical areas that had a history of  
17 radioactive material use at Los Alamos from  
18 January 1, 1976 through December 31<sup>st</sup>, 2005.  
19 Expected completion date is sometime in  
20 January, and we have had some difficulties  
21 with data capture; we have been delayed a  
22 little bit there. So we anticipate that we

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1 will present this evaluation report for LANL  
2 support service employees at the February  
3 Board meeting.

4 The Brookhaven National Lab  
5 petition came to NIOSH on May 9<sup>th</sup>, 2008, and  
6 we've been working hard on that petition with  
7 the support of DOE. All of the Brookhaven  
8 records have not been incorporated into any  
9 electronic form, and so just finding those  
10 records has been a chore.

11 Our expected completion date is  
12 April, 2009, and we hope to present that at  
13 the May, 2009 Board meeting.

14 Tyson Valley Powder Farm, which a  
15 petition covers all employees who worked in  
16 all areas of Tyson Valley Powder in St. Louis,  
17 Missouri, during the time period January 1,  
18 1942 through December 31<sup>st</sup>, 1949. This  
19 petition came to NIOSH in June 13<sup>th</sup>, 2008. We  
20 hope to complete this one sometime this month,  
21 the rest of this month, and we would present  
22 it at your February Board meeting.

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1 United Nuclear Corp, a petition  
2 that covers all site employees who worked in  
3 any area of this facility from January 1,  
4 1958, through December 31<sup>st</sup>, 1969. And in a  
5 separate period, January 1, 1970, through July  
6 31<sup>st</sup>, 2006, which is the residual contamination  
7 period. And we expect to provide a completed  
8 evaluation report in March of 2009.

9 Standard Oil petition covers all  
10 employees who worked in any area of the  
11 Standard Oil development site in Linden, New  
12 Jersey, from August 1<sup>st</sup>, 1942, through  
13 December, 31<sup>st</sup>, 1963. We received this  
14 petition September 18<sup>th</sup>, 2008, and we expect to  
15 complete it and present at the May meeting.  
16 It will be done in March, and we hope to  
17 present it in May.

18 Just a note: the completion of our  
19 evaluation reports were mandated by law to try  
20 to achieve completion of these within 180  
21 days, and we have noted that we have missed  
22 that mark in several instances. The Savannah

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1 River site one took a little longer. General  
2 Steel Industries, Linde Ceramic Plant, Los  
3 Alamos National Lab and Brookhaven National  
4 Lab.

5 We have notified in each instance  
6 the Board and the petitioner as to what the  
7 delays are and why it's taking us the time  
8 it's taking us, and providing a timeline on  
9 when we expect to complete the report.

10 The reasons that we have exceeded  
11 180 days are varied. The Savannah River site  
12 petition covered a large site, broad time  
13 period, and required a significant data  
14 review. And we are still receiving data as  
15 you heard from Dr. Taulbee yesterday.

16 NIOSH was delayed on a number of  
17 evaluation reports because we were waiting for  
18 DOE to establish the protocol for data  
19 captures at Savannah River site, Los Alamos  
20 and Brookhaven.

21 The Linde Ceramics Plant evaluation  
22 report was delayed as a result of the

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1 petitioner changing the basis for the petition  
2 and providing additional supporting  
3 documentation, and that extended the  
4 qualification period.

5 The GSI evaluation report exceeded  
6 180 days by a week as a result of the time  
7 required to resolve last minute technical  
8 comments from an interview review.

9 So our commitment is that once it's  
10 apparent to us that the evaluation report  
11 timeframe will exceed 180 days we inform the  
12 petitioners, the Advisory Board and  
13 congressional liaisons. We let them know that  
14 you all know that report will not be completed  
15 within 180 days, the reasons for that and our  
16 expected completion date for the report.

17 That concludes the slides, and I'm  
18 happy to take any questions.

19 CHAIR ZIEMER: Okay, thank you,  
20 Larry. Let's see if there are any questions.

21 And we thank LaVon also for the work he  
22 probably did in helping get this summary

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1 together for us. It's always helpful to  
2 remind us where we are on each of these SEC  
3 petitions.

4 MR. ELLIOTT: Could I provide you a  
5 bit more background on what we have done with  
6 the Department of Defense regarding Chapman  
7 Valve and make sure that is on the record.

8 At the last Board meeting when  
9 Chapman Valve was discussed, NIOSH was asked  
10 to send an inquiry to the Department of  
11 Defense, asking them about any work that they  
12 may have contracted with Chapman Valve; and  
13 secondly, to conduct an additional search to  
14 determine if the shipping manifest from the  
15 D&D work done by Bechtel contained any  
16 reference to the enriched uranium sample that  
17 was found.

18 On October 6<sup>th</sup>, of 2008, the Office  
19 of the Secretary of the Department of Health  
20 and Human Services sent an email to the White  
21 House liaison section, within the office of  
22 the Secretary of Defense. It contained an

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1 explanation of the issue and this request.

2           Between 1942 and 1987 did the  
3 Department of Defense, most likely either the  
4 U.S. Air Force or Navy, award any contracts to  
5 the Chapman Valve manufacturing company, 1942  
6 to 1958, or the Crane Company, 1959 to 1987,  
7 which is located in Indian Orchard,  
8 Massachusetts, for any work that would or  
9 could have involved the use of presence of  
10 enriched uranium.

11           On October 17<sup>th</sup>, 2008, the  
12 Department of Health and Human Services  
13 received a reply from the Department of  
14 Defense that provided a link to the computer  
15 database that contained a listing of  
16 individual contracts issued by the Department  
17 of Defense, and these listings were extracted  
18 from a form the Department of Defense uses  
19 called a DD-350, a 350 form. The computer  
20 database only contained records going back to  
21 1966.

22           NIOSH reviewed the database and we

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1 did not find any records of contracts with the  
2 Crane Company in Indian Orchard, which is the  
3 successor to Chapman Valve.

4 The nature of these listings,  
5 however, are generic, and were not found to be  
6 useful for determining the existence of work  
7 with radioactive materials. That was not  
8 mentioned in the information provided in this  
9 database.

10 For example one contract specified  
11 work with nuclear reactors in 1978, but  
12 included no mention of the type of work, so it  
13 didn't get into detail like we would have  
14 hoped.

15 To view the original contracts  
16 would require a time consuming and costly  
17 manual search through boxes of records at the  
18 National Archives, and we would need the  
19 specific Department of Defense agency to help  
20 sponsor that search. We have not taken that  
21 step to date.

22 Regarding the Bechtel inquiry piece

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1 - this goes to the remediation work that was  
2 done afterward - NIOSH sent a written request  
3 to Bechtel asking for worker monitoring  
4 records during their 1994-95 remediation  
5 project. In follow up phone calls were made  
6 to Bechtel's legal department on September  
7 25<sup>th</sup>, 2006, October 4<sup>th</sup>, 2006 and January 19<sup>th</sup>,  
8 2007. A second letter was sent to Bechtel on  
9 April 25<sup>th</sup>, 2007, and NIOSH received no  
10 response or acknowledgment to the  
11 communication efforts that I have mentioned  
12 here.

13 NIOSH located and placed on the O-  
14 drive the certification docket for the  
15 remedial action performed at the Chapman Valve  
16 site in Indian Orchard, Maine. This document  
17 was written by Bechtel for DOE at the  
18 conclusion of the rededication effort which  
19 took place from July to September, 1995. It  
20 contains a detailed 200 page survey of the  
21 site conducted just prior to the remediation  
22 work. Outside references to the enriched

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1 sample found in the prior ORAU survey of 1991.

2 There is no mention, outside of the  
3 references of the ORAU survey of 1991, there  
4 is no mention of enriched uranium.

5 There were in fact 11 samples,  
6 isotopically analyzed for uranium, and all  
7 samples appear to be consistent with natural  
8 uranium.

9 We also identified an additional  
10 lead for Bechtel data in records retrieved  
11 from the Kansas City records center. However  
12 no relevant data has been found. So that has,  
13 I hope, for you a more detailed summary of our  
14 actions that we have taken regarding your  
15 requests to pursue these final threads on  
16 Chapman Valve.

17 CHAIR ZIEMER: Okay, thank you for  
18 that additional update.

19 Questions on either the report  
20 itself or the update. Wanda Munn.

21 MEMBER MUNN: Just as a matter of  
22 interest, whenever we see electronic records

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1 stop at a certain point, we know when they  
2 probably started digitizing that information,  
3 is there any way of determining whether there  
4 is any ongoing effort with, for example, the  
5 Department of Defense in this case to go into  
6 the old handwritten records earlier than is  
7 currently -

8 MR. ELLIOTT: We have not exercised  
9 any effort to do so. And as I indicated  
10 earlier, if we were to do so, we would require  
11 the sponsorship of the particular agency that  
12 we think may have relevance here. They have  
13 to get us into the NARA records.

14 MEMBER MUNN: This was a much more  
15 broad question than that.

16 MR. ELLIOTT: I'm sorry.

17 MEMBER MUNN: The real question is,  
18 do we have any idea whether there is an  
19 ongoing program to begin further  
20 digitalization of records earlier than those  
21 that were undoubtedly done at the time.

22 MR. ELLIOTT: I'm not aware of any.

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1                   MEMBER MUNN: It's always intriguing  
2 to know whether agencies are going to try to  
3 transpose their handwritten and typewritten  
4 material that they have.

5                   MR. ELLIOTT: I'm not aware of any.  
6 But Tim might have additional information.

7                   MR. KOTSCH: To add to that, we have  
8 no indication - we don't know if they are  
9 going to computerize those records prior to  
10 '66. What Larry mentioned was that the  
11 records that they have computerized, the  
12 information that is coded in those records is  
13 not useful. In other words, in their generic  
14 context saying, make this valve, do this type  
15 of work, it would be unlikely we would find a  
16 contractor who would say, and by the way it  
17 also included enriched uranium or something to  
18 that effect. So the nature of these  
19 procurements that have been computerized, we  
20 feel are not elucidating for the enriched  
21 uranium process.

22                   MR. ELLIOTT: Our request to the

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1 Department of Defense, we can see in the email  
2 exchange, went fairly broad and pretty deep.  
3 In fact you have met Dr. Paul Blake before who  
4 runs the DTRA program, the Defense Threat  
5 Reduction Agency program for veterans, he was  
6 involved in the response. I talked with him.

7 And he was doubtful that we would be able to  
8 find any such contractual record in electronic  
9 form that would provide the level of detail  
10 that we wanted. He even suggested that we  
11 would probably be better off starting at the  
12 National Archives and working through that.

13 But he also offered - I mentioned  
14 the speculation that perhaps this was Navy  
15 fuel related. And he, as others, have said  
16 that he was somewhat skeptical of that because  
17 of the amount of enrichment in the sample  
18 versus what is in Navy fuel which nobody can  
19 talk about. So there - so I don't know where  
20 we go from here, but we feel we have done all  
21 that we can at this point, unless there is  
22 some other thread we need to pursue.

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1 CHAIR ZIEMER: Thank you. Other  
2 comments, questions?

3 Okay, thank you again, Larry, for  
4 that update.

5 We are scheduled for a break - a  
6 comment first?

7 MEMBER MELIUS: Is it possible to  
8 get some of this in a short report or  
9 something from NIOSH, just to -

10 MR. ELLIOTT: I would be happy to  
11 send this email that was crafted.

12 MEMBER MELIUS: At least so we have  
13 a record of it as we pursue it.

14 MR. ELLIOTT: I'll make sure the  
15 Work Group has that.

16 MEMBER MELIUS: Particularly the  
17 Work Group and the Board, and that way we are  
18 not all hunting through transcripts.

19 CHAIR ZIEMER: We have a break  
20 scheduled. I think we will go ahead and take  
21 that break, then we will come back. We have  
22 Board work time after that.

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1                   Let's take a break. We're  
2 scheduled for 15 minutes; I'm going to give  
3 you 20.

4                   (Whereupon the above-entitled  
5 matter went off the record at 2:26 p.m. and  
6 resumed at 2:47 p.m.)

7                   CHAIR ZIEMER: I believe we are  
8 ready to resume our deliberations. Let me  
9 check the phone lines.

10                  Dr. Roessler, are you on the phone  
11 line?

12                  MEMBER ROESSLER: Gen Roessler here.

13                  CHAIR ZIEMER: Thank you, Gen.

14                  BOARD WORKING TIME

15                  CHAIR ZIEMER: Under Board working  
16 time, we have several issues we can deal with  
17 today. First of all we have some issues  
18 relating to site profile changes at Lawrence  
19 Livermore, and Ted Katz has got some  
20 information for us.

21                  MR. KATZ: Yes, thank you.

22                  So just before Thanksgiving John

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1 DR. MAURO: called me up to raise sort of a  
2 novel issue that SC&A had sort of come across  
3 to discuss how to go forward with it.

4 And the situation is this, and it  
5 relates to the discussion yesterday about  
6 close outs of site profiles. One of the site  
7 profiles as he termed it still sitting on the  
8 shelf awaiting the Board to take it up with  
9 the Work Group and a comment resolution  
10 process is Lawrence Livermore.

11 And in this case, despite the fact  
12 that the Work Group hasn't been formed, and  
13 there hasn't been a process resolution yet -  
14 issue resolution yet - OCAS had taken that  
15 site profile review off the shelf and reviewed  
16 it and OCAS agreed with some of its findings,  
17 and wished to go forward to make changes to  
18 the site profile which would affect of course  
19 the dose reconstruction done at Lawrence  
20 Livermore on the basis of some of SC&A's  
21 findings.

22 So there are two issues. John

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1 brought this to me and said, this is a good  
2 thing, so OCAS has come to some SC&A staff,  
3 some OCAS staff have spoken with some SC&A  
4 staff. They want to make some changes to the  
5 site profile on the basis of the SC&A review.

6 And they were seeking clarification or what  
7 have you from SC&A staff to be able to  
8 implement some changes in the site profile.

9 And John said, and I agreed with  
10 him, you know, this is a good thing that this  
11 can move forward, even though it hasn't gone  
12 through the issue resolution process. But he  
13 also, we both recognized that this is sort of  
14 an unusual situation because the process is  
15 intended to be - have a process resolution,  
16 issue resolution with the Board, and the Board  
17 has not charged SC&A with doing anything with  
18 respect to this.

19 So this was just before  
20 Thanksgiving, so I said to John, well, don't  
21 make any significant expenditures on this,  
22 don't do any substantial work. Let me contact

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1 Dr. Ziemer. But I think this is an issue that  
2 really needs to come before the Board. This  
3 is the first time this sort of situation has  
4 arisen. But as John pointed out in his  
5 presentation yesterday, there is more than one  
6 site profile that is actually is in this kind  
7 of status. It's been around for awhile, and  
8 so the issue could not just be for this case,  
9 but also for some other site profiles where  
10 OCAS may want to go forward before the Board  
11 has gotten to the SC&A review with making  
12 improvements to their site profile.

13 So I contacted Dr. Ziemer, and Dr.  
14 Ziemer got back to me after Thanksgiving and  
15 agreed that this was an important issue for  
16 the Board to take up, and also with a little  
17 bit more specificity said, limit what SC&A  
18 does at this point to nothing but providing  
19 clarifications on the issues it's raised until  
20 the Board has had a chance to take this up and  
21 give some consideration as to any one of these  
22 situations how far if anywhere should SC&A go

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1 before there has been a work group and so on  
2 in interacting with OCAS to make changes just  
3 like there are in this instance.

4 And I don't even know the specifics  
5 of the changes. I just know that there were  
6 some and they were important for improving the  
7 dose reconstructions there.

8 So that is the situation we have,  
9 how it stands with Lawrence Livermore. I  
10 don't know far they've gotten, OCAS and SC&A  
11 on - well, OCAS in making any changes with the  
12 Lawrence Livermore site profile, but I think  
13 it's important that the Board decide how it  
14 wants to deal with these sort of cases, and  
15 how it wants to charge me in terms of managing  
16 SC&A as its project officer.

17 CHAIR ZIEMER: Thank you, Ted. And  
18 let me add a couple of comments to that.

19 Number one, basically in the  
20 situation at hand, my instruction was that we  
21 were not tasking SC&A to do any new work; that  
22 if NIOSH wished to call John and ask what they

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1 meant by something, a brief exchange of what  
2 something meant, that's fine. But I didn't  
3 want SC&A doing any tasks outside of the  
4 Board's tasking process, number one.

5 Number two, in principle, let's  
6 just talk in general terms, it's conceivable  
7 that the Board might not at all agree with  
8 what the SC&A recommendation was, and might  
9 think that NIOSH's recommendation or procedure  
10 or whatever the particular item was the  
11 appropriate way to go.

12 So to go ahead and make changes  
13 based on the contractor's review without  
14 involving the Board didn't seem to be  
15 appropriate either.

