THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
PUBLIC HEALTH SERVICE
CENTERS FOR DISEASE CONTROL AND PREVENTION
NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

convenes the

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ADVISORY BOARD ON

RADIATION AND WORKER HEALTH

VOL. I

ABRWH BOARD MEETING

The verbatim transcript of the Meeting of the Advisory Board on Radiation and Worker Health held telephonically, on March 14, 2006.

C O N T E N T S

March 14, 2006

TRANSCRIPT LEGEND

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(By Group, in Alphabetical Order)

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P R O C E E D I N G S

(10:00 a.m.)

WELCOME AND OPENING COMMENTS

DR. PAUL ZIEMER, CHAIR

DR. ZIEMER: Lew, do you want to take the roll call?

DR. WADE: Yeah, please, if I could ask Board members to identify themselves.

DR. LOCKEY: James Lockey.

MR. PRESLEY: It's Bob Presley.

DR. DeHART: DeHart.

DR. ROESSLER: Roessler.

MR. GIBSON: Mike Gibson.

MR. CLAWSON: Brad Clawson.

DR. MELIUS: Jim Melius.

MS. MUNN: Wanda Munn.

MR. GRIFFON: Mark Griffon.

DR. ZIEMER: Ziemer. I think we have a quorum.

DR. WADE: We certainly have a quorum. Why don't we just run through? Again Leon I said will not be with us. Poston will not be with us.

DR. ZIEMER: Okay then let me officially call the meeting to order. This is officially meeting 36 of the Advisory Board on Radiation and Worker Health. I should pause and make sure that Ray Green is ready to proceed. Ray?

COURT REPORTER: Yes, sir, we're good.

DR. ZIEMER: So the meeting is called to order. I want to again welcome everybody and make sure everybody has a copy of the agenda that was distributed. The agenda has in it a lunch break at 12:15, and if necessary, we're scheduled on this call to go through four o'clock. We don't, we're not required to, but we are able to if so required.

Lew, I want to give you an opportunity to make some preliminary remarks as well.

DR. WADE: Well, thank you, Paul, and thank you all for again the considerable time and effort you expend in support of the Board. I really can't thank you enough and for the professionalism that you bring. I'm thrilled today that we have two of our new members with us and duly seated. Brad Clawson and Dr. Lockey have gone through all of the hoops that I've been told they need to go through, and

they are formally with us now, and we welcome their energy and their experience.

And by everything I've seen to this point I think the Board will certainly be made better by their efforts. They've had waivers prepared. They've gone through that process. Those waivers will be posted. I thought I would just take a brief moment and for everyone let the world know of the conflicts as they've been identified in the waiver letters for these individuals.

For Bradley Clawson the conflicts are the Idaho National Laboratory, any claims filed by PACE, PACE USW Atomic Energy Workers' Council, for which he serves as secretary-treasurer, and any claims filed by PACE USW Local 652, Idaho Falls, Idaho for which he serves as area representative and a trustee. Conflicts for Dr. Lockey are Fernald due to his work on the Fernald Settlement Fund Expert Panel and Portsmouth due to his performance of independent medical evaluation of workers from the gaseous diffusion plant in Portsmouth, Ohio.

So I think just so everyone is aware

of those conflicts, they really won't enter into our discussions today. But I think for purposes of transparency I wanted to get that on the record.

Today we will be dealing with issues related to the Y-12 site profile, the Rocky Flats site profile, the Bethlehem Steel site profile, and as you recall, if an individual is conflicted when we deal with a site profile, the Board members who have conflicts may participate in the discussion at the table but cannot make motions or vote on motions.

The conflicts as they're currently recorded for Y-12 are Dr. DeHart, Robert Presley, Dr. Ziemer, Mark Griffon only where actions are filed by the Atomic Trades and Labor Council. We have no conflicts recorded for Rocky Flats or Bethlehem Steel.

I don't imagine the Board will be doing any formal business on SEC petitions on this call. Just as a reminder, when we do formal work on SEC petition, Board members who have a conflict may not participate at the table in those discussions. They must step away. They may contribute as site experts

during public comment.

So just again to set the record straight, I welcome the two new members who are with us and certainly look forward to their contribution.

Thank you, Paul.

DR. ZIEMER: Thank you, Lew.

And I think probably for Ray Green's official record, we probably in addition to Board members, need to identify the various support staff who are present on the call. So I wonder if we should go ahead and do that starting with NIOSH.

DR. WADE: This is Lew Wade with NIOSH in Washington, D.C.

DR. NETON: Jim Neton with NIOSH in Cincinnati.

MR. RUTHERFORD: LaVon Rutherford, NIOSH Cincinnati.

MR. SUNDIN: Dave Sundin, NIOSH Cincinnati.

MR. KATZ: Ted Katz in Atlanta.

MS. SHIELDS: LaShawn Shields, Atlanta.

MS. HOMOKI-TITUS: Liz Homoki-Titus with Health and Human Services in D.C.

MS. HOWELL: Emily Howell with Health and

Human Services in D.C.

MR. BROEHM: Jason Broehm in the CDC Washington office.

DR. ZIEMER: Any other CDC/NIOSH/HHS people?

(no response)

DR. ZIEMER: Department of Labor?

MR. KOTSCH: This is Jeff Kotsch here with the Department of Labor.

DR. ZIEMER: Any other Labor?

(no response)

DR. ZIEMER: Is any other federal staff aboard the call?

(no response)

DR. ZIEMER: That's all we need to identify is it not, Lew?

DR. WADE: Yes, I mean we can, if you want to, have other people identify themselves as they wish. That'd be fine as well.

MR. BROEHM: This is Jason. I understand that some congressional staff may be joining for discrete agenda items such as Rocky Flats and Bethlehem Steel. You may have people join the call later.

SEC RULE REWRITE

DR. ZIEMER: Okay, then let's proceed. The

first item then after the introductory materials is SEC rule rewrite. You may recall at our last meeting we had the materials that constitute the interim rule. We had a discussion and actually, we identified at our meeting a number of items that could be of concern. And we asked Dr. Melius to draft some proposed comments based on those items. He has done so, and that draft, which is a two-page document, was distributed, I believe, on the ninth.

I want to make sure everybody has a copy of Dr. Melius' draft. Is there anyone on board that does not have a copy of that? It's called "Draft Comments on Proposed Amendments to 42 CFR Part 83 Special Exposure Cohort Rule". And I would suggest that you write on the top of your sheet that it's a draft and that the date of that is 3/9/06, perhaps distinguish it from any later versions.

DR. WADE: And just to complete the record, if you recall the comment period was going to close before this call and a 30-day extension was granted.

Ted, when does the comment period

close now with the 30-day extension in effect?

MR. KATZ: I'm sorry, Lew, I don't have that in front of me. I'm not sure what the date is.

DR. WADE: Okay, Liz, do you have that?

MS. HOMOKI-TITUS: I don't have it in front of me, but you guys go ahead and start talking and I'll pull it out.

DR. MELIUS: I think it's approximately one week from now.

DR. ZIEMER: I was thinking it was the 21st of March was what I have on my calendar.

DR. WADE: Right, I just want to get -- Liz will give us the official date but I think --

DR. ZIEMER: Well, roughly a week from now but we'll get the official date.

So I assume by the silence that everyone has a copy. No one has indicated they did not. Jim, do you want to make any preliminary statements on the materials before we go into it, sort of work through it paragraph by paragraph?

DR. MELIUS: No, only that what I drafted was based on some of our discussions at the last meeting including some discussions with

Board members sort of after the meeting or during the meeting. I'm sure it was all formal discussion. So what I tried to do was to take some of the comments that we discussed and summarize them into a letter or the format of a letter that would go from the Advisory Board to NIOSH's formal comments. And I also included in there the quote from the Conference Report simply because that sort of was what NIOSH was responding to in drafting their interim final regulation.

DR. ZIEMER: I wonder on the Conference Report if it would be helpful if we could put a reference in here, the date or the location of the quote.

DR. MELIUS: I can come up with that.

DR. ZIEMER: Or maybe NIOSH staff can. I was a little puzzled by some of the wording in there. I know you were quoting directly, but it refers to the President receiving a recommendation from the Advisory Board.

DR. MELIUS: That's because that's what the law says.

DR. ZIEMER: The original law says that, yeah.

DR. MELIUS: It's by, and somebody, Liz or somebody, could maybe help me here, but it's by an executive order from the President that designates that power to the Secretary of Health and Human Services. So when they amend the law, they refer to the, or they comment on the law or they refer to the President even though, in effect, it's the Secretary of Health and Human Services that, so when NIOSH writes the regulation, they essentially utilize the federal executive order to --

DR. ZIEMER: Yeah, yeah, I understand that, but I'm concerned that this comment might give rise to some confusion if we don't link it back to this was not a Conference Report that was related to the, to this particular revision. This was the original one was it not?

DR. MELIUS: Oh, no, no, this relates to this particular revision.

DR. ZIEMER: But they are quoting the conference, the original law I believe.

DR. MELIUS: Yeah, but when Congress says anything that references the law, they always go back to the law, not the executive order

because the executive order can change.

DR. ZIEMER: Anyway, I'm suggesting we put the reference in there so it's very clear --

DR. MELIUS: I agree. I actually think in the first paragraph the last sentence there, it would be in parentheses. I can put in something to that effect, that the Secretary is the President's designee for that particular task.

MS. MUNN: This is Wanda. I found that confusing also if for no other reason than the fact that I didn't have the Conference Report per se in front of me and had no indication where to find it. I only had the Department of Health and Human Services pages from the Federal Register.

DR. ZIEMER: And of course, the reason for referencing the Conference Report is the time periods. It's not this particular issue, but I was concerned that this could introduce some confusion back into the system.

MS. HOMOKI-TITUS: Dr. Ziemer?

DR. ZIEMER: Yeah.

MS. HOMOKI-TITUS: I just wanted to let you know that I've got the Federal Register notice

in front of me and the deadline is March 23rd, 2000 and --

DR. ZIEMER: Twenty-third.

MS. HOMOKI-TITUS: Twenty-third.

DR. ZIEMER: Okay. Thank you.

Well, let's, we'll get some clarity on, or add a reference for that that will help clarify that issue. If there's no objection, we'll consider that an acceptable change.