16 So there is two parts to this. One  
17 is the tasking issue, and the other is the  
18 general principle of the way in which the  
19 contractor's report gets used outside of our  
20 regular Board process.

21 So that is where we need some  
22 guidance, because in principle this could

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1 arise in other cases if we haven't gotten to a  
2 site profile, but NIOSH has - or a review  
3 rather, and NIOSH has said, well, this makes  
4 sense, let's make a change. So how do we  
5 proceed? So we want to get some input on  
6 that.

7 Phil, Jim? Phil, go ahead.

8 MEMBER SCHOFIELD: I think maybe on  
9 some of these much larger sites that we go  
10 ahead and have them take a preliminary look at  
11 some of these, just because they are so large  
12 and so complex that it takes quite awhile  
13 before we get to the point where we can  
14 actually sit down both as a work group and as  
15 a Board and make any real decisions just  
16 because of the sheer volume of records they  
17 have to go through in these early stages.

18 CHAIR ZIEMER: Okay, thank you.

19 Jim.

20 MEMBER MELIUS: A couple of points.  
21 I guess NIOSH OCAS certainly can take  
22 technical input from wherever. There may be

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1 an article in a journal that changes a dose  
2 reconstruction method, or there may be some  
3 other process where they become aware of a  
4 potential change. I think there is always a  
5 potential at a site meeting or something where  
6 they are out doing some outreach that they  
7 will learn something new that changes a site  
8 profile or something. I don't find that to be  
9 problematic at all.

10 But I find it to be very  
11 problematic that we would have our contractor  
12 interfacing with NIOSH and making progress on  
13 trying to resolve issues without any  
14 involvement of the Board at all. And I think  
15 it puts us in a very awkward position of  
16 having to maybe disapprove of something that  
17 our contractor has recommended. But if you go  
18 back in time, I've found myself disagreeing  
19 with our contractor quite regularly on issues,  
20 and I think other members of the Board have  
21 also from their perspectives, or certainly  
22 seriously questioning their conclusions or

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1 recommendations on a particular point.

2           So I don't think that is something  
3 unusual. Now these may be minor technical  
4 issues. They may be something very  
5 straightforward. I can't speak to what  
6 happened there. But I think it's problematic.

7           I think we have gotten into a  
8 position where our contractor is part of this  
9 close out process because of the nature of the  
10 way the contract award has been delayed and  
11 whatever, been put in the position of trying  
12 to rush things through the process. And I  
13 think that is wrong and I don't think they  
14 should be doing that. I think we need to be  
15 very careful about that.

16           I also think we've even had  
17 situations here where the contractor is  
18 preparing and presenting reports that not even  
19 the Work Group has seen prior to the meeting,  
20 and that I think is also inappropriate. They  
21 should be working under the direction of a  
22 work group, and work group Chair; and there

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1 should be at least some level of control and  
2 so forth, and we need to ensure that their  
3 work is independent.

4 And I have been disturbed, and I  
5 think other members of the Board have spoken  
6 to me about being disturbed by the sort of the  
7 encroaching control over our contractor or  
8 attempts to control our contractor by the  
9 agency. And I think we have to be very aware  
10 of that and very careful.

11 CHAIR ZIEMER: Other comments?

12 Here again let me emphasize that in  
13 this case that any sort of activity that looks  
14 like an issue resolution should not go on  
15 without tasking. As I indicated in this case,  
16 if NIOSH wished to call John and ask what he  
17 meant in a couple of sentences, I don't object  
18 to that.

19 MEMBER MELIUS: Just to clarify, I  
20 was not objecting to how you handled it. I  
21 thought that was appropriate in bringing it  
22 back to the Board and so forth. And again

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1 that particular question, if NIOSH sees a  
2 technical point that they feel they should be  
3 changing or addressing, that's fine.

4 CHAIR ZIEMER: And you are quite  
5 right that NIOSH is free to use whatever  
6 sources that they see out there that might  
7 help them modify or change what they are  
8 doing.

9 It seems to me, let me propose  
10 something here, and we can react to it, but  
11 one way to handle this would be that if a case  
12 arises where NIOSH is looking at a particular  
13 issue, and they see something that the  
14 contractor, whether it's SC&A or whoever the  
15 contractor may be, that they wish to  
16 incorporate, and if it will require a sitting  
17 down together to figure out how this works,  
18 then we need to be involved, and even if there  
19 is not a work group, we can always set up an  
20 Ad Hoc Work Group or something to say, yes,  
21 okay, here is an issue on this site, and we  
22 need to have Board members present. We will

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1 set up an ad hoc group or whatever we have.  
2 We could do that on short notice if necessary,  
3 and I think we would have to leave that up to  
4 NIOSH and the contractor, say, here's  
5 something dealing with whatever site. Say  
6 it's Lawrence Livermore, and it's, we need to  
7 get together and hash out the technical  
8 details on this. So we can do that. We can  
9 task on short notice. And I think certainly  
10 the Board and chair are in a position to do  
11 that, either the fallboard or the chair in  
12 between, to appoint a group.

13 But I'd like to get input in some  
14 direction from the Board as to how we proceed,  
15 so that we make sure that we don't have the  
16 situation - that is awkward for all parties if  
17 we are out of the loop.

18 So any other input or suggestions,  
19 or if there is a better way to do it I'm open  
20 to hearing that. I always like my own ideas,  
21 but I'm old enough to recognize that there are  
22 two or three people in the world that have

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1 better ideas than I do.

2 MEMBER CLAWSON: I understand the  
3 need for this and so forth, but one of the  
4 things I want to make sure, especially as  
5 working chair of some of these groups, that  
6 they especially the member of - the chair of  
7 the working group is involved in it, not just  
8 a member of the Board or whatever like that.  
9 Somebody from the working group or whatever.  
10 Because a lot of these conference calls and so  
11 forth and fact findings or whatever you want  
12 to call them bring us some very important  
13 information.

14 CHAIR ZIEMER: Well, here we are  
15 talking about cases where there is not a work  
16 group.

17 MEMBER CLAWSON: Well.

18 CHAIR ZIEMER: If there is a work  
19 group there is not a problem.

20 MEMBER CLAWSON: Right, okay.

21 CHAIR ZIEMER: If the Work Group  
22 gets involved. Here we have Lawrence

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1 Livermore. We don't have a work group. We  
2 have a NIOSH report. We have an SC&A review.  
3 NIOSH has looked at the review. They see  
4 something, they have said that's a good idea,  
5 let's modify our report. We don't have a work  
6 group. That is the situation.

7 Wanda.

8 MEMBER MUNN: There are some  
9 similarities in this dilemma to the issues  
10 that we discussed several years ago with  
11 respect to when our contractor could  
12 appropriately represent what was transpiring  
13 on the Board, for example, before  
14 congressional members. And they were neither a  
15 member of the Board nor were they the  
16 originators of the documents in question  
17 sometimes.

18 But when we don't have a work  
19 group, an obvious path through which a Board  
20 connection can be made, if we don't notify the  
21 Board that this is transpiring, and at least  
22 provide an opportunity of a week's time for

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1 input of some sort, then it seems that we  
2 would be getting outside the realm of the  
3 structure as we - or at least as I perceived  
4 it at the time that we set up our association  
5 with our contractor.

6 Is there any problem with just  
7 simply asking both the contractor and the  
8 agency to see that situations of this sort are  
9 brought to our attention by electronic means  
10 and we have an opportunity to respond.

11 CHAIR ZIEMER: That is not a problem  
12 at all, and that can be part of a policy, and  
13 actually was done in this case. The question  
14 for the chair is, how would you like us to  
15 handle that?

16 MEMBER MUNN: Is this appropriate?

17 CHAIR ZIEMER: Well, if the Board  
18 wishes to sort of develop a policy, and we  
19 don't have to do it sitting here. But I want  
20 you to be thinking about it. We could even  
21 come back tomorrow and adopt something, or you  
22 can instruct me to do certain things when such

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1 a situation occurs.

2 But we want to make sure - and I  
3 think both NIOSH and the contractor wish to  
4 make sure that everybody is in the loop and  
5 nothing is happening that we are not aware of.

6 And Joe, you have a sage comment on  
7 this?

8 MR. FITZGERALD: Well, just a little  
9 more context. I've been working on this  
10 Livermore issue, I think, now that I've heard  
11 a little bit more, it's the issue I've been  
12 working on. And quite frankly, this was a  
13 data capture strategy that NIOSH was  
14 developing for a revisit to revamp the site  
15 profile.

16 We weren't getting into any issues  
17 in terms of recommendations from the site  
18 profile.

19 CHAIR ZIEMER: In other words how to  
20 capture data?

21 MR. FITZGERALD: Well, it was more  
22 of a case of for efficiency's sake we covered

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1 references. We went to classified databases  
2 that the authors of the very first site  
3 profile that NIOSH had done four or five years  
4 ago had not. So the obvious question when you  
5 are going back was, looking at the delta, is  
6 there any facilitation that we could give them  
7 as to who we had gone to, points of contact,  
8 and what databases per se that were missed in  
9 the first review that they would then want to  
10 take advantage of in this next round of  
11 review.

12 So I consider that facilitation;  
13 pointing them to the right people, identifying  
14 the databases more clearly.

15 CHAIR ZIEMER: So it wasn't a change  
16 in their documents?

17 MR. FITZGERALD: No, it wasn't a  
18 policy exchange at all. It was a facilitation  
19 on a data capture. Now the reason I think we  
20 wanted to come to you and Ted was simply  
21 because it turned out, these data capture  
22 strategy plans get pretty detailed and

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1 complex, and once you get beyond the first  
2 hour or two of facilitation, you start  
3 questioning, well, this is a fairly big job,  
4 we just want to make sure that somebody was  
5 aware, that the Board was aware, that we are  
6 working on this, and it's not simply we are  
7 doing on our own time and doing it off the  
8 premises, that this facilitation is happening.

9 So I just wanted to make sure that  
10 there was somebody besides just me and John  
11 aware of the fact that we were providing this  
12 kind of support. But it wasn't in the policy  
13 context, it was on the facilitation context.

14 MEMBER MUNN: Well, it's billable  
15 hours anyway. Right?

16 MR. FITZGERALD: No, we don't have  
17 an authorization from the Board to work on  
18 Livermore. The Livermore site profile was  
19 completed.

20 MEMBER MUNN: That's really the  
21 issue here.

22 MR. FITZGERALD: Well, helping out

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1 is fine in a certain context of time. But  
2 once the time gets lengthier, then I think  
3 there is more of a concern that at least we  
4 alert -

5 CHAIR ZIEMER: Right.

6 Jim? Then Ted.

7 MEMBER MELIUS: In that case, isn't  
8 it appropriate to be able to encompass that  
9 kind of assistance into one of the tasks. I  
10 don't remember the tasks well enough that are  
11 part of the contract to be able to - if it is  
12 adding up to many hours of facilitation, then  
13 it should, and there should be some  
14 appropriate control from NIOSH and the Board  
15 on authorizing that. But it would be more of  
16 a generic issue, wouldn't it, Paul?

17 CHAIR ZIEMER: I think you are  
18 right. My concern here would be, if this is a  
19 one-time thing, it's kind of a no, never mind.

20 But if it's a facilitate here, facilitate  
21 there, pretty soon you are adding up hours,  
22 and so is there then a separate task - a

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1 facilitation task to which we assign a budget.

2 You can spend up to a certain amount each  
3 year facilitating things of this nature, which  
4 may not have to do with modifying a report per  
5 se, I mean, it may lead to that. But if it's  
6 to the extent that our contractor is helping  
7 get the job done, and in a sense is helping us  
8 by doing that, and helping NIOSH. We do have  
9 management money, but I think that's a little  
10 different than this. This is - this looks a  
11 little different from other things that we  
12 have done, doesn't it? John, how does it look  
13 to you?

14 DR. MAURO: The ground rules that I  
15 have been using from the very beginning is,  
16 once we deliver our report, a site profile  
17 review, we do not bill any more time until the  
18 Work Group has started and we are authorized  
19 to do more work.

20 Now given that, what could happen  
21 that would put us in a position to jeopardize  
22 that situation? One, we get a phone call

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1 from a representative who wants clarification  
2 on Pinellas. Explain to me what this OTIP-66  
3 is? I answered that question over the phone.

4 A perfect example here, let's say  
5 we are talking about the situation that Joe  
6 just described. Another situation would be  
7 documents. We have an obligation to make sure  
8 that every document that we use in our report  
9 we share with NIOSH. So if we get a call from  
10 NIOSH, listen, I see you've cited this, this,  
11 this, this document, we have an obligation to  
12 make sure that that is available to everyone,  
13 so we'll do that.

14 So there are some what I would  
15 consider to be very modest levels of effort  
16 which are on the order of an hour or two that  
17 very often we encounter, and I do that. I  
18 take care of it, and I'll bill that hour.  
19 Even though that sort of breaks one of my - I  
20 like to put a freeze, because I'll tell you  
21 what I do. I like to track how much does it  
22 cost us to put the product out, and then from

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1 then on, from that date, the date on that  
2 report, from then on every hour that is billed  
3 and every dollar that is billed goes toward  
4 what I call close out, so that I could always  
5 report back to you how much did it cost to  
6 produce the Pinellas report, how much did it  
7 cost to support the close out of Pinellas.  
8 And I could give you those numbers for every  
9 one of these sites.

10 The way I see it is that this  
11 little what I call follow on support to  
12 whoever it might be is very very modest, and  
13 my general rule of thumb, if it takes an hour  
14 or two, that's okay. And that's how I've been  
15 running the program.

16 CHAIR ZIEMER: If you are talking  
17 about an hour or two here or there doing  
18 things such as you describe, which is  
19 providing reports, or even what Joe described,  
20 sharing your strategy for - or the points of  
21 contact or whatever it might be, you can  
22 easily bill that against the close out

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1 process, or we can identify it separately,  
2 either way. But if it's very modest it's  
3 probably not worth tasking separately.

4 DR. MAURO: That's what we've been  
5 doing, yes.

6 CHAIR ZIEMER: But if in somebody's  
7 judgment you are getting - if the thing that  
8 Joe is describing now gets very extensive and  
9 I don't know, Joe - is he still here? But if  
10 you end up having to spend a lot of time  
11 facilitating this, and I don't know what might  
12 occur.

13 MR. FITZGERALD: It's a subjective  
14 thing. I think it's very profitable for us to  
15 help with the data capture on a site we've  
16 been at in terms of the feedback we can  
17 provide. I think that is a very profitable  
18 time. After a couple of hours, you get to the  
19 point where you just want to make sure that,  
20 you know, that you are aware that we are  
21 involved in this.

22 And of course the other issue that

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1 you raised, which is, if this is something  
2 that would be continuing over time, then  
3 perhaps that is something we need to  
4 benchmark, because it may take more time.  
5 Some sites will be more complicated. And I  
6 think this was a recognition that as perhaps  
7 these sites are revisited, this might be a  
8 continuing role, and therefore we ought to  
9 flag it as something that the Board should be  
10 aware of.

11 So this was mostly a heads up.

12 CHAIR ZIEMER: This may be a case  
13 where it is not broken yet.

14 MR. FITZGERALD: No, I really don't  
15 think so.

16 DR. MAURO: If you have a task they  
17 can bill it on.

18 CHAIR ZIEMER: Yes, it sounds like  
19 it's sufficiently modest that it - unless it  
20 reaches a point where in your judgment it is  
21 becoming a significant effort.

22 MR. FITZGERALD: Well, I just want

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1 to make sure - we have had instances where the  
2 Board will say, what are you doing that for?  
3 How come we don't know about it? Well, in  
4 this case we are alerting you that, yes, we  
5 are working with NIOSH and looking at the data  
6 capture plan for Livermore and providing  
7 feedback and spending time doing that.

8 So it was more of a heads up, to  
9 make sure you were aware of that, and it  
10 wouldn't come across as a surprise later on  
11 that we were doing that. But it's not  
12 crossing over into the issues or policy area,  
13 which I think is what I heard earlier, which  
14 is not the case.

15 MR. KATZ: I just wish you'd use a  
16 term other than profitable.

17 (Laughter.)

18 CHAIR ZIEMER: Ted, Wanda, Mike.

19 MR. KATZ: I mean just for the  
20 record, though, this wasn't made clear to me.  
21 So I guess, John, you and I need better  
22 communication. Because this was not my

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1 understanding, the characterization that I  
2 received of what was the work that needed to  
3 be done.

4 DR. MAURO: When I called, I  
5 realized that we were moving into a mode that  
6 we hadn't been into before, where one of our  
7 folks might be spending several hours, maybe  
8 more, helping out in this capacity, which  
9 would be - and I said, let me alert you to  
10 this. It's the first time this came up where  
11 there was a possibility that this could  
12 continue for awhile, and that's the reason I  
13 called.

14 MR. KATZ: Yes, but you explained  
15 that they were going to be making improvements  
16 to the site profile based on the  
17 recommendations you made. I mean that was  
18 very clearly the characterization. So I did  
19 think we were in a mode of making changes  
20 based on your recommendations. That's how I  
21 understood that.

22 CHAIR ZIEMER: Well, by the time it

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1 got to me, the changes were pretty far along.

2 Okay, that's very helpful. It's  
3 much more clear.

4 Wanda, do you have some additional  
5 advice?

6 MEMBER MUNN: Well, I don't know if  
7 it's advice. I'm just mulling over here the  
8 fact that we came a long way from the original  
9 question that was posed. But as long as that  
10 question has been posed, it seems reasonable  
11 that we should address it at some juncture,  
12 whether now or in the future. It's a  
13 reasonable possibility that might exist with  
14 respect to future interactions, especially  
15 once any process has been initiated of  
16 contact, especially contact points.

17 CHAIR ZIEMER: I think the parties  
18 involved are sufficiently sensitive to that  
19 that if it reaches that, they certainly have  
20 been good about alerting us, even in this case  
21 where the threshold actually was pretty low  
22 and they still let us know, even though it got

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1 misunderstood a little bit.

2 DR. MAURO: I perhaps communicate  
3 too much.

4 MEMBER MUNN: It's not possible,  
5 John.

6 DR. MAURO: I have become very  
7 sensitive to the fact that it is very  
8 important for me not to move forward with  
9 anything unless -

10 CHAIR ZIEMER: Right, and we  
11 appreciate that, so thank you.

12 Michael, additional comment.

13 MEMBER GIBSON: there is nothing  
14 wrong with efficiency with the agency and the  
15 contractor trying to work together. But even  
16 on data capture it seems - you know, NIOSH  
17 goes out and takes a look at the puzzle, and  
18 then we want our contractors to take a second  
19 look at that puzzle, to see where someone  
20 might have missed something. And that's how  
21 we get to this resolution process.

22 So it's also - it looks like there

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1 could be a way that there may not be  
2 necessarily two complete different views when  
3 you share this kind of information.

4 CHAIR ZIEMER: Right, but we do as a  
5 practice want to share all the data sources,  
6 have all the folks have access to the - as  
7 much of the information as they are able.

8 MEMBER GIBSON: But after the fact.

9 CHAIR ZIEMER: Yes, good point.

10 Okay, other comments?

11 Well, it appears to the chair that  
12 we don't need a specific policy at this point,  
13 but we are sensitive to the issue. The  
14 contractor is, NIOSH is, and it appears that  
15 we have a way to deal with it at the moment.  
16 So thank you very much.

17 Next we have Procedures Work Group.

18 Let's see how we are in time here? We're  
19 good.

20 PROCEDURES WORK GROUP

21 CHAIR ZIEMER: Procedures Work  
22 Group. Wanda, you have a couple of items.

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1 One has to do with the CATI interview issues,  
2 and there was another - oh I think it was the  
3 - wasn't there another one that involved your  
4 work group?

5 MEMBER MUNN: Yes, there is. There  
6 are a couple of things that we need to report  
7 on. The question is, do you want - from my  
8 perspective, would you like me to give the  
9 Procedures Work Group report now and then we  
10 can discuss the CATI and the other items with  
11 respect to how our tracking system is going?

12 CHAIR ZIEMER: You might as well do  
13 the whole thing.

14 MEMBER MUNN: If we have the time to  
15 do that.

16 CHAIR ZIEMER: How long do you need  
17 - you are going to also discuss the issue that  
18 Dr. Melius raised?

19 MEMBER MUNN: Yes, if possible.

20 CHAIR ZIEMER: Okay, let's do that.

21 MEMBER MUNN: Let's see if we can do  
22 that, and we will try to move through it

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1 quickly and efficiently - give you a little -

2 CHAIR ZIEMER: Well, I guess  
3 somebody doesn't think you can move through it  
4 quickly.

5 MEMBER MUNN: It's Christmas time.  
6 The Procedures Work Group met in Cincinnati on  
7 the 9<sup>th</sup> of this month. And for the first time  
8 approached our data tracking base in a fully  
9 digital manner. Of course this database has  
10 been worked on for a number of months, and the  
11 contractor has done a beautiful job in  
12 cooperating with NIOSH to get this up and  
13 running.

14 And from our perspective as a work  
15 group it's working very well. We did go  
16 through this fully paperless this time. No  
17 one touched a single tree. And we were able  
18 to move through the items. We limited  
19 ourselves to what we call the third dataset,  
20 based on grouping - the last group that we had  
21 tasked our contractor with doing, and were  
22 able to close quite a few at the time that we

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1 were there.

2 We also started our day by  
3 discussing the new proposed CATI questions  
4 that we had all received by email a week or so  
5 prior to the meeting. There were as you all  
6 know two segments to that, one set of  
7 questions for the employee himself or herself,  
8 and the other one for survivors.

9 We had a fairly brisk discussion in  
10 the Work Group with respect to whether the  
11 questions, especially the questions on the  
12 survivor questionnaire were appropriate or  
13 even useful; whether they were in fact  
14 providing the kind of information that we were  
15 attempting to get to.

16 Having had such a significant  
17 amount of feedback from survivor petitioners  
18 with respect to their concerns over these  
19 questions when they have them, the sort of  
20 mistaken feelings that they were sort of being  
21 tested, and that they did not have the proper  
22 responses; that they were somehow going to

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1 negatively affect their claims.

2 We looked at them fairly closely.  
3 I don't think there is any way that you can  
4 report in a concentrated form on the real  
5 essence of any conclusion that we reached,  
6 except that we did understand clearly that the  
7 individuals who do these questions try to  
8 reassure the claimants at the time that they  
9 are carrying out the questionnaire so that the  
10 claimant will not be unduly concerned that  
11 lack of information on their part creates a  
12 negative atmosphere for their claim.

13 But the letter itself still has -  
14 although it contains the appropriate  
15 information from I believe the viewpoint of  
16 most of the Work Group members, it may have  
17 too official a tone. This was a finding which  
18 one of our previous work groups came to with  
19 respect to closing letters that went out to  
20 claimants; the information was there, but the  
21 tone was not perhaps what we wanted to  
22 achieve.

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1           So we wanted to bring this back to  
2 the Board. We took no real action on it,  
3 because it was very clear from our discussions  
4 that it was likely almost all members of the  
5 Board feel strongly about this.

6           It was our suggestion that we plan  
7 to meet toward the end of January again; as a  
8 matter of fact we established a date of  
9 January 28<sup>th</sup> in Cincinnati. Prior to that time  
10 we would ask that each Board member review  
11 that letter and the two questionnaires very  
12 carefully, and provide Ted Katz and me with  
13 any comment that you have, any suggested  
14 wording that you have. We would like to try  
15 to, at our next meeting, blend the concerns  
16 that are expressed into a cogent response,  
17 which we could bring to you at the Albuquerque  
18 meeting as a potential for comment.

19           If anyone has any suggestion as to  
20 a more effective way to try to achieve some  
21 sort of consensus on the Board with what our  
22 response should be in terms of comment period,

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1 we are certainly open to that.

2 Yes?

3 MEMBER GRIFFON: I just think in  
4 terms of the comments, the other things that  
5 we were talking about on the procedures call  
6 is maybe when you go through these  
7 questionnaires and the letter, that you  
8 differentiate your comments on the  
9 questionnaire itself versus the process.  
10 Because I think we were finding issues with  
11 both parts, and wanted to kind of keep them  
12 separate.

13 CHAIR ZIEMER: And let me ask for  
14 clarity. My recollection is that, is it only  
15 the questions that the OMB has to approve and  
16 not the letter itself? Was that not the case?

17 MR. ELLIOTT: Is this on? Now it's  
18 on. That is correct, the OMB will review the  
19 survey instruments and approve those. What  
20 you have before you is a cover letter that  
21 Wanda has mentioned that goes to the claimant  
22 introducing the questionnaire to the claimant,

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1 giving them an advanced understanding of what  
2 is going to be asked of them so they can  
3 prepare for the interview process.

4 And we ask as Mark has clearly  
5 identified during the discussion to if  
6 possible segregate your comments to that of  
7 the process versus that of the questions that  
8 are posed. Because we will need to consider  
9 and react to both sets of types of comments,  
10 but the ones that the OMB will be interested  
11 in knowing how we - what kind of comment we  
12 got on the questions. We wanted to forward  
13 those and show how we reacted.

14 Let me also take this opportunity  
15 to say that in the working group discussion I  
16 noted for the working group that we had put  
17 forward these two revised survey instruments,  
18 based upon input that we viewed in the SC&A  
19 review of procedure 90, is it? Well, whatever  
20 the interview process procedure number is; I'm  
21 lost on that right now. But also input from  
22 the folks who actually do the interviews, and

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1 input from the general public during public  
2 comment period. We heard loud and clear  
3 concerns and frustration and burden that these  
4 questions were bringing.

5 In that light I proposed that there  
6 might be another option, rather than this set  
7 of questions being posed, we might go at a  
8 questionnaire designed specifically to confirm  
9 the information that we already have in the  
10 claimant file; that is necessary, that is  
11 appropriate for us to do. But as I said it's  
12 a small short number set of questions that  
13 would go just to confirming the information at  
14 hand with the person. And also - we are  
15 proposing that this will be done when we  
16 change contract award situation here, that we  
17 will start awaiting the - for DOE claims we  
18 would await the arrival of the DOE dose  
19 information before we sat down with the  
20 claimant to do the interview process, so we  
21 could cover that with the claimant, address  
22 whatever concerns they might have about it not

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1 containing everything they think it should  
2 have, and then there could be another set of  
3 questions designed specifically for energy  
4 employees, plus a separate design set for  
5 survivors that get at information the health  
6 physicists feel is essential to doing a dose  
7 reconstruction.

8 And so that might take on a  
9 different look than the two examples you have  
10 before you that are revised questionnaires  
11 based on input. I remind you all -

12 CHAIR ZIEMER: But that would be  
13 down the road, Larry, is that right? Or is  
14 that in this one?

15 MR. ELLIOTT: We are working on this  
16 option right now, and if we get a request  
17 through the Federal Register notice, it's my  
18 intent that we would provide an example of the  
19 two that you have got, and this third example,  
20 so when we come up with this third example, we  
21 are going to share it with the Board as well  
22 so you can see what it looks like.

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1 CHAIR ZIEMER: Will that change the  
2 reply time in the Federal Register? Or would  
3 there be a new separate -

4 MR. ELLIOTT: No, it doesn't change  
5 the reply time. We have folks working on this  
6 option that I'm talking about now. Remember  
7 at the working group meeting I mentioned that  
8 I was awaiting some consensus comments from  
9 health physicists that would be factored into  
10 this option.

11 And so the time won't change, and  
12 as I committed to the working group, your  
13 comments come in after the suspense date of  
14 the public comment period, they will still  
15 consider the Board consensus comments as we  
16 move forward to revise these documents.

17 And we'd account for that in the  
18 OMB package that we would send up.

19 But I would remind you that the  
20 review of Procedure 90 and the fact that we  
21 have used this same set of questions for  
22 almost 25,000 cases, probably around 35 to

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1 40,000 claimant interviews. And we are asking  
2 ourselves what do we really need. And we are  
3 forced with this OMB requirement to speak  
4 about the burden, and you will see that  
5 mentioned in the Federal Register notice, what  
6 we estimate to be the burden hours based on  
7 the two documents that you have before you.  
8 And I've got to believe that there is a better  
9 type of questionnaire that will put less  
10 burden and less frustration before the  
11 claimants.

12 CHAIR ZIEMER: Thank you.

13 Now what do the Board members have?

14 Do all the Board members have the document  
15 that we saw?

16 MEMBER MUNN: Yes, all the Board  
17 members have the cover letter and the EE and  
18 SV questionnaires.

19 CHAIR ZIEMER: So not only the Work  
20 Group but everybody else has the document.

21 MEMBER MUNN: That is correct.

22 CHAIR ZIEMER: And your proposal,

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1 Wanda, is basically that Board members prepare  
2 their comments and provide them to you so the  
3 Work Group can develop from that a  
4 recommendation to bring back to the full Board  
5 at its next meeting; is that correct?

6 MEMBER MUNN: That is correct. We  
7 are asking that those comments be gotten to  
8 us.

9 CHAIR ZIEMER: And in that you are  
10 basically asking the Board, is that how you  
11 would like to proceed?

12 MEMBER MUNN: Exactly. And if that  
13 is the way the Board would like to proceed  
14 then our timeline is very clear. We need your  
15 input in the next couple of weeks.

16 CHAIR ZIEMER: You will meet in  
17 January?

18 MEMBER MUNN: We would need your  
19 input in a couple of weeks so that we could  
20 prepare something in the Work Group.

21 CHAIR ZIEMER: Right, and then  
22 develop a recommendation for the February

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1 meeting, at which time the full Board could  
2 hopefully approve something.

3 MEMBER MUNN: Either approve or  
4 further deliberate what we bring to you.

5 CHAIR ZIEMER: Comments or questions  
6 on that? Is that agreeable as a way to  
7 proceed? Mark.

8 MEMBER GRIFFON: Just a question, if  
9 Larry knows when this third option might be  
10 available and when we might see this.

11 MR. ELLIOTT: I am giving my  
12 personal thoughts here. The third option may  
13 not even be a viable option once we look at it  
14 and see it. But if it comes out as I think it  
15 may, it's very soon. It's got to be soon,  
16 because the Federal Register notice went out  
17 what last Thursday, is that right?

18 MEMBER MUNN: That's about right.

19 CHAIR ZIEMER: And the individuals  
20 have to contact you to get the -

21 MR. ELLIOTT: Right. So if you as  
22 an individual citizen want to comment in the

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1 public comment period, you send in a request  
2 to see --

3 CHAIR ZIEMER: You have to be able  
4 to provide this.

5 MR. ELLIOTT: I have to have this  
6 ready very soon. Because if we get a call for  
7 what these exhibits are tomorrow, we have to  
8 respond. We are trying to put this option  
9 together.

10 MEMBER GRIFFON: And again can you  
11 describe this third option a little bit?  
12 It's got to be a questionnaire that says, you  
13 know, check off what records we have, and does  
14 that agree with your memory of where you  
15 worked?

16 MR. ELLIOTT: The third option as I  
17 tried to explain it before, my concept of this  
18 other option is that we take the time to  
19 confirm what information we have. So that is  
20 a short list of questions, the critical  
21 issues. We have your name, your date of  
22 diagnosis, your work history, this is where

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1 you worked. That would be - if you look at it  
2 in three segments, that is the first segment.

3 The second segment would be for a  
4 DOE worker to say, we've received your dose  
5 information, and we show that you have been  
6 badged these years. You didn't get a badge  
7 this year. You didn't have a whole body  
8 count. You did provide urine for bioassay on  
9 these timeframes. Is that to your knowledge  
10 anything different than that? A brief  
11 question in that regard.

12 The third segment would be those  
13 questions that the health physicists who do  
14 dose reconstructions feel are questions that  
15 would help them understand best how to  
16 reconstruct that dose. And I don't know what  
17 those are yet. So I'm waiting to see what  
18 those are, because they may be no different  
19 than the questions we currently have, and  
20 maybe a shorter version. But that is where we  
21 are trying to go. We are trying to lessen the  
22 burden in this third option, and hopefully in

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1 the two that you had before that we want to  
2 lessen the burden. But we also want to lessen  
3 the frustration, so that also goes to this  
4 process aspect of how to administer the  
5 questionnaires.

6 CHAIR ZIEMER: Josie.

7 MEMBER BEACH: That third option  
8 could be a case by case basis, too. So that  
9 sounds like it could be somewhat cumbersome  
10 depending on the claimant.

11 MR. ELLIOTT: Well, I'm not  
12 proposing that it be a site-specific kind of  
13 questionnaire. The questionnaires have to be  
14 standard in the format of questions that are  
15 used. And so it goes - the front part, the  
16 first segment is probably individual specific,  
17 yes. But the questions that come out of that  
18 are simple. Do we have everything? Is  
19 everything correct? That is the question.

20 So that is the question we can ask.  
21 It's a little burden, but it is important to  
22 verify that we have this information correct.

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1                   MEMBER BEACH: Right, and I wasn't  
2 thinking of the first two sections you  
3 described. I was thinking of the third one,  
4 and maybe I got carried away on my thinking.

5                   MR. ELLIOTT: You know, I've got a  
6 problem right now with the two examples that  
7 you have before you, and the way we have been  
8 using the current questionnaire recently in  
9 time. And that problem is that we already  
10 know the question - we already know the answer  
11 to many of those questions. So why are we  
12 asking the question? You burden the claimant  
13 when you ask a question and you already know  
14 the answer. And you raise their expectation,  
15 and by that you raise their frustration level  
16 when you don't do anything that they think you  
17 ought to have done with that answer that  
18 they've given you.