Let's look into the specific comments now. There are three of them.

MS. MUNN: Before we go to that, Paul, there is one typo, I think, an omission in the fifth line of that Conference Report, states, there in the first line. It's the first word in that line is documentation. Just during the 180, I believe the word day was omitted there.

DR. ZIEMER: The word day should be in there, yes. Thanks, Wanda.

Now, item one, again, I'm going to suggest that we reference each item to a specific part now of the proposal. Jim, for example, this seven-day thing shows up -- well, if you look at the materials we had at the last meeting, which is the Federal

Register material, it refers to page 7-5-9-5-3 of the Federal Register, and it's item C. Again, I'm just suggesting that on each of these items we refer to the specific part of the proposal just for ease of cross-referencing. Is that agreeable?

DR. MELIUS: Yes.

DR. ZIEMER: So we would say something like with regard to the requirement of Item C, page 7-5-9-5-3 of the Federal Register notice, we do not believe and so on.

DR. MELIUS: I think maybe a better way of doing that or at least a shorter way would be, rather than have to go back to the Federal Register is refer to Section 83-11 --

DR. ZIEMER: Okay, yeah, it's Section 83-11, Item C. Yeah, that will do it very well, thanks.

Is that agreeable with everyone? I think again that helps clarify what it is we're commenting on.

MS. MUNN: Eighty-three eleven is noted in that.

DR. ZIEMER: Right, right.

DR. MELIUS: Yeah, but I think if we put a

bullet up front to say it's 83-11c of the, it's a little bit more clear.

DR. ZIEMER: Okay, now I guess on this item one of the issues now is going to be the seven-day versus the 30-day issue and maybe have a little debate on that if there is any. And this is one of the items we talked about at the last Board meeting, the issue of the seven days. Is that enough time? I think NIOSH was saying, well, in reality they are working with the folks so they sort of know it in advance, but I guess our concern was do we always, is there a guarantee that that's always the case. And should we allow, even though we want to keep the process streamlined, should we allow more time? And if we do what should it be? Is it as much as 30 days?

DR. LOCKEY: This is Jim Lockey. I agree with Melius. I don't think seven days is adequate. I think 30 days is an adequate period of time. That's what my opinion would be.

MS. MUNN: This is Wanda. It's fairly obvious to me that whoever dreamed up seven

days clearly had never been through this process so has no real feel for the number of individuals that are involved, the number of agencies that are involved and the steps that have to be taken. Thirty days seems logical to me.

DR. DeHART: This is Roy. As I remember in the meeting there was some concern on the part of NIOSH as to their being able to be timely in the completion of their work. Could somebody from NIOSH comment on what the impact of the seven days would be versus the 30 days?

DR. ZIEMER: And also whether or not there's a separate clock running. Is the 180-day clock still running here?

DR. WADE: Could I ask Ted to speak to that issue?

(no response)

DR. ZIEMER: Or is Ted still here? Or Liz?

MR. KATZ: Can you hear me?

DR. ZIEMER: Yeah, now we can.

MR. KATZ: This is Ted. The phone was on mute. So the consequence on the other side of it is that the 30 days, whatever it is, seven days, 30 days, that's time elapsing against

the 180 days. If the review of the disqualification determines that it is, in fact, qualified. So that just shortens the 180-day period for completing the evaluation.

DR. ZIEMER: Yeah, well, you may recall we had a discussion about that as well because it was a little confusing, the fact that if it wasn't originally qualified and then becomes qualified, then the qualification date in its essence seems to be moved back. So the 180 days is already going even though the determination that it was qualified came sort of later.

UNIDENTIFIED SPEAKER: (Unintelligible).

DR. ZIEMER: Is somebody commenting? Ted, were you responding or --

MR. KATZ: No, no, that was someone else.

DR. LOCKEY: This is Jim Lockey. Is the 180 days, I mean, if this petition disqualified then my assumption is the 180 days has already expired. Is that correct?

MR. KATZ: No, the 180 days doesn't begin until a petition qualifies. But this is a situation where NIOSH OCAS has in effect said we don't think this petition qualifies. Then

it goes for review at NIOSH if the petitioner wishes, a review of that proposed decision. Now if that review decides, in fact, it should have qualified, then that clock would have been running at the point NIOSH said it didn't qualify. So I understand that's confusing. I'm just trying to explain --

DR. ZIEMER: That was the issue before so that if now after 30 days it's designated as qualified, what they're saying in essence was that that qualification actually occurred 30 days earlier. So they've already lost 30 days on the 180.

DR. LOCKEY: Can that be changed?

MS. MUNN: Can that be one of our comments that the clock should start over again?

DR. LOCKEY: That's what I would say. It's not fair to NIOSH.

MR. GIBSON: This is Mike Gibson. Let me ask a question. So is NIOSH saying that the qualification process takes place within the 180 days or does not?

DR. MELIUS: Does not. This is Jim Melius. Part of this is confusing because if you look at the Conference Report language, they

certainly say, I mean the sentence there says with 180 days of receipt of a petition, and NIOSH has somehow interpreted that as 180 days of qualification, after qualification as opposed to receipt, which adds to the confusion here for our part in terms of trying to, you know, decide what's reasonable in terms of response.