19                   So we are coming at it with a very  
20 hard critical look at what we need in a  
21 questionnaire approach in the CATI interview.

22                   So hopefully we come out of this with less

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1 burden and less frustration on the claimants.

2 That's what we want, but we also want to gain  
3 information that will help do the dose  
4 reconstruction. So it's a difficult balancing  
5 act.

6 CHAIR ZIEMER: Thank you. Other  
7 comments? Dr. Melius.

8 MEMBER MELIUS: I asked a question  
9 yesterday whether this - our comments would  
10 become part of the docket for this.

11 MR. ELLIOTT: I don't know if you  
12 are going to take my word on this, or if you  
13 want the lawyers to come up and parrot me  
14 after this. But again it is not a regulatory  
15 docket. It is NIOSH's docket, and I believe  
16 that I have the ability to insert information  
17 into that docket post the comment period. If  
18 it was a regulatory docket, I am very well  
19 aware that I cannot do that.

20 So if you don't believe me and you  
21 want the lawyers to come up and say that, I  
22 guess we can have them do that.

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1                   MEMBER MELIUS: You say that with  
2 more certainty than you did yesterday. I will  
3 also trust you that should the lawyers tell  
4 you otherwise you'll let us know.

5                   MR. ELLIOTT: Thank you.

6                   CHAIR ZIEMER: Any further comments?

7           Can I take it by consent, Board members, that  
8 we will proceed as described and get our  
9 comments to Ms. Munn so that the Work Group  
10 can develop a document for us to look at? Any  
11 objections?

12                  MEMBER MUNN: I will send you all an  
13 email reminding you of what the anticipation  
14 is, and so that you will have some specific  
15 dates in front of you where you can work  
16 toward those dates hopefully in getting the  
17 information back to us and repeating our  
18 expectation.

19                  CHAIR ZIEMER: Thank you. You have  
20 one other issue now you wanted to talk about.

21                  MEMBER MUNN: Actually I wanted to  
22 touch on one other thing that we had done

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1 during the procedures review process. We had  
2 an opportunity for the first time to see  
3 SC&A's review of OTIP-066, which is a cross-  
4 cutting procedure regarding the calculation of  
5 dose rate of tritides. And we are pleased to  
6 see they had two observations and four  
7 findings. Unfortunately, the timing is such  
8 that NIOSH had not had an opportunity to  
9 really take a look at that at all. So that is  
10 on our fast track list for requests that NIOSH  
11 take a look at that as soon as possible, and  
12 we are hoping that we will have some feedback  
13 from NIOSH regarding those four findings when  
14 we meet again.

15 As I said, we've gone through the  
16 entire third set which dated back to October  
17 29, 2007. And at this point as John Morrow  
18 had indicated yesterday in his report, we are  
19 approximately halfway through the existing  
20 outstanding findings that we have before us.

21 Now yesterday when we were in other  
22 discussions, regarding Savannah River I

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1 believe, I had made a comment relative to  
2 OTIB-0052, and how we were progressing through  
3 that, and Jim had asked that I illuminate you  
4 further with regard to where we are.

5 I had thought this might be an  
6 opportunity to have you all familiarize  
7 yourself with the portion of the O-drive data  
8 that we utilize all the time in the procedures  
9 activities, because of course the purpose in  
10 having this database established the way it  
11 is, is for all of you to be able to follow  
12 where we are with any one of these procedures.

13 Are all of you here capable of - I  
14 guess Mike may not be right now - but can all  
15 of you bring up the O drive on your computer  
16 today? If you can, perhaps we can use OTIB-  
17 0052 as a very quick lesson in how we move  
18 through these in the Procedures Work Group and  
19 get a little familiarity under your belt with  
20 how to get to information that you might like  
21 to have in that regard, if you would like to  
22 take a few minutes to do that, I'd be

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1 delighted to do so. And I think Steve  
2 Marschke who usually does this for us in work  
3 group and Stu who - Stu Hinnefeld who handles  
4 the NIOSH side of input and upkeep for this  
5 particular database is quite willing to throw  
6 some of the information up on the Board so  
7 that you can see how we do it if you want to  
8 do that.

9           Would you like to do so? Take just  
10 five minutes or 10 minutes here to take a look  
11 at how we do the procedures things.

12           Stu has I think some reservations  
13 as to how well this is going to go, because  
14 apparently things are slow on the net right  
15 now. But let's see if we can bring it up. For  
16 those of you who are going to try to follow if  
17 you can bring up the O drive on your computer  
18 and let me know when you are ready.

19           Okay if you have the O drive up  
20 then you will see the shortcut folder there to  
21 the procedures, right? Click on that folder.

22           And wait for a few minutes.

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1                   MEMBER CLAWSON: Which shortcut?  
2                   There are several shortcuts.

3                   MEMBER MUNN: It should say shortcut  
4                   to database. Procedures Database. No? Let  
5                   me go back and see. I'll start from square  
6                   one here, and see if I can follow with you.

7                   Now the first thing you need to  
8                   know about this database when you are working  
9                   with it is that we have deliberately arranged  
10                  it alphabetically so that all you need to know  
11                  is the number of the procedure or the document  
12                  that you are looking for, and you can just run  
13                  down - if you notice the finding date, the  
14                  next thing you see is the title of the - the  
15                  number of the document, and by looking just at  
16                  the title of the document alone, and to the  
17                  column next to it, you can tell how many  
18                  findings we have on that particular OTIB-0050,  
19                  and on the third column you will see dash one,  
20                  dash two, dash three, dash four, that tells  
21                  you without going any further that on that  
22                  particular procedure you have four different

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1 findings, and you can see in the far right-  
2 hand column what the specific status of each  
3 one of those findings is going to be.

4 Now when we did our work this time,  
5 you noticed above the - you see the boxes  
6 above the data, the second one from the left,  
7 says filter slash sort. What we did when we  
8 were working on this group of three, since we  
9 knew that the date was crucial for identifying  
10 them, we sorted - if you click filter sort,  
11 then it will show you three different ways  
12 that you sort. We sorted first by date, then  
13 second by procedure number, and third by  
14 finding.

15 And then we only looked at open, in  
16 progress and abeyance. You see where it says,  
17 filter on? We took all of those check marks  
18 out except for open, and in progress and  
19 abeyance.

20 And then we clicked on filter on,  
21 but I'm not asking you to do that, because  
22 that is not the way we want to handle what I'm

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1 trying to tell you to do here. I just wanted  
2 you to see how we filtered so that we could  
3 bring up only the information that we wanted  
4 to see.

5 Now if you go back now to what Stu  
6 is showing you on the big screen.

7 MR. HINNEFELD: Wanda, I'm not  
8 showing them anything useful, because this is  
9 not working. I'm going to have to restart  
10 this. You guys keep working on the phones.

11 MEMBER MUNN: Okay, those of you who  
12 have this up on your screen, on the far right  
13 of your dataset is the move-me-down block, so  
14 that as you put your cursor on that block and  
15 move it down, you are moving through the OTIBs  
16 for example by number and if you go down to  
17 OTIB-0052, are we following okay, are you  
18 getting there, you have OTIB-0052 up?

19 MEMBER BEACH: We have several.

20 MEMBER MUNN: Right, so you look in  
21 the third column and you will see how many  
22 OTIB-0052 findings we have. 52, one, two,

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1 three, four, five six, notice it goes all the  
2 way down to 16 before it changes to the next  
3 number.

4 Now looking at those 16 original  
5 findings, starting at one, you can go over to  
6 the far right and you can see what the status  
7 of it is. If we want to go to the detail of  
8 this we can find that we already know it is  
9 going to be addressed in some other finding.

10 Now just above the database itself  
11 you see the three tabs on the far left in  
12 gray: summary, details and procedures. If you  
13 put your cursor first on 52, and then click on  
14 details, it will bring up for you the  
15 information on that first finding of OTIB-  
16 0052. It will show you that it's addressed in  
17 findings, in another finding, and it will give  
18 you by date on the left what has transpired.  
19 It shows what the finding is, and then it  
20 shows you what the initial response was from  
21 NIOSH on 8/23/2007, and then as you go down  
22 those - that form you will see that on the 29<sup>th</sup>

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1 of August NIOSH and SC&A discussion, you can  
2 see an abbreviation of what was said, what was  
3 decided. And then on the 6<sup>th</sup> an SC&A follow  
4 up. If you want to see what that says, the  
5 status of this issue is going to be changed.  
6 Addressed in finding #16. So the status of  
7 this now is addressed in the finding. That is  
8 the next one down.

9 Down at the bottom you will see  
10 next issue. If you want to click on the next  
11 issue, then what comes up is finding #2 and  
12 #3. They are both closed. You see what the  
13 original finding was, what the NIOSH response  
14 was initially, what the discussion was later,  
15 and the follow up is that SC&A agrees with the  
16 NIOSH initial response. This issue is closed.

17 And the date that it was done.

18 If you go to the next issue, and  
19 you find item #3. It's closed. You can click  
20 right on next issue, next issue, next issue,  
21 and go all the way down through all 16 of  
22 those issues.

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1           When you are finished looking at  
2 the detail, then put your cursor back up on  
3 the summary. Statement on the far left of the  
4 top of the database. Click on summary again  
5 and you are back on the summary sheet.

6           Was everybody able to follow that  
7 reasonably well? It is a little cumbersome  
8 the first few times you use it. But once you  
9 have become familiar with it, it really and  
10 truly is a marvel of complex information one  
11 step at a time. So that anytime you have any  
12 question with respect to where we are on any  
13 one of the procedures that we have given to  
14 SC&A to comment upon, you can see what is  
15 there. You can through the filter and sort  
16 potential; you can identify how many open  
17 items are there; how many are in progress; how  
18 many are closed. It will bring that up for  
19 you very easily.

20           Have I puzzled anyone? If you have  
21 any questions with respect to this please  
22 don't hesitate to address them to the Work

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1 Group. I'm sure Stu would be glad to answer  
2 your questions. Steve Marschke is glad to  
3 answer your questions with respect to how to  
4 handle this database.

5 So once you know how to get into  
6 it, it can be a very helpful tool. If you  
7 have any comments on it please let me know,  
8 and were you able to follow any of that Jim?  
9 No, I'm sorry about that.

10 Any other questions or comments  
11 with respect to the Database?

12 If not then -

13 CHAIR ZIEMER: Just very quickly, on  
14 OTIB-0052 then, somehow my formatting is on  
15 black in here, how many of the 16 findings are  
16 closed now on OTIB-0052?

17 MEMBER MUNN: One, two, three, four,  
18 five, six - I count six closed. I count two  
19 of them have been transferred which to all  
20 intents and purposes - no only one has been  
21 transferred. It essentially closes it for  
22 this particular procedure. There are one,

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1 two, three, four, five, six that are in  
2 progress, which means they are currently  
3 actively being pursued. And there are - there  
4 is one which is in abeyance, which means the  
5 action has been agreed to by both the  
6 contractor and by the agency, but the action  
7 has not yet been completed, and for that  
8 reason it is still considered open, because  
9 the closing action has not transpired. But  
10 it's been agreed to.

11 Any other question? If not, then  
12 that concludes all I have to say with respect  
13 to procedures unless someone has some other  
14 issue they'd like to bring up.

15 CHAIR ZIEMER: The only other  
16 comment at this point that I would make, and I  
17 think Ted, you may have suggested this as  
18 well, that on some of the procedures which may  
19 have unusually significant impact on what this  
20 Board does, you may want to bring them forward  
21 separately for closure action rather than  
22 aside from the whole set of all the - I forget

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1 how many procedures, but it's over 100 -  
2 around 100. But if there are particular  
3 procedures that we feel the Board may want to  
4 look at separately, and you would have to  
5 identify what those are. Is OTIB-0052 one of  
6 those, or if there are any high impact  
7 procedures, or in some cases for example, if  
8 it's a procedure that has particular  
9 significance for a particular site. Now in  
10 the case of Appendix BB we've moved that out  
11 so it's being looked at separately. But I'm  
12 just thinking in general terms if there are  
13 some that the Work Group identifies as needing  
14 special attention, why you might want to  
15 generate a separate recommendation on those.

16 MEMBER MUNN: We can certainly do  
17 that, and be glad to in the future try to make  
18 note of those and make sure that at the very  
19 least they are mentioned specifically.

20 CHAIR ZIEMER: Yes, I think the Work  
21 Group could do this as they proceed and say  
22 this procedure is more than a minor

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1 administrative detail. It has high impact or  
2 needs some visibility.

3 MEMBER MUNN: We do have several of  
4 those.

5 CHAIR ZIEMER: And try do to that as  
6 we proceed.

7 MEMBER MUNN: We do have several.

8 CHAIR ZIEMER: So it doesn't get  
9 lost in the details of you know coming to the  
10 Board saying here are 100 procedures that we  
11 are recommending be closed out, it would be a  
12 little like the dose reconstruction group  
13 coming with 100 dose reconstructions and  
14 asking us to approve them all at once, and  
15 that would be difficult.

16 MEMBER MUNN: We will try to make  
17 sure that those things are brought to your  
18 attention.

19 And Stu, thank you very much for  
20 getting that up on the screen for us.

21 MR. HINNEFELD: I'm just waiting for  
22 the electrons to get in the right place. My

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1 computer is shut down.

2 MEMBER MUNN: Well, we appreciate  
3 it. Thank you very much. I know it's tough  
4 when the process is slow, but I thought it was  
5 helpful to have them on the screen for people  
6 who might not be able to follow on their  
7 computer setup.

8 Thank you.

9 CHAIR ZIEMER: Thank you.

10 We had some space reserved for SEC  
11 discussions, and I'm trying to remember  
12 whether or not that was reserved for  
13 discussing further details on those petitions  
14 that we've acted on. Ted? Right.

15 Now we also have a 4:00 o'clock  
16 adjournment time, because we are going to  
17 reconvene a little later this evening. We do  
18 have some work time, mainly work time,  
19 tomorrow morning, so since we do need to have  
20 a break and then time for people to have  
21 dinner, that is, if your cookies and brownies  
22 are all digested by now, then perhaps we will

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1 go ahead and recess for this afternoon, and  
2 then reconvene at 7:30 for the public comment  
3 period.

4 Let me ask if there are any  
5 additional housekeeping items we need to take  
6 care of.

7 Apparently not. Board members, any  
8 other issues right now? I'm sorry, is  
9 somebody on the line.

10 So we will reconvene at 7:30 for  
11 the public comment period. 7:30 for public  
12 comment, Eastern Standard Time.

13 (Whereupon, the above-entitled matter went off  
14 the record at 4:00 p.m. and  
15 resumed at 7:30 p.m.)

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PUBLIC COMMENT

CHAIR ZIEMER: Good evening, everyone, and welcome to the Advisory Board on Radiation and Worker Health.

We have a number of individuals who wish to make public comment this evening, many of whom are not speaking in relation to the local facility, but who agreed to wait until tonight so that the Savannah River folks who were here yesterday would have an opportunity to speak.

And I also want to make sure that there are several folks online, or on the telephone lines, who we've also agreed would be able to address the group.

Let me first see - I want to see if one of our Board members is online. Gen Roessler? She may not be, because her [Identifying information], and she may have had to leave for that.

Terrie Barrie, are you on the line this evening?

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1                   Okay, John Funk, are you on the  
2 line?

3                   MR. FUNK: Yes, sir.

4                   CHAIR ZIEMER: Okay, standby.

5                   And Dan McKeel, are you on the  
6 line?

7                   MR. McKEEL: Yes, sir.

8                   CHAIR ZIEMER: Thank you, Dan.

9                   Again, Terrie Barrie, are you with  
10 us yet?

11                   (Pause.)

12                   Okay, we'll check back on that.

13                   So let me begin then this evening -

14                   MS. BARRIE: Dr. Ziemer?

15                   CHAIR ZIEMER: Yes.

16                   MS. BARRIE: This is Terrie Barrie.

17                   CHAIR ZIEMER: Good, I was just  
18 checking to see if you were there. Thank you.

19                   And we will get to you and a couple of others  
20 on the line in just a little bit, so please  
21 bear with us.

22                   Before we have the actual comments

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1 from the members of the public who are  
2 assembled here our Designated Federal  
3 Official, Ted Katz, will remind us of the  
4 redaction rules and related matters.

5 MR. KATZ: Right. Welcome,  
6 everybody, and I'll try to be quick about  
7 this, since I think everyone here has probably  
8 heard this. But as a requirement we have to  
9 repeat this before each public comment  
10 session.

11 So there is a verbatim transcript  
12 being made of this session. If you give  
13 comments, you have the option of not giving  
14 your name, although I think all the  
15 commentators listed at least want to be  
16 identified, so that is okay. But if you don't  
17 want to you can come up to the mike and speak  
18 without giving your name.