I just think it's sort of fundamentally a problem that you give a petitioner -- first of all, one comment, this appeal, this disqualification and appeal thing is a first, so we don't have any experience with what's involved here. Secondly, to give a petitioner seven days to respond and gather additional technical information when NIOSH has rejected their petition is really not fair to the petitioner.

I mean, it's just not possible, I think, or feasible to do that. It's not just gathering an extra signature or a simple document. It would be gathering, I think, a significant amount of more information and even that could even be hard within 30 days let alone within seven.

DR. ZIEMER: Maybe our best bet here for the moment is to try to keep the two issues separate, the 30 days and the 180, because we may have to deal with the 180 anyway in the next item. Let me ask if there's any other comments pro or con on the seven days versus 30 or any other number.

DR. DeHART: This is Roy. I certainly agree with the 30 days. My only concern for raising the question that I did is what is the impact. And I think we're going to be talking about that in number two.

DR. LOCKEY: This is Jim Lockey. Are we going to go back and look at what Jim just said about, and others just said about the confusion about when the 180 clock starts to run? Are we going to define that in a more appropriate manner?

DR. ZIEMER: Well, this second item here deals with that 180 days so it certainly can be inserted there in some way if necessary. There's a suggestion that the 180 time period be clarified anyway.

Any other comments on the seven day period?

MR. CLAWSON: Dr. Ziemer, this is Brad Clawson. I feel that seven days is completely inadequate.

DR. ZIEMER: Okay, we've heard from a number of people that are supporting the 30-day recommendation. Are there any that believe that we should stick with the seven day?

MR. ELLIOTT: Dr. Ziemer, this is Larry Elliott. I just want to offer a point of clarification. The seven day requirement of a petitioner is to send us a letter. It is not a requirement to produce more information. It is to send us a letter saying they contest or they want to appeal the decision that has been made that a submittal has been disqualified as a petition. So all we're looking for is that letter.

DR. ZIEMER: Saying that they are appealing it but not necessarily requiring that they have the material needed to support the appeal at that point?

MR. SUNDIN: This is Dave Sundin speaking now. Well, as a matter of fact they are not supposed to provide additional substantive material at that point. If they do that, then

it becomes a modification to their petition rather than an appeal. An appeal is supposed to just be about the process that was used.

MR. GIBSON: This is Mike Gibson. I guess I would just want to comment that even on an individual dose reconstruction case, the individual has more than seven days, I believe, to sign and fill out the OCAS 1 Form or to, if they're denied through DOL, to appeal that process, don't they? So it just seems a little illogical to me that given an SEC involves so many different people and so many different potential issues, you know, I think seven days is just too short. You know, I agree with the rest of the committee that it should be the 30 days.

MR. ELLIOTT: This is Larry Elliott again. And Mike, I appreciate your comment. However, I don't see any correlation between the dose reconstruction process and experience that a claimant goes through as compared to the SEC petition process that a petitioner goes through. I think they're distinctly different systems and processes. And again all we're asking here for on this seven-day clock is an

answer from the claimant as to whether or not they are contesting a decision that their submittal does not meet the criteria for a petition.

DR. ZIEMER: Larry, there is one phrase in the wording that says that as part of that they must specify why the proposed finding should be reversed based on petition requirements and on the information that they have already submitted which sounds like they, to some extent although you're not allowing them to submit new information at this point, that they have to have some sort of an analysis defending the reason for the appeal. Is that, am I understanding that correctly?

MR. ELLIOTT: I'll let Dave Sundin respond to that.

MR. SUNDIN: I may not be the best, Liz or Ted, but I think we're asking that they point out what aspect of our procedures they believe we did not follow.

DR. ROESSLER: This is Gen. I would like to hear Jim Melius' comments as to whether he understood the procedure as Larry has described it when he put this together.

DR. MELIUS: And the answer -- this is Jim Melius. The answer is yes, and I think it just, you know, these petitions some of them have included hundreds of pages of documentation. There's more that's uncovered and for a petitioner to decide what options they have takes some time. Our procedures are technically complex and a bit difficult, and I think they need more time to make up their minds which route to take. And I think 30 days is appropriate. That's what we had decided initially when we passed these regulations or commented on the initial regulations what NIOSH had in their initial regulation.

DR. DeHART: This is Roy. The petitioner is the only one who's going to be disadvantaged by the 30 days. We are trying to do a system that will be effective and efficient, and if the petitioner wants to raise an issue or a question it only delays a final decision which only impacts that petitioner or the petitioners.

DR. ZIEMER: They can certainly submit sooner if they wish to.

DR. DeHART: Yes.

DR. ZIEMER: Any other comments on this issue?

MS. MUNN: This is Wanda. I'm not at all sure, I thought I understood what I was doing when we started this and now I'm confused. I'm looking back at the Federal Register notice itself, sub-part C, that says revised paragraph 83-11 to read as follows: "What happens to petition submissions that do not satisfy all relevant requirements? NIOSH will notify the petitioners and any requirement that's not met with the submission, assist the petitioners with guidance in developing relevant information and provide 30 calendar days for the petitioner to revise the submission accordingly. After 30 calendar days from the date of notification, NIOSH will notify any petitioner if his submission remains unsatisfactory of the proposed findings that the submission fails to meet the specified requirements and the basis for this finding."

Then the next section says, "A petitioner may request in writing a review of

a proposed finding within seven calendar days of notification under Paragraph B. Petitioners must specify why the proposed finding should be reversed based on the petition requirements and on information that the petitioners had already submitted."

So this is not talking about new information.

DR. ZIEMER: No, that's correct. That's what Larry was pointing out.

DR. MELIUS: Jim Melius, they essentially have a choice of either seeing if they can gather new information to satisfy NIOSH's concerns or they have a choice, or they can basically internally appeal, you know, say that NIOSH is wrong, that they provided adequate information. They believe NIOSH should consider that information. It should be adequate.

And so I think that's why they need longer than seven days. It's not simply just sending a letter. There's a decision has to be made, you know, should they get other affidavits from other people? Is there other information that they would be able to seek

out which NIOSH would allow to consider. Or the corollary, if I understand the process, is if they don't provide new information, then NIOSH is not going to reconsider their petition unless they follow this procedure.

MR. ELLIOTT: Dr. Melius, this is Larry Elliott again. Wouldn't that, your statement that you just made there, wouldn't that go then to the 30 days to develop the basis for the petition to meet the criteria to support the petition? Wouldn't it go to the 30 day time frame rather than the seven day time frame to make a decision on whether to contest the decision of disqualification?

DR. MELIUS: I would argue they need 30 days for both. I mean, there's some, they need to decide which route to take.

DR. ZIEMER: Because one of their options is, in fact, to submit new material. It's true that it's then regarded as a what, a new petition or something like that, but nonetheless that is the, that is one of the routes so they do have to make that decision.

MS. MUNN: And up front NIOSH provides them with 30 days in which to do that. I had

frankly neglected that 30 days up front when I was being concerned about the seven day time period.

DR. ZIEMER: That's at the front end of the process.

MS. MUNN: Right, NIOSH has already worked with the petitioner for 30 days with respect to the content of the petition as to whether or not it's adequate.

MR. GIBSON: This is Mike Gibson. It still seems to me that even if a petitioner's not submitting additional information, if they want to go back through and, as we've seen some of these petitions are very, very lengthy, if they want to go back through and try to better define the material that was included in the first place to specify why the finding should be reversed, that in itself is going to take a good amount of time. And it's just between that and everything else, I just, seven days just doesn't seem adequate to me.

DR. DeHART: This is Roy. More than likely there's going to be a challenge to a ruling or determination on the part of NIOSH. It could be the same data, but it could be a different

expert. And that means defining that expert, getting the documentation as it applies to what has already been submitted even without additional information. And that's taking time.

DR. ZIEMER: Okay, any further comments on this? It appears that from what I'm hearing is that there's pretty strong support for recommending the 30 days versus the seven. And that being the case I think for the moment I will interpret that as a consensus on that item. Let's move on to item two, and then we'll come back and talk about approving the whole document with any changes.

The next item, let's see, is the 180 day issue. Now the 180 day is mentioned in the, that's actually a statutory requirement. I think your point here, Jim, in the fact does not mention in the rule is simply it is a requirement and why isn't it mentioned?

DR. MELIUS: Yeah, there are two points to number two. One is --

DR. ZIEMER: I mean, you don't have to state it as a rule. It's already a statutory requirement.

MS. MUNN: That's true.

DR. MELIUS: The 30 days is a requirement, too, as I understand it, and that's in the rules. Why isn't the 180 days? To me it's confusing having to refer back to the preamble to, you know, if you're trying to reference this. And then I think the second comment built in there is let's sort of clarify what's been, you know, at one point the language says for a petition submitted suddenly a petition isn't submitted unless it's, or I should say when it's, until NIOSH has qualified it and confusion there.

And some of this I think is addressed in number three, too, that I think what we're really looking for, or at least what I would recommend we look for, is some sort of overall guidance for the petitioners. What's the process going to be? How long are different steps going to take?

Congress has specified some of those, but there ought to be some sort of overall, I think, guidance communications for the petitioners to understand the process as it goes along. What are their options at each

step? Roughly how long is it going to take for different parts of these steps. Some of them are going to be hard to specify, but they ought to have at least some idea of what's going to happen, what to expect.

DR. ZIEMER: In that connection also if I could raise again the original point about when a petition becomes qualified, if after an appeal whether it's the seven day or a 30 day, it then becomes qualified, is there an actual legal requirement that says that was interpreted wrong at the front end; it should have been qualified and the clock really is running? Or can you legally say once it's declared qualified the clock starts running on the 180? I don't know if legal counsel can speak to that or not.

MS. HOMOKI-TITUS: I'm not sure I can speak to that right now.

DR. ZIEMER: I mean it currently is that just an interpretation of that particular rule or is there some sort of precedent that --

MS. HOMOKI-TITUS: There's no precedent. What it is is interpretation of 180 day requirement.

DR. WADE: We're hearing elevator music or something like that.

MS. HOMOKI-TITUS: I think somebody put us on hold.

DR. WADE: Those of you who are still with us, don't put us on hold. I don't know how we solve this problem. Let's try and work and see how we do.