19 If you do give your name it will  
20 show up in the transcript. If you give  
21 personal information about yourself, such as  
22 medical information even, that ordinarily will

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1 also show up in the transcript. If you give  
2 information however about a third party, that  
3 information will be redacted; it will be  
4 removed from the transcript. It will not show  
5 up in the transcript.

6 And last but not least if there was  
7 someone here who wanted to address the Board  
8 in private, you could speak to me and we could  
9 try to arrange something like that.

10 Otherwise just to note this policy  
11 in all its legal language is laid out where  
12 you registered to speak here, and it's also on  
13 the NIOSH website with the agenda for this  
14 evening.

15 Thank you, Dr. Ziemer.

16 CHAIR ZIEMER: And those of you who  
17 are here in the assembly, I will call you in  
18 the order that you signed up. And since I  
19 have to call you by name, your name will  
20 appear in the record unless I learn very  
21 quickly from you that you do not wish to be so  
22 identified.

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1           But I will proceed with the list as  
2 I have it. First we will hear from Denise  
3 DeGarmo, and Denise will be addressing us in  
4 relation to the Dow Madison facility I  
5 believe.

6           Denise, thank you. And Denise also  
7 has a handout. Board members, I think you  
8 should have all received it now. And Denise  
9 will also supplement her remarks with some  
10 slides here. And I believe those are ready to  
11 go as well.

12           Thank you.

13           MS. DeGARMO: Thank you very much  
14 for allowing me to speak in front of you. As  
15 a courtesy to the Board I wanted to inform you  
16 of some activities that I have taken on behalf  
17 of Dow Madison. And in October of 2008 I  
18 turned over new research materials to the  
19 Department of Energy, to NIOSH and the  
20 Department of Labor, and requested extension  
21 of the covered period for Dow Madison to  
22 include the years 1954 to extend to the year

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1 1972.

2 As you know we have several primary  
3 documents that establish Dow as an AWE site.  
4 Those include the January 4<sup>th</sup>, 1956 agreement  
5 between Mallinckrodt Chemical Works and Dow  
6 Chemical Company for experimental extrusion  
7 work.

8 On the record we also have a FUSRAP  
9 document entitled, designation summary for the  
10 former Dow Chemical Company in Madison,  
11 Illinois.

12 Document number three consists of  
13 the DOE environmental management trip report,  
14 May 1988 visit to the Weldon Springs site in  
15 Weldon Spring, Missouri.

16 And the fourth document that  
17 established Dow Madison as an AWE site  
18 consists of the FUSRAP, considered sites  
19 database report on Dow Chemical Company.

20 In addition to that we have two  
21 purchase orders from 1957 and 1958. We have  
22 purchase order U-3067-L that was done in

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1 12/05/1957 between Mallinckrodt Chemical Works  
2 and Dow Madison; and in addition to that we  
3 have a purchase order dated 3/15/1958, U-  
4 52990-A which is also another purchase  
5 agreement, purchase order agreement between  
6 Mallinckrodt and Dow Chemical.

7 We included - we were able to  
8 include thorium into dose reconstructions as  
9 of January 8<sup>th</sup>, 2008, with a letter to Peter  
10 Turcic, and I believe you have it on hand, so  
11 I did not provide it in an additional copy.  
12 But we after several months of additional  
13 research in the state of Michigan were able to  
14 come up with new evidence presented in the Dow  
15 Diamond, which is the Dow Midland or Dow  
16 companies corporate journal.

17 And some of the information we  
18 retrieved was pretty revealing. In September,  
19 1954, and you can look at the highlights, they  
20 are not very good here, Dow Madison was the  
21 first facility built for the mass production  
22 of magnesium and magnesium alloys. The sole

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1 purpose of Dow Madison also was if you read  
2 further into this article for the purpose of  
3 production and development of magnesium  
4 thorium HK31A.

5 In February 1957 document, we have  
6 a secondary document establishing a contract  
7 with the Atomic Energy Commission for further  
8 development and production of HK31A.

9 So this relationship between Dow  
10 Madison and Mallinckrodt Chemical Works  
11 extends beyond just simply Mallinckrodt. We  
12 now have reference to a contract which puts  
13 Dow Madison into direct contact or in direct  
14 agreement with the Atomic Energy Commission  
15 for the production and development of this  
16 alloy.

17 In that document that you have in  
18 front of you it says Dow was awarded a  
19 contract from the Atomic Energy Commission in  
20 1947 to develop the alloy HK31A. Subsequently  
21 the company began a program to develop  
22 magnesium thorium alloys in cooperation with

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1 the Atomic Energy Commission but at its own  
2 expense. In 1947 the AEC awarded Dow a  
3 contract.

4 The first rolling of HK31A sheet  
5 began in 1953 at Midland, and the following  
6 year it was moved to the newly completed  
7 Madison, Illinois facility.

8 The summer of 1963 references  
9 Madison as being at the heart of the metals  
10 production program for Dow Madison, and you  
11 have that in front of you so you can look at  
12 that.

13 Dow Madison was at the heart of the  
14 production of magnesium thorium alloys as Dow  
15 reported in the Dow Diamond data summer of  
16 1963. Although the company headquarters is at  
17 Midland, Michigan, the Madison plant is the  
18 heart of the Dow Metal Products Company.

19 So we already have moved beyond the  
20 approved SEC of 1960 as we are beginning to  
21 illustrate that the work on HK31, and  
22 continuous rolling beyond that 1960 date has

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1 extended out.

2 We have several patents that were  
3 given to Dow in regard to magnesium alloy.  
4 The first one is dated April 26<sup>th</sup>, 1960,  
5 2934461, and it has to do with rolling of the  
6 magnesium alloy. And we have a copy of that.

7 And I have not submitted that to you, but I  
8 am willing to with a copy of that should you  
9 want it.

10 We have another one in `62, again,  
11 moving us beyond the 1960 SEC date. This is  
12 patent #3039901, anneal from magnesium alloys.

13 We have another one in 1964 which  
14 had to do with the production of fibers,  
15 3121943. And there it is.

16 And additionally we have found  
17 additional references to Dow Madison in the  
18 minerals yearbook. In 1963 there is a  
19 specific quote here, and I'm sorry I don't  
20 have copies of this, but I was working on this  
21 from the car ride down, so I can provide these  
22 to you as well. The Dow Metal Products

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1 Company which is out of Madison, Illinois,  
2 increased their prices on selected items of  
3 alloys, HK31A and HM21A.

4 In 1964 at the top of the page  
5 there is a reference to the fact that the  
6 principal domestic producer of magnesium  
7 thorium alloys HK31 is again with Dow Madison.

8 Finally from the Department of  
9 Energy we were given a document from Lawrence  
10 Livermore National Laboratory that links Dow  
11 HK31A to a nuclear weapon, and one of the  
12 questions that had been raised was whether or  
13 not HK31 or Dow Madison had any materials  
14 going into a nuclear weapon. And at the  
15 beginning of this document, which I have in  
16 here somewhere, the first paragraph says,  
17 regarding your inquiry about thorium and  
18 thorium alloyed with magnesium material that  
19 were used in weapons parts, and whether Dow  
20 Chemical provided the material, I am enclosing  
21 the following table.

22 We have examined the drawings of

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1 weapon parts that contain thorium in our  
2 database. On the drawings the parts in this  
3 table specified a particular standard of metal  
4 that was produced by Dow Chemical as  
5 referenced in the Dow product guide above.

6 So we believe that we have now made  
7 a link between Dow Madison and the Atomic  
8 Energy Commission, and that extends that  
9 relationship with Dow and Mallinckrodt beyond  
10 Mallinckrodt. Dow Madison had its own unique  
11 relationship with the Atomic Energy Committee  
12 that involved magnesium thorium alloy research  
13 and development, and in fact this alloy was  
14 contracted by the AEC. The thorium and its  
15 alloys were used in atomic weapons from 1962  
16 through 1969 as shown in this chart, and given  
17 that the magnesium thorium alloys were used in  
18 the atomic weapons complex through 1969, and  
19 given the development of these alloys, were  
20 contracted by the Atomic Energy Commission,  
21 not to mention some of the problems with  
22 internal and external dosimetry, it appears

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1 that we would have satisfied the statutory  
2 requirements to extend the covered period to  
3 1954 when Dow Madison began producing and  
4 development HK31A through 1972, when they  
5 actually sold the Madison plant.

6 We have been contacted by the  
7 Department of Labor who have told us that they  
8 have made a draft decision and we should be  
9 receiving that in due time, but it is not  
10 going to be ready for this particular meeting  
11 because of the contents of the response; there  
12 were quite a few attachments.

13 So thank you very much for allowing  
14 me to present this information.

15 CHAIR ZIEMER: Thank you very much,  
16 Denise. Let me make sure now; you have  
17 provided all of your documents to Labor and  
18 also to NIOSH and DOE as well?

19 MS. DeGARMO: Yes. I do have to now  
20 include the mineral yearbook. I need to send  
21 that off to the Department of Labor,  
22 Department of Energy and NIOSH, as well as the

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1 additional two patents beyond what they have.

2 CHAIR ZIEMER: And your  
3 understanding from Labor is they are underway  
4 with material?

5 MS. DeGARMO: I was told they have  
6 the draft decision.

7 CHAIR ZIEMER: Thank you very much.

8 MS. DeGARMO: Thank you.

9 CHAIR ZIEMER: Board members, do you  
10 have any questions from Denise? Very  
11 important development here. Yes, Brad.

12 MEMBER CLAWSON: I just had one  
13 question. When you submitted this to Labor, I  
14 guess are they going to involve us to let us  
15 know? I know there is kind of a cross between  
16 us and Labor in stuff.

17 CHAIR ZIEMER: They will certainly  
18 let the NIOSH people - does DOE make any  
19 determination first? I forget the exact  
20 process here. But Larry can you enlighten us  
21 as to what the process here on this is. I  
22 don't recall the exact sequence of events that

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1 this might trigger.

2 MR. ELLIOTT: The Department of  
3 Energy is responsible and given authority  
4 under the act to come up with a list of  
5 covered facilities, and they did so early on  
6 in the program, posted that under Federal  
7 Register notice and put it on their website.

8 The Department of Labor has the  
9 responsibility for setting additional  
10 timeframe limits around those. So this will  
11 be a Department of Labor decision in that  
12 regard, as I understand it, and DOE has  
13 provided input to that DOL examination.

14 CHAIR ZIEMER: And then once a final  
15 decision is made on that, then NIOSH will take  
16 whatever appropriate action is needed.

17 Thank you very much.

18 Next we will hear from Donna Hand.  
19 Welcome, Donna.

20 MS. HAND: Good morning. I'm Donna  
21 Hand from Pinellas Plant. A worker advocacy.  
22 Can you hear me now? Okay.

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1           Last night I was talking to you  
2           about a person that had some wounds. He was  
3           hit with classified waste. And then right here  
4           with his classified waste at Pinellas Plant,  
5           they said that he may have been exposed to  
6           photon, electron and neutron radiation.  
7           However in the dose reconstruction they will  
8           not use electrons, external electrons; they  
9           did not use neutrons. He only had 100  
10          milligrams of dose to him, and he also - it  
11          was at a constant distribution, so the  
12          uncertainty was never even ran on the PoC nor  
13          in the dose reconstruction.

14                 And airline pilot gets 200  
15          millirems a year, and you are telling me that  
16          a person that was a janitor - he  
17          decontaminated the areas, he got cut with  
18          classified waste. He was in a neutron  
19          generator area, and he only got 100 millirems  
20          a year.

21                 These issues were brought up, and  
22          that the waste - they said then that the waste

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1 should have been monitored. The waste  
2 consisted of the treaty on contaminated papers  
3 as well as the foams and the metals, all  
4 during the trigger testing. They would  
5 explode the trigger to test them. And that's  
6 what was in 200. And all the waste would be  
7 picked up and put in a radioactive bag. From  
8 that bag it was put into a drum. They'd seal  
9 the drum, and they'd take it out to the  
10 storage area until it's ready to be shipped  
11 off to Savannah River.

12 In 1990 the Tiger Assessment Team  
13 came to Pinellas Plant, because in 1986 a  
14 report came out saying that they were not  
15 following procedures and policies. They were  
16 mixing their waste. They were putting  
17 radioactive waste into non-radioactive waste.

18 They were putting non-radioactive waste into  
19 radioactive waste. And they weren't following  
20 any policy or procedures. They were just  
21 going ahead and doing processing before policy  
22 procedures were in.

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1                   Back to the wound count. According  
2 to technical basis 11.5, down at the bottom  
3 they say that a wound is defined as any break  
4 in the skin. Any wound that occurred in a  
5 work area - and this one is discussing  
6 plutonium - will have plutonium contamination,  
7 especially after the event. However, these  
8 people should have been monitored, so  
9 therefore you use the monitoring site, and use  
10 that monitor with an alpha detector, an alpha  
11 detector is the method to use.

12                   There was no alpha detector. There  
13 was nothing to detect the wounds. He went to  
14 the medical center; they gave him some iodine  
15 to put into it, and a Band-Aid. And according  
16 to the standards, unless you are going to be  
17 exposed, a potential exposure to 500 millrems,  
18 they don't put in cuts and wounds. But yet  
19 DOL and NIOSH both are requiring that if they  
20 be monitored, or they will not use those  
21 wounds into it. We have had several people  
22 and I'm sure other sites have this internal

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1 exposure, and it's not being accounted for.

2 Now you go back to the dose  
3 reconstruction; again, like I said, it was  
4 only 100 millirems. We have people that have  
5 all worked in the same area. They have all  
6 had skin cancer. Each one has a different  
7 type or distribution. Most of them it's  
8 constant, and it's supposed to be log normal  
9 because they have been unmonitored, and this  
10 is according to their own reports that they  
11 wrote in their articles, the 15 articles, is a  
12 log normal distribution with a mean and  
13 geometric standard deviation.

14 They put that its uncertainty, log  
15 normal is 1.1. However you run constant at  
16 .100, except for one gentleman. In one  
17 gentleman his skin cancer was triangular. Why  
18 the difference? Why did you change? These  
19 are the same workers, same area, same organ;  
20 they changed it.

21 We have an area that in Pinellas  
22 Plant that is classified. The workers called

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1 it Heather. That is in Building 300. In the  
2 early years Building 300 was detached, then it  
3 became attached. The technical basis document  
4 says that there is 300 there. But however  
5 there is no other reference to it at all.

6 In the baseline report that was  
7 done by DOE and Lockheed Martin, they have  
8 established and given out information that was  
9 not classified on 300. Tritium was there.  
10 How come the workers that were there in 300,  
11 that tritium dose is not attributed at all?

12 We developed the facts and figures  
13 that we got from OSTI, OpenNet, all about the  
14 policies and procedures. And the baseline  
15 report back in Section K lists 28  
16 radionuclides. DOL and also NIOSH, because  
17 DOL health physicists will state that NIOSH is  
18 using everything correctly, they completely  
19 ignored 27 radionuclides. That was potential  
20 exposure to those workers, and they will not  
21 use any of those.

22 Depleted uranium is one of those.

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1 They had uranium beds. They made the beds.  
2 They refurbished the beds, with the depleted  
3 uranium, and their own technical basis  
4 document they speak about depleted uranium.  
5 But yet according to them uranium exposure was  
6 never to any worker.

7 Environmental dose outside, they  
8 get over 2000 BQ's just on that north end, the  
9 reason being the pond was given the tritium  
10 water. They aerated it, then they sprayed it  
11 across the field. That is also where they  
12 buried drums. USGA did a survey back in the  
13 contamination era. What is this metal thing?

14 In the northwest corner there were drums  
15 buried there. They had to pull them up and  
16 ship them to Savannah River.

17 They took another test, and guess  
18 what? In the northeast corner there are also  
19 drums. They had to go dig them out as well.  
20 To this day there is a sign from DOE saying,  
21 hazardous area, do not enter.

22 I wrote to NIOSH to the director

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1 about the Pinellas Plant doses. I requested a  
2 rework of all Pinellas Plant doses. In the  
3 technical basis document in November of 2006  
4 that increased the assigned dose, the  
5 increased assigned dose went to .550, so 550  
6 millirem. All the dose reconstructions  
7 before, they said, nope, we did it properly.  
8 In fact, she stated it was all done by proper  
9 methods, and regarding the neutrons we only  
10 monitor or we only acknowledge people that had  
11 significant exposures. This law says that the  
12 dose reconstruction is to be for any worker  
13 that may have potential exposure. You do not  
14 restrict.

15 In fact NIOSH in the very beginning  
16 of this program got in trouble with Congress  
17 because they were being restrictive. This is  
18 all doses are to be accounted for, and all  
19 potential doses. It doesn't mean if it's a  
20 little or a lot. You have got to acknowledge  
21 those doses were there, and they have  
22 potential doses.

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1           The primary internal dose hazard at  
2 Pinellas Plant came from tritium and  
3 plutonium. They admit it from Dr. Branch, but  
4 however, plutonium is not even used. They  
5 just used tritium. On their Pinellas  
6 template, it's .930 for photons, it's .930 for  
7 tritium. Zero neutrons, zero everything else.

8           And the REMS database in 1990, when you put  
9 in Lockheed-Martin, it shows there were  
10 neutron doses in those perimeters there.

11           In 1997, this is after everything  
12 has left, because it stopped production in  
13 '92, and in '97 the decontamination was  
14 completely finished. Again it showed neutron  
15 exposure there as well. How come they are not  
16 using neutron doses?

17           Alpha: they refused to use alpha.  
18 In Table 6.6 of their own technical basis  
19 document it shows there are alpha rays there.

20           It shows Krypton 85, cesium 137, and  
21 americium 241, U-238, U-235, U-234, plutonium  
22 238, at 80 percent, plutonium 239 at 20

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1 percent. This is their own documentation,  
2 their own technical basis document, their own  
3 information that they are completely ignoring.

4 There is a list in here of  
5 equipment that produces this, as whenever they  
6 would test and everything they would X-ray  
7 that part. The industrial X-rays are not  
8 accounted for, and these people were exposed  
9 every time they took an X-ray when they tested  
10 that part. It is completely - the medical X-  
11 rays, unless it shows up in their medical  
12 record, they will not give them the medical  
13 occupational record.

14 However the nurse that they  
15 interviewed, and she was the one that took it,  
16 said I always took two views. It was done  
17 every year; two views. That happened all the  
18 way up to 1982. From then, guess what, she  
19 got an upgrade in her X-ray machine, and  
20 that's when they had exempted and non-exempted  
21 employees. And that's when they started the  
22 five year, three year, that combination. But

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1 still some of them had it every year.

2 There are more issues. This will  
3 be followed up with a formal letter to the  
4 Board with all my concerns, and also the  
5 documentation.

6 Thank you for your time.

7 CHAIR ZIEMER: Thank you. I would  
8 just remind you, Donna, that we now have a  
9 Pinellas Work Group, so they certainly make  
10 note of these issues that you raise as we go  
11 forward with Pinellas. Thank you.

12 Then let's hear from Richard Lee.

13 MR. LEE: My name is Richard Lee as  
14 you just stated, and the only thing I can tell  
15 you is, I worked in the Savannah River site  
16 from 1980 to 1994. I started off in  
17 construction as a pipe fitter and a welder,  
18 and I wound up being management in  
19 construction.

20 I can tell you the standard  
21 procedures that was done on a daily basis as  
22 far as operations goes. I was based out of

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1 central shops. I worked all the shut downs in  
2 all the various areas. I had a Q clearance, I  
3 could go just about anywhere on the site. I  
4 didn't need to be escorted. I did a lot of  
5 escorting.

6 When we went into areas the only  
7 time we ever wore a film badge or had a pencil  
8 which was a dosimeter was what they called a  
9 hot spot or a hot area like a reboiler; then  
10 they'd put it on us. Other than that we went  
11 into -20, -40, all over the area, never  
12 required to wear anything but possibly white  
13 coveralls, as far as a worker goes.

14 When I first started out there from  
15 my concern I requested an HP, health physics,  
16 guys on a line break we were doing, and pretty  
17 well got chewed out and kind of threatened to  
18 run out of the area, so I learned real quick,  
19 you keep your mouth shut, keep your job, do  
20 your job, protect yourself the best you can  
21 within the guidelines that they give you.

22 But that was the norm for

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1 construction. I was also the gentleman that  
2 did the heat exchanges in 100C, the decon.  
3 They would assign us, or assign myself either  
4 an apprentice or another fitter, but I was the  
5 guy that was on it all the time. We had  
6 nothing there other than plastic suits. We  
7 did all the hookup, the flushing. Unhooked  
8 it, bolted it back up, called the boilermakers  
9 to come to get it, that came from the Ford  
10 building and were returned to the Ford  
11 building.

12 We did a line break one time in  
13 100C. Half the time they didn't even know who  
14 was in the buildings. There was myself and  
15 another fitter. We were bolting up a six-inch  
16 flange, 300-pound flange, up in the rooftop.  
17 We climbed up there. We were putting the  
18 flange up, trying to pin it. We noticed  
19 operations had come in in plastic suits below  
20 us. Before we knew what was going on, they  
21 made a line break; an alarm went off; I got an  
22 uptake of tritium, got an uptake of nine,

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1 before they could get us out. We were never  
2 notified or told. My general foreman had to  
3 come in. Of course we were already - when the  
4 alarm went off we were already trying to get  
5 out and get down. But that was just neglect  
6 was all that was on their part.

7           When I went into the Bechtel side  
8 as management as a cost engineer, since I had  
9 the clearance that I had, I went into all of  
10 the areas; even escorted the other cost  
11 engineers for us to do walk downs. We would  
12 notify the project manager of the jobs that we  
13 needed to do, then they were supposed to set  
14 up everything. We'd go in the areas, and I  
15 can't remember not one time of ever wearing a  
16 film badge or a pencil in all the areas. I  
17 went in from 700 area in the weapons to all  
18 the 100 areas, to the canyons, F&H area, we  
19 went all over the site. And that was for a  
20 lot of years, and we were never required a  
21 wear a film badge. And I kind of thought it a  
22 little strange, but I knew in construction we

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1 always had to wear coveralls. I'm kind of  
2 making a pun, now I'm in a lab coat and  
3 booties, and I thought that was pretty good.  
4 But that was the standard for the day. I mean  
5 there just wasn't what everybody thinks there  
6 was. There wasn't all this protection that  
7 everybody thinks is there, and I was the one  
8 physically on hand. All of us, all the  
9 construction workers, we all know that's how  
10 it operated. And I thought it was important  
11 that you all know that in case you have a  
12 misconception of actually how it went down,  
13 and how it was on the site.

14 And that's basically all I have.

15 CHAIR ZIEMER: Thank you very much.

16 MR. LEE: Thank you.

17 CHAIR ZIEMER: Let's see, I have  
18 Wayne Knox on the list. I think we heard from  
19 Wayne yesterday. Yes, Wayne, you are back. I  
20 will give you 10 more minutes.

21 MR. KNOX: One more time.

22 CHAIR ZIEMER: Okay.

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1 MR. KNOX: We drove all the way back  
2 to Atlanta just to talk to you one more time.

3 CHAIR ZIEMER: Stay close to the mic  
4 here.

5 MR. KNOX: I'm a wanderer.

6 CHAIR ZIEMER: Well, you can't  
7 wander here; we won't have a record of what  
8 you say.

9 MR. KNOX: Very good. I will try to  
10 stay put.

11 My name is Wayne Knox, and I  
12 addressed you before. I was a military  
13 captain in the '60s in radiation physics. I  
14 was a major in the military assigned to  
15 Eisenhower Hospital in Augusta, Georgia, in  
16 nuclear medicine science. And I spent many  
17 years, 15 years, supporting the Nuclear  
18 Regulatory Commission on the regulatory  
19 development and compliance side of the house,  
20 and doing and operating on inspection teams.  
21 I have evaluated over 50 percent of U.S.  
22 nuclear power plants on behalf of the Nuclear

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1 Regulatory Commission.

2 I have even functioned on the DOE  
3 Tiger teams, and many special Nuclear  
4 Regulatory Commission teams.

5 I want to talk to you about the  
6 real world and this is what a number of people  
7 have been trying to tell you: the real world  
8 is different from what you think it is.

9 I spent some time in the DOE's  
10 environment working up at Hanford. I've  
11 worked over here at Savannah River. And I  
12 support - of course I can't certify everything  
13 that they say, but I have observed many of  
14 these things. I am a protege of Dr. Karl  
15 Morgan. Dr. Morgan was almost like a father  
16 to me. We spent a lot of time together after  
17 school working in his little greenhouse and  
18 over at his house talking to him about health  
19 physics and what went on in the real world.  
20 He knew some real world stories. He even told  
21 me - and he was almost tearful when he told me  
22 about a black man that had an accident up at

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1 Oak Ridge and they brought him in and injected  
2 plutonium into his veins. And people - now I  
3 can't prove that, but I suspect that knowing  
4 Dr. Morgan it was true. And some people up at  
5 Oak Ridge might indeed know that.

6 I say that to say, the real world  
7 is different from what you perceive it. I  
8 worked as an operational health physicists.  
9 We're the knuckle draggers of the group. We  
10 have to get the work done, in spite of all the  
11 elegant models, in spite of all the weird  
12 worded procedures, and even the regulatory  
13 requirements. We have to get the work done.

14 Today I want to address a single  
15 point, only a single one, and it concerns  
16 regulatory compliance.

17 My client, I like to call her my  
18 client but she is my friend, she is sitting  
19 back there. She is the claimant. Mrs.  
20 Beulah Lindsay drove back down here from  
21 Atlanta for me to address this single point  
22 with you.

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1           We - I reviewed all of her father's  
2 data and I found where there was a regulatory  
3 shall I say oversight at this point let's not  
4 call it a noncompliance; but it is a  
5 regulatory noncompliance. This is the letter  
6 that was sent to you from her lawyer.

7           And I quite frankly was expecting  
8 some type of reply from you. It was not a  
9 threatening letter; it just laid out the facts  
10 for your review.

11           Next she received this letter here,  
12 which did not even address the information  
13 that I provided to you, and at this point I  
14 would like to call it a purely regulatory  
15 oversight, because it is if I were looking at  
16 it from a Nuclear Regulatory Commission or a  
17 DOE perspective, it is not - it will be not in  
18 compliance with the regulations.

19           Basically what I discovered was  
20 that DOE, the DOL, directed NIOSH - I think  
21 that is the way the procedure flows - to use  
22 IREP in order to calculate the Probability of

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1 Causation of Mr. Lindsay's death from cancer.

2 NIOSH made a calculation and  
3 determined that the Probability of Causation  
4 was 32 percent. And it was due to cancer of  
5 the stomach that had metastasized to the lymph  
6 node, the liver and the lungs.

7 Based upon your regulations, your  
8 regulations, there is no process in which - or  
9 shall I say it's unlikely that cancer would  
10 move from the stomach to the lungs, that route  
11 is closed off, and as such, the lung cancer  
12 now becomes a secondary or primary, and based  
13 on your regulations when you have an unknown ,  
14 an unknown primary, it requires you to go back  
15 and evaluate all of the possible primaries and  
16 select the greatest one of those, and include  
17 that in your calculation for the effective  
18 Probability of Causation.

19 That is now Mrs. Lindsay's father  
20 PoC would be calculated based upon two  
21 primaries instead of one. I can show you in  
22 more detail what it's about. I passed around

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1 to you a little map on how that process works.

2 Basically again based upon your regulation  
3 you should have looked at the stomach cancer  
4 and it had lung cancer metastasis to the  
5 lungs. What you should do is go to your  
6 secondary cancers, lung, and see if there is  
7 stomach cancer in that field. Stomach cancer  
8 is not mentioned as a place in which - that is  
9 the lung is not mentioned as a place in which  
10 stomach cancer would move. So therefore you  
11 should have considered two primary cancers:  
12 stomach and perhaps one of these others. And  
13 that process is laid out in the procedures;  
14 it's laid out in this description that I  
15 provide to you. And I am requesting that the  
16 Board follow the regulatory requirements.

17 CHAIR ZIEMER: Thank you very much,  
18 Wayne. I can't help but making a couple of  
19 remarks, the first of which is to make sure  
20 that you understand that virtually everyone on  
21 this Board has had some considerable real  
22 world experience, including two of whom had

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1 that experience with K.Z. Morgan. So you have  
2 a common bond with some of the folks here.

3 MR. KNOX: Okay.

4 CHAIR ZIEMER: Number two, I think I  
5 should point out that the PoC calculation is  
6 actually done by Labor using the NIOSH  
7 recommended method. NIOSH does not do the  
8 PoC; they do the dose reconstruction, just so  
9 that is clear.

10 Thirdly I wanted to make sure you  
11 understand that this Board does not do the  
12 dose reconstructions, nor do we review them  
13 for claimants. The dose reconstructions are  
14 done by dose reconstructors. We do audit  
15 random samples of the dose reconstructions,  
16 but the important thing here I think for this  
17 information needs to feed back to Labor which  
18 does some essential determinations of the  
19 cancers and so on.

20 So I want to make sure it gets in  
21 the right stream, and there are folks here  
22 that can help make sure that the points you

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1 are making get to the right people who are  
2 involved in this particular claim, because the  
3 Board cannot under the law get involved in  
4 this particular claim.

5 But perhaps, Jeff, I don't know if  
6 you can help Mr. Knox or Dr. Knox get to the  
7 right person. We just want to make sure your  
8 information gets to the right place, so that  
9 it can be considered as needed, okay.

10 MR. KNOX: I do not have a Ph.D. I  
11 have a master's, so you may address me as  
12 Master Knox.

13 CHAIR ZIEMER: Okay, Master Knox.  
14 Very good.

15 MR. KNOX: Now who am I going to be  
16 talking to?

17 CHAIR ZIEMER: Jeff is with the  
18 Department of Labor, and at least make sure  
19 that you get your information into the right  
20 channel so that it can be duly considered.

21 Now I want to see if Terri Barrie  
22 is still on the line. And Terri, we'd be

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1 pleased to hear from you if you are with us?

2 MS. BARRIE: Yes, Dr. Ziemer, I'm  
3 still here.

4 CHAIR ZIEMER: And thank you for  
5 your patience. I know you wanted to speak  
6 yesterday, and by the time we got to you, you  
7 probably had given up on us.

8 MS. BARRIE: Oh, that's fine. I  
9 wanted to make sure that the claimants from  
10 the Savannah River site had plenty of time to  
11 address the Board.

12 But I thank you for giving me the  
13 opportunity tonight, and to members of the  
14 Board and Mr. Katz.

15 What I want to voice my concerns  
16 about is the Ruttenberg Database. And as you  
17 know it contains exposure records for the  
18 Rocky Flats workers.

19 And I apologize in advance to the  
20 audience if some of these comments are not  
21 self-explanatory.

22 I understand that NIOSH has finally

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1 agreed to the state of Colorado's conditions  
2 to limit the researchers views to the  
3 compensation program only. Margaret  
4 Ruttenberg thought that was the case six  
5 months ago though, and during the working  
6 group teleconference of June 17<sup>th</sup>, 2008, she  
7 thought that negotiations were well on their  
8 way, and six months ago she had hoped to have  
9 the database transferred to NIOSH.

10 I am trusting that this recent  
11 information that NIOSH has sent the agreement  
12 letter and everything is being processed  
13 promptly. But let's assume that NIOSH and  
14 Colorado have finally agreed, and the database  
15 is in NIOSH's hands. Who will compare the two  
16 databases? I think it's safe to say that the  
17 Rocky Flats claimants have no faith whatsoever  
18 that NIOSH can conduct this investigation in a  
19 fair and impartial manner.

20 Some of you, the Board members and  
21 the audience, are aware that a Rocky Mountain  
22 news article reported that a Rocky Flats

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1 worker was not listed in the NDRC, a project  
2 managed by ORAU, a contractor for NIOSH.  
3 DOL's requirement for automatic coverage under  
4 the Rocky Flats SEC is that a worker be listed  
5 in the NDRP or work in building 881. However  
6 the Ruttenberg database shows that this worker  
7 was exposed to neutron radiation, was not  
8 included in the NDRP, nor did he work in  
9 building 881.

10 Are there more workers who should  
11 be covered by the Rocky Flats SEC? What is  
12 more troublesome is the fact that NIOSH was  
13 aware of this database while the Board  
14 deliberated the Rocky Flats SEC petition.  
15 NIOSH was the funding agency for the  
16 Ruttenberg research.

17 I am appalled that this information  
18 was ignored by NIOSH and their contractor,  
19 ORAU, when they researched resources for the  
20 Rocky Flats site profile and evaluated Rocky  
21 Flats SEC petition.

22 Ignoring this information casts

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1 serious doubts on the thoroughness of NIOSH's  
2 investigation not only of the SEC petition but  
3 the dose reconstruction process for the Rocky  
4 Flats claim in itself. Is there other  
5 information that NIOSH and ORAU overlooked for  
6 the Rocky Flats site or for any other site for  
7 that matter? Will this database offer  
8 information for the years not included in the  
9 SEC that might show that NIOSH's methodology  
10 cannot produce a dose estimate with reasonable  
11 accuracy?

12 The Rocky Flats claimants won't  
13 know the answers to these questions until the  
14 two databases are thoroughly reviewed.