DR. ZIEMER: While we're on that paragraph on the second page, one, two, three, the fifth line, there's a typo there. I think it should say we note that. But let's get specific comments now on this issue. So one point, Jim, that you're suggesting is that there be a specific mention in the rule of the 180 days, and then the clarification of that 180 days is sequenced in terms of the various pieces of activity.

DR. MELIUS: Correct.

MS. HOMOKI-TITUS: I'm sorry, Dr. Ziemer, there sounds like there's some sort of conversation going on in the background. If the people who are not speaking could stop speaking or put it on mute, we're just having a hard time hearing.

DR. ZIEMER: Part of that is that music.

MS. HOMOKI-TITUS: Yeah, part of it's the music, but it's also the conversation.

DR. WADE: This is Lew Wade. In order for us to succeed at this, it's going to take discipline on everybody's part so please, if you're hooked up to this call, make sure you're on mute if you're having any discussions. And someone is coming in and out putting us on hold and when you do that there's music playing. And that makes it very difficult for us to conduct our business.

UNIDENTIFIED SPEAKER: Can you hear this?

DR. WADE: I can hear that, yes.

UNIDENTIFIED SPEAKER: Can you hear this?

DR. WADE: Yes.

UNIDENTIFIED SPEAKER: Oh my god, we are so sorry.

DR. WADE: It's unacceptable behavior. You really need to stop it, please.

UNIDENTIFIED SPEAKER: Twenty lashes to us. We will be quiet.

DR. ZIEMER: Okay, any other comments on this?

MS. MUNN: This is Wanda again. Perhaps

just a reference to the original law that National Defense Authorization Act 1-0-8-3-30 and 3-75 that requires the 180 days would be in order. It just, my first thought when I saw number two was that the Federal Register notice had gone to, I thought, very specific clarification with respect to the fact that 180 day reference is law.

And I understand Jim's point that it may be a bit confusing for the person who's reading only this. But the law is referenced, and since it's referenced I guess the wording perhaps could be very brief with respect to that reference just assuring that it is referenced. I guess I'm concerned about the confusion that arises out of trying to de-confuse already confusing language.

It's very difficult, I think, without offering up specific language and an indication of where it should go to leave the rule making in the hands of folks who don't perhaps understand why we have, where we think it ought to go. I guess that's what it really boils down to. Can we be more specific than where we feel and what we feel should be added

to clarify whichever of these paragraphs is most murky for us?

DR. MELIUS: Jim Melius, I mean I was frankly trying to avoid getting into the realm of legal interpretation of what language may, you know, congressional language may mean and how it's interpreted by the Department and rather go back and say let's look, the intent is to have this be a timely process that to the extent possible they ought to specify all the steps in the process. Some they have put time requirements on. Some that may take some time they have not. But at least in those where there are not specific requirements, let's at least have a way of informing the petitioners, those involved in the process, of what are reasonable periods of time for how these steps, how long these steps will take.

MS. MUNN: Yeah, Jim, I guess probably one of my problems is that I didn't have the Conference Report, was not aware that the Conference Report should be a part of our deliberations here. And that sort of --

DR. ZIEMER: Well, I don't know that it necessarily should be. It does refer to the

180 days, but in, it probably would be helpful, maybe even under the definition section, they talked about computation of time periods and so on. It may be that there could be a clarification in there of when the 180 days begins and what counts against it in terms of these other activities. I think in general that's the kind of thing you're getting at, Jim, right? Put something in the rule that specifically pulls the 180 days in there and then relates it to these other activities.

DR. MELIUS: Correct, and --

DR. ZIEMER: And we shouldn't try to wordsmith how that's done.

MS. MUNN: No, I understand that.

DR. MELIUS: I think we're just asking NIOSH to be more specific. Get them to meet the statutory requirements. The Conference Report states some of the intentions and rationale for that. That needs to be addressed. And then also other steps in the process that are not addressed in the Conference Report or in the statute that still would be good to communicate to the petitioner so all of us

involved in this process sort of understand what the steps are and what are the time periods that might be expected for these various steps.

MS. MUNN: So I guess then the question is not necessarily to make the final rule consistent with the Conference Report. It's just to clarify the time periods in the final rule.

DR. MELIUS: Certainly I would say maybe the language should be, make it consistent with the intent of the Board or, personally, I don't think that the Conference Report should be ignored, but some of the technical and legal issues here are complicated. And I'm not sure that we're qualified nor do we want to necessarily try to rewrite the entire rule.

MS. MUNN: No, I certainly wouldn't want to.

DR. MELIUS: I was trying to, you know, there was some language that would just show what our general recommendation is without trying to write more specifics but pointing out some of the issues that, for example, the Conference Report certainly implied that the 180 days was meant to start when the petition

was submitted.

Now and then another point, the end of the process, NIOSH has its evaluation report. Well, an evaluation report by itself isn't necessarily very helpful or doesn't move the process unless there's also, it's really the recommendation based on the evaluation report that moves the process along.

MS. MUNN: So that last sentence --

DR. ZIEMER: Well, there's a fairly good discussion in the preamble of the 180-day issue and the 30-day deadlines and so on.

MS. MUNN: Yes, there is.

DR. ZIEMER: So it probably in a sense is a question of how much of that is simply to be descriptive material in the preamble versus specific rules. Some of these are, some of these are very specific, you know, the seven day or 30 day, whichever it will be, will become a very specific requirement. But as you look back in the preamble, it looks like there's a nice effort to describe this 180 day period and the things that go on.

But maybe there needs to be some transfer of some of that material into the

rule itself, but I'm not sure which, you know, you want to keep it sufficiently flexible. I mean, operationally now with the 180-day clock isn't starting at the time that the petition is submitted, is it?

DR. MELIUS: No, it --

DR. ZIEMER: It's really started when it's qualified, I believe.

DR. MELIUS: Right, which --

MS. MUNN: That's what I thought.

DR. MELIUS: -- pointed out some of the language in the Conference Report. The language at the other end just says that evaluations were submitted. It does not talk about a recommendation coming from that. And again I think what we have, there is some explanatory language in the preamble.

What we would like to see is some of that language get put out in terms of some overall guidance or communication for the petitioners. So it would cover the whole process rather than try to say well, you go to the preamble, and you'll get this information. You go to the rule, you get this deadline. You know, if I were a petitioner, I would be

just very confused by what was meant; what was expected; what was required.

MS. MUNN: May I suggest that perhaps the last sentence, if we're going to retain this section two of our recommendation, that perhaps the last sentence should read something like appropriate changes should be made within the rule to address these problems and clarify timeline requirements in the final rule.

MR. GIBSON: This is Mike Gibson. I kind of hear what Wanda's saying. I think our comments should be probably consistent with the language of the Congressional Conference Report language. And so maybe we could, you know, since most of us don't have it in front of us, I've got so many windows up on my computer right now it would be hard to do, but I just don't think, we always say that, you know, we're wanting the intent of what Congress had in this law, and I don't think it would be appropriate to just ignore the congressional report and what they put in there. You know, we can give our comments, but I think we ought to be consistent with

them. And I don't think that ought to be incorporated into the interim final rules.

DR. ZIEMER: Any other comments on this?

DR. LOCKEY: This is Jim Lockey. My comment is that, I think it sort of parallels what Jim Melius has said. It is confusing to us. I can't imagine what it is to the petitioners. Somehow that has to be resolved.

DR. ZIEMER: Right at the moment this recommendation is somewhat general. It simply points out that there is some additional clarity that perhaps could be brought to the rule itself based on whatever is already in the preamble, the requirements of the statutory law itself, and basically, simply calling for some clarification here without specifying how that should be done. So --

MR. GIBSON: This is Mike Gibson. Could I ask a question?

DR. ZIEMER: Yeah.

MR. GIBSON: If the language is just left in the preamble, and maybe I'm asking for a legal determination on this, the preamble seems almost like an executive summary to the law and so if it's not adopted into the law, does

that guarantee that it applies?

DR. ZIEMER: Well, the 180 days is a statutory requirement, so that's required in any event. I think the issue here, I believe, is to clarify for petitioners precisely when the clock starts. And some of this is done in the preamble and that's probably appropriate. But it may be helpful in the rule itself to spell out exactly how that divided up. What's going on during the 180 days. What's NIOSH doing? What's the Board doing? What deadlines did the petitioners have to meet? So I think what's being asked for here is clarity in the rule.

Is that a fair statement, Jim?

DR. MELIUS: Yeah, correct.

DR. ZIEMER: Without specifying exactly how that's done. I think we're aware that the various pieces of it are there. They're there either in the original statutory requirement. They are there in the Conference Report. They are there in the preamble, and pieces are there in the interim rule. So basically if there's some way to clarify the rule itself so that everything comes together clearly.

DR. ZIEMER: Is that a fair statement?

DR. MELIUS: Correct, that what we're asking NIOSH to do is to the extent that, I guess it's legally appropriate to clarify these in the rule and for parts that may not be appropriate to change in the rule to (unintelligible) explain in the preamble. But that there also, I think, should be some overall document that explains the process and the steps in the process and the approximate time periods that those steps are going to take.

DR. ZIEMER: So with those comments, again, this, the second item is fairly general so I'm going to ask if there's any major objections to it.

MS. MUNN: No, I do think we need to follow what we're requesting of others and probably tighten it up a little bit and be fairly specific (unintelligible) being as general as possible.

DR. ZIEMER: But is it just in the last sentence that the appropriate changes should be made within the rule --

MS. MUNN: Yes, within the rule.

DR. ZIEMER: -- within the rule to address these --

MS. MUNN: To address or to clarify these problems.

DR. ZIEMER: To clarify.

MR. PRESLEY: This is Bob Presley. I agree with that because I hate to six months down the road we're going to be coming back doing the same thing all over again if we don't get it right this time.

DR. ZIEMER: The comment here, then, the change Wanda suggested is that we say appropriate changes. And this is really the recommendation. Appropriate changes should be made within the rule to clarify these problems with the IFR and to make the final rule consistent with the Conference Report. Is that correct?

MS. MUNN: Yeah, I don't know whether we want to actually request -- my personal preference would be to include a request for a specific timeline as to how these things should flow. But perhaps that's asking for too much specificity.