15 Again I think I can safely say that  
16 the Rocky Flats claimants demand an answer,  
17 and they demand it now. Contrary to what Dr.  
18 Brant said during the June 17<sup>th</sup>, 2008  
19 teleconference, the Rocky Flats special  
20 exposure cohort is not a closed case before  
21 the Board, and that is the quote. There is  
22 nothing in the law that states that the

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1 Board's recommendation on an SEC petition is  
2 final.

3           There is nothing in the law that  
4 prevents the Board from reviewing evidence  
5 after the recommendation is submitted to the  
6 Secretary of Health and Human Services. There  
7 is nothing in the law that prevents the Board  
8 to say, hey, after reviewing additional  
9 information we amend our recommendation on  
10 such and such a petition.

11           I do not advocate for another  
12 prolonged and arduous series of meetings. In  
13 fact I advise against it. The Rocky Flats  
14 claimants do not deserve that. However what  
15 they do deserve is that every agency follows  
16 the law. This process is meant to be  
17 claimant-friendly. Ignoring evidence is not  
18 claimant friendly. Ignoring evidence is not  
19 sound science.

20           I urge the Board of the Rocky Flats  
21 working group, in conjunction with SC&A to  
22 compare both databases as soon as it is

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1 received by NIOSH. I understand that it  
2 should not be a long process.

3 Then I also recommend that they  
4 immediately report those findings to the Rocky  
5 Flats claimants and the members of the  
6 Colorado Congressional delegation.

7 Again, thank you for your time.

8 CHAIR ZIEMER: Thank you, Terry.  
9 And I did want to ask, were you on the line  
10 yesterday when we got the report about the  
11 status of that dataset? I believe it's very  
12 close - I don't believe NIOSH has it yet as I  
13 understand it, but they are very close to  
14 finalizing whatever agreement is necessary to  
15 get that data, and then they will move ahead  
16 and we have the Work Group that will be  
17 monitoring that activity as well.

18 MS. BARRIE: Well, thank you,  
19 doctor.

20 CHAIR ZIEMER: I don't believe they  
21 have the database yet as I understand it, but  
22 they believe that they will be getting it very

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1       shortly.     So we will keep you apprised of  
2       course on that.

3                   MS. BARRIE: Thank you.

4                   CHAIR ZIEMER: So thank you for your  
5       comments.

6                   Next we will hear from John Funk.  
7       John, are you still on the line?

8                   CHAIR ZIEMER: And John is with the  
9       Nevada test site. Please go ahead.

10                  MR. FUNK: Okay, Dr. Ziemer. Before  
11       I start out I'd like to refer to two  
12       documents, they are reference site profile  
13       documents. One is DOE/RV-317 (REV 1). The  
14       second one is DOE NB/209 (REV 15), and it's  
15       dated December, 2000. As you know that was a  
16       list of all the tests by name and by date.

17                  Okay I will start now. Good  
18       afternoon, Dr. Ziemer, and ladies and  
19       gentlemen of the Presidential Advisory Board  
20       and Designated Federal Officer Mr. Ted Katz.

21                  Thank you for allowing me this  
22       opportunity to once again raise challenges to

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1 the NTS site profile, TBD documents, the dose  
2 reconstruction process. As you know from our  
3 report sent to you, I originally had a  
4 somewhat lengthy PowerPoint presentation with  
5 supporting documents and visual aids with  
6 charts and color like NIOSH uses. I have  
7 decided to spare you that report, and  
8 concentrate on only two issues for the moment.

9 However the other issues in the original  
10 report are just as important, and I would hope  
11 that the next NTS working Board meeting the  
12 Board would take the time to review my report  
13 in its entirety.

14 Before I start I would like to  
15 mention that the issues I am going to speak on  
16 were part of past issues I have raised, and  
17 NIOSH will claim that they have responded to  
18 these issues, but the fact of the matter is  
19 they have not, at least not in the same manner  
20 they require claimants to respond, and that is  
21 by proving their statements with proof  
22 positive documents, as they require the

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1 claimants to do. Which I now will do with  
2 supporting DOE reference documents.

3 With that I will now get into the  
4 issue and explain how the issues are not being  
5 properly addressed and expose serious flaws in  
6 the reference documents of the site profile  
7 TBD documents.

8 Issue #1, NIOSH using job  
9 classifications as a major factor in  
10 determining who was or was not exposed to  
11 radiation. I would like to mention I have  
12 brought up this subject of NIOSH using job  
13 classifications up once before on September  
14 19<sup>th</sup>, 2006 Board meeting at the Westin Hotel.  
15 And I recent also brought these up in the 180  
16 issues that I sent to the working board.

17 For unexplained reasons that  
18 testimony fell on deaf ears, so I will try  
19 presenting this issue once again, hopefully  
20 with more success than the last time.

21 Please bear with me. I will  
22 explain how Technical Base Documents,

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1 reference records, may be wrongly influencing  
2 dose reconstructors who are doing dose at  
3 NIOSH. And I would like first to call your  
4 attention to two reference documents. The  
5 documents are DOE/RV-317 (REV 1) and glossary  
6 page - glossary section, page 274, under shaft  
7 and EG, capital E-G, underground description.

8 And especially DOE/NV-2009 REV-15  
9 on pages one through pages 151 in tables of  
10 shots and date - shots and date and by name.  
11 Please note only one shot disseminates the  
12 difference between a mine shaft and a drilled  
13 shaft, and that is on page 58.

14 However, the same document does  
15 acknowledge there was a difference between  
16 mined and drilled shafts in other sections of  
17 DOE/NV-209 (REV 15) also in DOE/NV-209 - oh  
18 excuse me, I got that number twice. Please  
19 bring your attention to by date section page  
20 58 and 59. Ajo is identified as a mined  
21 shaft. However on page 92 and 93 it is simply  
22 listed as a shaft only.

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1                   And last look under glossary, same  
2 document, page 158, under shaft description,  
3 DOE very clearly disseminates, there was a  
4 difference between a mine and a drilled shaft.

5                   Now please look in document DOE/NV-  
6 317 (REV 1) on page 274, the glossary under  
7 shaft, and other crafts - excuse me - is that  
8 a page messed up here? Oh, boy. Somehow I  
9 got my pages mixed up.

10                   (Pause.)

11                   I lost track of one of my pages.  
12 But essentially what it says, it says in there  
13 also, they acknowledge there was a difference  
14 between a shaft and a mine shaft and a drilled  
15 shaft.

16                   IN the case of the mine shafts, the  
17 mines were the predominant labor force on  
18 them. In the case of the drilled shafts, the  
19 operating engineers, the carpenters, the  
20 laborers, the iron workers, carpenters  
21 helpers, electricians, they were the  
22 predominant crafts on the drilled shafts.

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1                   This causes a very big problem  
2 because it gives the illusion that only miners  
3 worked in all shafts based on language and the  
4 job classifications which are not even dated  
5 to the period of the testing period, 1962 to  
6 1992. These job classifications go from ` 93,  
7 `94 and `95. These miner job classifications  
8 are very explicit about shafts and tunnels  
9 without - are very explicit about shafts and  
10 tunnels without disseminating mined or drilled  
11 shafts. In other words it says they did them  
12 all, of which type of shaft they worked on,  
13 just shaft and tunnels and nothing else.

14                   There is however no defining  
15 information about other crafts participation  
16 underground other than they worked in the  
17 tunnels or shafts without defining their  
18 duties. But also did not discriminate -  
19 disseminate the types of shaft or their  
20 importance as well. And because of the way  
21 the reference documents for the site profile  
22 and TBD documents are written, especially

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1 documents I have noted, such information the  
2 way it is rendered clearly eliminate other  
3 crafts as their participation and reentry  
4 operations as work practices of other crafts  
5 are not disseminated so equally eloquent in  
6 their classification descriptions of work  
7 practices as miners' job classifications are  
8 noted, and such could severely minimize to  
9 their importance.

10 This is only one example of how  
11 flaws might happen when using existing  
12 reference documents to qualify applicants for  
13 exposure based on facts related to jobs  
14 classifications or work locations or duties of  
15 workers by craft found in the site profile,  
16 the TBD reference document, like job  
17 classification and craft responsibilities and  
18 duties.

19 Existing reference to documents  
20 related to test information, when using a  
21 chart, please see miners' charts. I don't  
22 know if Ted got you a copy of that chart,

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1 green and yellow?

2 CHAIR ZIEMER: Yes, we all have the  
3 chart that Ted distributed.

4 MR. FUNK: Okay, what I did on that,  
5 in the other letter I explained the  
6 mathematical formula I arrived at that. I  
7 gave the miners 32 mine shaft shots, which I  
8 don't even think they had that many. I gave  
9 them all the Plowshare. I gave them all the  
10 craters. And I gave them all the unspent,  
11 along with the tunnels, and even then the  
12 whole list only came up to 141 shots of which  
13 they were the dominant craft.

14 And I took the total of the shots  
15 and subtracted that, and I percentaged it out,  
16 and it came out that the miners only dominated  
17 17-1/3 percent of all the shots on the test  
18 site, and the rest of the crafts dominated the  
19 82-2/3 percent of the rest of them.

20 So that does not - that is not the  
21 way NIOSH has showed this. Because I've heard  
22 the Board meetings. I've heard miners,

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1 miners, miners, miners did this, miners did  
2 that. Nobody else seems to participate in any  
3 of the re-entries. They've got miners going  
4 to re-entries in the flats. They got them  
5 going up in the tunnels. And it seems like  
6 the rest of us were out there as tourists or  
7 something. I don't know, I got paid for  
8 working, and I did an awful lot of re-entries  
9 in the flats too.

10 So I don't know where they are  
11 coming up with these figures other than the  
12 fact that if you look at these documents, they  
13 are either tunnels or they are shafts, and  
14 there is only one that identifies it as a mine  
15 shaft. The rest of them are simply shafts.

16 Now there is a lot of difference  
17 between the type of shaft they were and the  
18 type of shafts they were would determine who  
19 worked on them. So that's what we need, to  
20 get that document back to DOE, and they need  
21 to get the shafts that were mined, identified,  
22 and they need to get the shafts that were

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1 drilled identified in order for people to get  
2 a fair consideration.

3 We also need to get in these job  
4 classifications and get these descriptions.  
5 For example nowhere does it state - in one  
6 place it does say it was a carpenter-welder,  
7 but not where he worked. It just says,  
8 general foreman, carpenter, carpenter foreman,  
9 general foreman, carpenter welder. It doesn't  
10 say anything about in the tunnels if you read  
11 the miner-welders' description, it pretty much  
12 covers what the carpenters actually did. We  
13 built the bulk heads. We cut all the steel.  
14 That wasn't done by iron workers. Them bulk  
15 heads were concrete forms; under the  
16 collective bargaining agreement we get all the  
17 concrete forms. There was never an iron  
18 worker or miner ever touched the bulk head in  
19 any of them tunnels, and there was 32 of them  
20 coming out of every drift. A drift is a test  
21 drift. So that does - that's free shot work.  
22 I understand that NIOSH is working toward

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1 that to eliminate all them people too. So I  
2 want to make sure to clear that up.

3 It took me two years just to get  
4 you to admit that we even worked underground.  
5 So and I think you will remember that.

6 Also issue #2, why has the Board  
7 done nothing about Mrs. Dorothy Clayton's  
8 testimony at the NIOSH Presidential Board  
9 meeting at the Westin Hotel September 19<sup>th</sup>,  
10 2006, at Las Vegas, Nevada, page 176 to page  
11 182 of this particular meeting.

12 And again when she testified on  
13 this exact same issue January 8<sup>th</sup>, 2008 at the  
14 Presidential Advisory Board meeting held at  
15 the Sun Coast Hotel in Las Vegas, Nevada.

16 I would like to mention, I was  
17 recently told that Dorothy Clayton's testimony  
18 was in the investigative stage, and the  
19 results would be announced sometime soon.  
20 However NIOSH very clearly wrote me an email  
21 and told me, state in their response, this  
22 issue, this report sent to me, I quote:

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1 Dorothy Clayton's testimony is too complicated  
2 and cannot be read by a lay person, and the  
3 claimants do not understand the procedures  
4 being used. So therefore this subject has  
5 been addressed and her testimony will be noted  
6 in the records.

7 Now all you Board members were  
8 there during her testimony, and she provided  
9 you with the documents that showed they did  
10 cook the books up there. And I do not believe  
11 that her testimony was so complicated that we  
12 had to go get a translator to find out what  
13 she said. And when one of those politicians  
14 talk, we got to get the news media to tell us  
15 what they said, but Dorothy Clayton's  
16 testimony was very clear to me.

17 So at both meetings, Mrs. Clayton  
18 provided DOE supporting documents, which show  
19 positively that DOE tampered with film badge  
20 records, and this has not been properly  
21 addressed. And I would like to know where her  
22 testimony - and where the results of the

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1 investigation.

2 I would also like for those Board  
3 members who were not present at the Westin  
4 Hotel on September the 19<sup>th</sup>, 2006, to be  
5 provided a copy of Mrs. Dorothy Clayton's  
6 presentation and to revisit her testimony at  
7 the other Las Vegas meeting on January 2008 so  
8 they can see for themselves that widespread  
9 film badge tampering did in fact take place,  
10 and see for themselves that these film badge  
11 records are not as indisputable as NIOSH has  
12 stated.

13 These facts prove that NIOSH stand  
14 on documents of DOE and NTS records is fragile  
15 at best. NIOSH's position of the stand of the  
16 documents records is not so much only fragile  
17 but arrogant. In the recent announcement of  
18 the Inspector General's office suggesting  
19 removing NIOSH from the interview process of  
20 EEOICPA is long overdue, and heartily welcomed  
21 by NTS claimants as well.

22 Thank you very much.

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1 CHAIR ZIEMER: Thank you, John.

2 I should point out that in the  
3 packet of material, I think probably you  
4 provided it, but the transcript is included  
5 for Ms. Clayton's testimony, so the Board  
6 members do have a copy of that in case any of  
7 them had forgotten it. So thank you very  
8 much.

9 MR. FUNK: I didn't know if it all  
10 came through. I had an awful hard time trying  
11 to get it through.

12 CHAIR ZIEMER: No, we have it, thank  
13 you.

14 Next we will hear from Dr. McKeel.  
15 Dan, are you still on the line?

16 DR. McKEEL: Yes, sir, I am. Can  
17 you hear me all right?

18 CHAIR ZIEMER: Yes, very well.  
19 Thank you for your patience, and please  
20 proceed.

21 DR. McKEEL: All right.

22 Good evening to the Board, and the

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1 audience participants.

2 I'm Dan McKeel, and I serve as an  
3 SEC petitioner for three EEOICPA sites, Dow  
4 Madison, General Steel Industries and Texas  
5 City Chemicals.

6 My organization, the Southern  
7 Illinois Nuclear Workers, or SINEW, has  
8 proudly joined with the Alliance of Nuclear  
9 Worker Advocate Group, in forwarding  
10 suggestions to President-Elect Obama for  
11 immediate administrative reforms to the act.

12 ANWAG will also soon be forwarding  
13 copies of its 20 longer term reforms to the  
14 act to President-Elect Obama, and to members  
15 of the new U.S. Congress.

16 My remarks tonight are surrogates  
17 for questions that would be asked by one of  
18 the missing radiation Board members that the  
19 Bush 43 -

20 (Pause.)

21 CHAIR ZIEMER: Did we lose Dr.  
22 McKeel?

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1                   MEMBER ROESSLER: The line is still  
2 open. I think he got dropped off.

3                   CHAIR ZIEMER: Dan, I don't know if  
4 you can hear us, but we can't hear you.

5                   Okay, perhaps Dan will call back  
6 in. Dan, are you back on the line?

7                   MR. KATZ: He may not realize that  
8 he is not connected.

9                   CHAIR ZIEMER: Okay, and I don't  
10 think I have a phone number for him.

11                   Standby just a minute. Of course  
12 if he is on the phone you won't be able to  
13 reach him anyway.

14                   We have another piece of testimony  
15 to read into the record. So let me ask Ted to  
16 do that, and while we wait for Dan to realize  
17 he's been cut off, and maybe will come back on  
18 the line.

19                   Go ahead, Ted.

20                   MR. KATZ: Okay. Dan? Okay. So  
21 this is unnamed testimony.

22                   In April of 2009 it will be seven

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1 years since I have filed an EEOICPA claim for  
2 survivor benefits. When I filed my claim I  
3 did not expect a quick resolution, but I never  
4 anticipated that it would take this long, nor  
5 did I expect that I would encounter so many  
6 challenges along the way.

7 I consider my claim to be very  
8 straightforward. My husband was employed as a  
9 health physicist for the SL-1 reactor, by  
10 combustion engineering at Idaho National  
11 Engineering Laboratory from January 1959  
12 through March 1961.

13 On the night of January 3<sup>rd</sup>, 1961,  
14 a nuclear excursion occurred at the reactor  
15 while a crew of three military men were  
16 assembling the reactor control rod drive  
17 mechanism. The incident, and the sequence of  
18 events that occurred that evening and in  
19 subsequent days are detailed in the IDO report  
20 on the nuclear incident at the SL-1 reactor,  
21 January 3<sup>rd</sup>, 1961 at the National Reactor  
22 Testing Station.

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1                   This report can be accessed through  
2 the Department of Energy Idaho operations  
3 website.

4                   My husband entered the reactor  
5 building twice the night of January 3<sup>rd</sup>, 1961,  
6 in an effort to locate and rescue the three  
7 men inside the reactor building. The first  
8 time he entered with one other individual in  
9 an effort to locate the three men inside and  
10 determine if they were alive.

11                   After finding the one survivor they  
12 quickly left the building to get assistance to  
13 carry him out.

14                   During the second entry my husband  
15 entered with three other men. They placed the  
16 sole survivor on a stretcher and carried him  
17 outside. During this entry my husband's  
18 respirator failed, and he had to remove it in  
19 order to breathe. This caused him to directly  
20 inhale the very high concentrations of  
21 airborne radioactive material that were  
22 present in the reactor operating room as a

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1 result of the nuclear excursion.

2 The reported dose rate inside the  
3 reactor was in excess of 1,000 R per hour. My  
4 husband left INEL in March, 1961, and was  
5 employed in Germantown, Maryland, by the  
6 Atomic Energy Commission and its predecessor  
7 agencies, the Energy Research and Development  
8 Agency, and the Department of Energy, AEC,  
9 ERDA, DOE, from April 1961 through December,  
10 1988. He was the chief health physicist for  
11 the AEC ERDA, DOE, and in this capacity was  
12 responsible for the oversight of the radiation  
13 health and safety at DOE and DOE contractor  
14 facilities.

15 In that capacity he routinely  
16 visited DOE sites and entered radiation areas  
17 to perform radiological safety inspections.  
18 My husband was diagnosed with multiple myeloma  
19 in August of 1994, and died from that cancer  
20 on January 30<sup>th</sup>, 1999.

21 Based on my knowledge and belief as  
22 a former health physicist that my husband's

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1 cancer was caused by the exposure he received  
2 at the SL-1 reactor, I filed a claim for the  
3 EEOICPA survivor benefits on April 25<sup>th</sup>, 2002.

4 On November 13<sup>th</sup>, 2006, I received  
5 a notice of a recommended decision to deny my  
6 claim from the DOL Seattle District office. I  
7 filed a written object to the denial of my  
8 claim on January 7<sup>th</sup>, 2007, which included  
9 supporting documentation. On March 21<sup>st</sup>, 2007,  
10 the final adjudication branch of the  
11 Jacksonville district DOL conducted a hearing  
12 in Orlando, Florida. Subsequently on May 30<sup>th</sup>,  
13 2007, my claim was remanded back to NIOSH to  
14 rework my husband's dose reconstruction  
15 report.

16 Since the remand order I have  
17 received two revised dose reconstruction  
18 reports, one in July of 2007 and one in  
19 September 2008. NIOSH is currently working on  
20 a fourth.

21 I believe that the dose  
22 reconstruction reports that I have received to

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1 date significantly underestimate my husband's  
2 combined internal and external exposure.

3           Among the issues I have repeatedly  
4 raised are, my husband entered the SL-1  
5 reactor operating room twice the evening of  
6 January 3<sup>rd</sup>, 1961, yet his report of exposure  
7 is nearly identical to individuals who only  
8 entered once. It is highly probable that the  
9 dosimeter my husband was wearing was not  
10 readable. IDO 19302 indicates that the  
11 extremities of the personnel who entered the  
12 reactor operating room were contaminated in  
13 excess of 5R per hour.

14           The probability exists that the  
15 film badge was too grossly contaminated to be  
16 read. Given the dose rates inside the reactor  
17 operating room, it is also very likely that  
18 the film badge was blackened to the point that  
19 no meaningful information could be obtained  
20 from the badge.

21           Through a Freedom of Information  
22 Act request I obtained all of the occupational

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1 exposure histories that had been acquired by  
2 NIOSH for my husband. Among the external  
3 exposure histories provided by INEL, there is  
4 a personnel exposure questionnaire which was  
5 not discussed in the dose reconstruction  
6 report. This report indicates that the  
7 dosimeter readings for [identifying  
8 information] for the period of 12/7/60 through  
9 1/3/61 were lost reading because of the SL-1  
10 incident. That is in quotes.

11 This would strongly suggest that  
12 the dosimeter worn by [identifying  
13 information] into the reactor that evening was  
14 lost because it could not be read, or that it  
15 was literally lost in the confusion of the  
16 rescue operations.

17 My husband's internal exposure  
18 cannot be estimated from the available  
19 records. The estimates in the dose  
20 reconstruction report are based only on  
21 several bioassays that were conducted after  
22 the accident, records of the whole body counts

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1 taken at INEL, as well as at Los Alamos  
2 National Laboratory immediately after the SL-1  
3 excursion have not been located.

4 The dose reconstruction report  
5 fails to acknowledge the respirator failure,  
6 and obvious internal exposures that would have  
7 resulted from that failure.

8 And the dose reconstruction report  
9 fails to recognize my husband's 28-year  
10 employment history with the AEC or ERDA, DOE.

11 This report states that he worked at INEL  
12 from January 1<sup>st</sup>, 1959 through March 31<sup>st</sup>, 1961,  
13 and from April 24<sup>th</sup>, 1961, through December  
14 16<sup>th</sup>, 1988. This affects many of the  
15 assumptions made in the dose reconstruction  
16 report with respect to, "missed dose".

17 The dose reconstruction report does  
18 not appear to address the "missed dose"  
19 related to the SL-1 accident.

20 I filed my claim for survivor  
21 benefits under EEOICPA nearly seven years ago.

22 In that period of time I have promptly

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1 responded to every request for information. I  
2 have been engaged in numerous telephone  
3 conversations with both DOL and NIOSH. I have  
4 written letters, and I have participated in  
5 the hearing concerning my claim. I have  
6 provided ample documentation to support the  
7 assertions in my claim.

8 I believe, however, that the  
9 information that I provided has basically been  
10 ignored. Additionally to date I have not  
11 received a response to the numerous questions  
12 and concerns that I have raised, particularly  
13 those identified in my adjudication hearing.  
14 Thank you for the opportunity to provide this  
15 public comment. I regret that I could not  
16 make them in person. I would welcome any  
17 questions that you have.

18 CHAIR ZIEMER: Thank you for reading  
19 that into the record, Ted. And I want to  
20 check and see if Dan McKeel got back on line.

21 DR. McKEEL: Yes, sir.

22 CHAIR ZIEMER: Dan, we lost you very

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1 early in your presentation. And I think I am  
2 going to suggest that you start at the top. I  
3 don't know at what point you realized you were  
4 cut off.

5 DR. McKEEL: Well, the line was  
6 silent, and then it just went, a message from  
7 the operator, if you need to make a call. So  
8 it was cut off.

9 CHAIR ZIEMER: The others on the  
10 line were not lost; it appeared to be a single  
11 line. So please begin again if you would.

12 DR. McKEEL: Thank you very much.

13 So again, good evening. I am Dan  
14 McKeel, and I serve as an SEC petitioner for  
15 three EEOICPA sites, Dow Madison, General  
16 Steel Industries, and Texas City Chemical.

17 My organization is the Southern  
18 Illinois Nuclear Workers, or SINEW, and we  
19 have proudly joined with the Alliance of  
20 Nuclear Worker Advocate Group in forwarding  
21 suggestions to President-Elect Obama for  
22 immediate administrative reform to the act.

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1           ANWAG will soon be forwarding  
2 copies of its 20 longer-term reforms to the  
3 act to President-Elect Obama and to members of  
4 the new U.S. Congress.

5           My remarks tonight are surrogates  
6 for questions that would be asked by one of  
7 the missing Radiation Advisory Board Members,  
8 the Bush 43 administration has failed to add  
9 to bring the Board to its mandatory full  
10 strength of 20 members.

11           The first comment is, regarding the  
12 announcement of CDC's decision who the new  
13 Board contractor will be. Mr. Katz said at  
14 the November 6<sup>th</sup> conference call the key  
15 decision would be announced before  
16 Thanksgiving. When it was not I wrote to him  
17 as to when the decision would be forthcoming  
18 and was told it would be at this meeting in  
19 December.

20           Yesterday the CDC contract officer  
21 told us the contractor decision was under  
22 policy review, and that he alone was

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1 responsible for this deadline not being met.

2 Since none of the current Board  
3 members pinned him down why not, I will ask as  
4 a surrogate for the missing Board member.

5 The question would thus be to CDC  
6 and the contract office, why specifically has  
7 the new Board contractor selection not been  
8 made public as the five-year SC&A contract  
9 ends today December the 17<sup>th</sup>, 2008?

10 My second surrogate missing Board  
11 member comment relates to why NIOSH and the  
12 Board took 3-1/2 years after the historic  
13 Mallinckrodt Destrehan Street SEC petitions  
14 were awarded to recognize that Mallinckrodt  
15 downtown radiological operation continued well  
16 into 1958. The current Mallinckrodt SEC 00133  
17 evaluation report presented for the first time  
18 to the Board today in section 4.1, operations  
19 description, cites multiple previously known  
20 reports to justify this very belated discovery  
21 of a heretofore presumably obscure fact.

22 The cited Mallinckrodt report is

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1 dated 1994. On page nine of 19 of the 83.14  
2 SEC 133 evaluation report dated 12/1/08 the  
3 specific citation is Mallinckrodt 1994,  
4 columbium-tantalum plant characterization  
5 plant, Mallinckrodt, Inc., St. Louis, Missouri  
6 plant; Mallinckrodt, January 10<sup>th</sup>, 1994, and  
7 that is the site research database reference  
8 ID 3840.

9 The missing Board member should  
10 have asked two more questions. One, why was  
11 this 1994 Mallinckrodt report not reviewed by  
12 NIOSH, the Board and SC&A and acted upon in  
13 2005 when the original two MCW Destrehan  
14 Street SECs were being examined?

15 And the corollary question: When  
16 did NIOSH first obtain the 1994 report and  
17 share it with the Board?

18 The second question would be: why  
19 did it take 3-1/2 years to recognize the 1958  
20 MCW downtown site operations involving the  
21 same type of pitchblende-derived raffinate  
22 operations that were carried out and discussed

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1 in detail when the Board wisely voted to  
2 overturn NIOSH's recommendation to deny the  
3 MCW Destrehan Street SEC-00112-2 that extended  
4 only through December 31<sup>st</sup>, 1957?

5 As a footnote, there appears to  
6 this surrogate missing Board member that from  
7 the NIOSH SEC 133 evaluation report, and from  
8 the SC&A TR task 10002 report, dated  
9 1/31/2005, there were ample references to 1958  
10 pitchblende raffinate operations at the MCW  
11 downtown site.

12 The references to the SC&A 2005  
13 report include the full citation. Oak Ridge  
14 Associated University team, ORAU, technical  
15 basis document for the development of an  
16 exposure matrix for the Mallinckrodt Chemical  
17 Company, St. Louis downtown site, St. Louis,  
18 Missouri, period of operation from 1942 to  
19 1958, O-R-A-U-T dot T-K-B-S dash zero zero  
20 zero five J-L Westbrook Rev. 00 24 October  
21 2003 D. That's the full citation.

22 Note the final phrase, period of

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1 operation, 1942 to 1958. That is included in  
2 the SC&A January 31<sup>st</sup>, 2005 rev zero zero  
3 report citation is omitted by NIOSH and ORAU  
4 from Joe Guido's December the 1<sup>st</sup>, 2008 SEC 133  
5 Rev 2 evaluation report citations on page 19  
6 of 19. And that citation reads: ORAU T-K-B-F  
7 zero zero five, basis for development of an  
8 exposure matrix for the Mallinckrodt Chemical  
9 Company, St. Louis downtown site, and the St.  
10 Louis airport site, St. Louis, Missouri, rev  
11 two, Oak Ridge Associated University ORAU June  
12 14<sup>th</sup>, 2007, and that is cite Research Database  
13 reference I-D 32277.

14 The missing Board member also would  
15 ask a third question, and that is, why would  
16 NIOSH and ORAU not cite the full O-R-A-U-T  
17 dash T-K-B 0005 report title from rev zero  
18 zero issued in 2005 in its rev 02 version  
19 issued in 2007?

20 The surrogate missing Board member  
21 would then ask a fourth and final question:  
22 Why did SC&A not recognize early in 2005 that

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1 radiological operations continued at MCW  
2 Destrehan Street in 1958 that should have led  
3 to an 83.14 SEC or to an extension of the SEC  
4 00012.2 class, to include 1958?

5 It would seem that the SC&A task  
6 one zero zero two report dated 1/31/2005 with  
7 at least four allusions to 1958 operations,  
8 and urine bioassay samples being taken to  
9 include 1958 would have led logically to this  
10 conclusion.

11 After listening to today's  
12 proceedings, I added two short comments a  
13 Board member might have made. First on the  
14 Chapman Valve SEC request to Bechtel, Larry  
15 Elliot mentioned that his office had sent  
16 three letters and made two phone calls without  
17 getting any response. This is the ideal  
18 situation to invoke section 73.84W of the  
19 EEOICPA by asking the Department of Labor to  
20 subpoena those Bechtel records. I continue to  
21 wonder why this powerful tool is so  
22 underutilized.

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1           Second, during the Mallinckrodt SEC  
2 discussion, NIOSH's Jim Neton was unable to  
3 say exactly how many claimants would be  
4 covered by the 1958 MCW SEC 00133 class. I  
5 believe this type of information should be a  
6 standard part of NIOSH SEC presentations. The  
7 data should be gotten before NIOSH presents to  
8 the Board.

9           My final comment is that I believe  
10 it would be improper to redact from the  
11 transcript of my public comment tonight the  
12 names of the key government officials  
13 responsible for us not knowing the name of the  
14 new Board contractor by today. This delay is  
15 causing obvious problems with Board  
16 functioning. Those people would be the CDC  
17 director, Dr. Julie Gerberding, Acting NIOSH  
18 Director Dr. Christine Branch, and the CDC  
19 contract officer, Mr. Karl Staudt.

20           Thank you very much.

21           CHAIR ZIEMER: Okay, thank you, Dan.

22           A number of questions for us to ponder. Some

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1 of which we talked about earlier, because we  
2 asked ourselves how we overlooked certain  
3 things, and it is sometimes difficult to go  
4 back and sort of quarterback those things.  
5 But thank you for your comments nonetheless.

6 DR. McKEEL: Yes, sir, thank you.

7 CHAIR ZIEMER: I had another one  
8 here. I missed the second page. Dr. Jack  
9 Bowcord, thank you.

10 DR. BOWCORD: I will be real brief.  
11 I know this has run over.

12 Just sitting here tonight listening  
13 to all these people, it sounds to me like  
14 there is a huge dose reconstruction problem.  
15 My Father worked at the Manhattan Project from  
16 1942 to 1946 and then he worked at Savannah  
17 River for 27 years, and then they come back  
18 and tell me he's got a dose reconstruction of  
19 11 percent?

20 Come on. He was all over that  
21 plant, and he was an engineer. He wasn't an  
22 office worker. It goes back what everybody

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1 has said here and said tonight. Dose  
2 reconstruction is based on what you do and not  
3 where you work. And I think that is terrible.

4 His office building at Savannah  
5 River plant was connected to a reactor that  
6 was called Hector, and when that was  
7 demolished about eight years ago the office  
8 building was taken down as radiation exposed.

9 In 30 years of working for the government  
10 never wore a dosimeter badge and never wore a  
11 film badge ever. When I was in dental school  
12 and medical school, I kept asking him, dad,  
13 why don't you have to wear a badge? You are  
14 all over the plant. He was the head  
15 purchasing agent. He was in every division of  
16 that plant.

17 I said, we got to wear them at  
18 dental school to take dental X-rays. You  
19 don't have to wear them and you are working  
20 next to a reactor?

21 I think the dose reconstruction  
22 plan is a joke is what I think.

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1 Thank you.

2 CHAIR ZIEMER: Thank you.

3 I want to give opportunity to  
4 anyone else who may be here who wishes to  
5 speak but did not have an opportunity to do  
6 so.

7 Is there anyone else on the phone  
8 line that wishes to make comment that didn't  
9 have an opportunity to do so?

10 (No verbal response.)

11 CHAIR ZIEMER: If not, I thank all  
12 of you who participated tonight. We  
13 appreciate your attendance here. I do want to  
14 remind you - oh, okay, I'll do this after we  
15 are dismissed - want to remind you all that  
16 the Board will be meeting again at tomorrow  
17 morning. You are welcome to join us.

18 Thank you all and good evening.

19 (Whereupon, the above-entitled matter was  
20 concluded at 8:47 p.m.)

21

22

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