DR. ZIEMER: I think actually the words Jim

has in here earlier talk about the timeline and so on. Again, it's general and it would be up to NIOSH's discretion as to how they handled that.

MR. GIBSON: This is Mike Gibson. So are we -- trying to get this kind of straightened out here in my head. Are we saying they're going to remove the 180 days from the text of the rule --

MS. MUNN: No.

MR. GIBSON: -- that we have in the preamble or are we going to -- in my opinion, we need it in the rule just like it was, you know, it would tend to be more clear to everyone involved that reads the rule.

MS. MUNN: Yeah, that was the sense of my suggestion.

DR. ZIEMER: Yeah, the point was that it's currently not showing up in the rule itself.

MR. GIBSON: Right.

DR. ZIEMER: It shows up in the preamble but was not showing up in the rule itself.

Okay, let's take a look at the third item. Any comments on that? Actually, this is kind of supplements the previous item, does

it not, Jim?

DR. MELIUS: Correct.

MS. MUNN: And again supports the concept of a timeline.

DR. MELIUS: I mean, I agree with Wanda on the need for a timeline. I'm just not sure that the rule making is the, may not be the appropriate place for sort of publishing that. It may be easier to do it in sort of a separate document that's guidelines that incorporates what's in the rule making.

MS. MUNN: Yeah.

DR. ZIEMER: I'm trying to get a feel for what we're actually asking for here with respect to the interim rule.

DR. MELIUS: I think what we're saying, specifically saying is that NIOSH should supplement the rule making process with section of some, a document set of guidelines that would cover the, you know, explain the entire process.

MS. MUNN: Perhaps we need to say it in just those words, Jim.

DR. ZIEMER: Well, the last sentence does say develop guidelines for the entire SEC

petition process including regular (unintelligible) covering at least portions required by the law. And by guidelines here you're not talking about rule making, but a supplemental guideline here.

MS. MUNN: Is that second paragraph considered a part of item three?

DR. ZIEMER: Item three?

MS. MUNN: I had thought that it was, I had thought that we were back in the letter again.

DR. MELIUS: That's part of three.

DR. ZIEMER: Any comments on the third item? This does not require a specific change in the interim guidelines, does it?

DR. MELIUS: No.

MS. MUNN: I don't see any indication here.

DR. ZIEMER: A supplementary action perhaps.

DR. MELIUS: Again, just background, I think, the intent of Congress, I think, in making the changes in the law and that is just to make this more timely. And I think if we cover the whole process, I think it, and explain the whole process, then, at least the petitioner will understand the steps that we take as part of the review and so forth, you

know, to keep it going in a timely fashion. Some of these steps it's more, you know, there's more uncertainty because of what's involved, but at least there'd be, again, just a better understanding. And we would sort of understand what we're trying to achieve with these types of recommended times.

DR. ZIEMER: Well, and that being the case I have a feeling that we should make a slight change in the introductory phrase to the three items. The introductory phrase says we have a number of questions and comments on the proposed amendments. I'm wondering if we might want to add this phrase to that, and their implementation. Because this third item really has to do with implementation of the amendments, I think. It's not a comment on the amendment per se. Is that a friendly amendment in your mind?

DR. MELIUS: Yes.

DR. ZIEMER: It would say we have a number of questions and comments about the proposed amendments and their implementation. Actually, do we have any questions in here or are they all comments?

MR. GIBSON: Well, this is Mike Gibson. The -- let me try to find this Conference Report.

DR. ZIEMER: I think these are all comments, Jim. Were there any questions in there per se? Did we ask any questions?

DR. MELIUS: Actually, an earlier draft had a question in number two, but I changed it to a comment.

DR. ZIEMER: So it should be we have a number of comments.

DR. MELIUS: Yeah, that's fair.

DR. ZIEMER: Make that change.

Mike, I'm sorry. I interrupted you.

MR. GIBSON: That's okay. I was just, if I could ask Jim, I did finally find this part of this Conference Report, or one section of it under the SEC thing. It appears that it looks like they have, I think they reference maybe three time periods, 180 days and then the 30 days a couple of times. So at least we should ask for those three time periods to be spelled out in the text. Is that one of the things you're asking, Jim?

DR. MELIUS: The 30 days already is, the 30 day notification for action on the part of the

Secretary of HHS is already in the rule. That's okay. The 180 days is in the preamble. The second page, NIOSH identify all deficiencies in the petition within the first 30 days I don't believe was directly addressed, and I guess we were asking them to clarify that. I wasn't quite sure how that fit into this time frame.

DR. ZIEMER: That answer your question, Mike?

MR. GIBSON: Yeah, I believe so.

DR. ZIEMER: Well, I want to ask or raise one other point here. Jim, according to my notes from the discussion we had at the Board meeting, we also had this issue of what constitutes a recommendation. It was the framework of whether or not the recommendation was we need more information and does the clock then start? Or do we need a specific recommendation, yea or nay from NIOSH, for the clock to start? Do you recall that discussion?

DR. MELIUS: Correct, and I guess it's really the clock to stop. It's the end of the 180, the 180 days stops when NIOSH does an

evaluation report. It's not clear whether that includes a recommendation for, to accept or deny the special exposure cohort petition. So I think what we're asking for is that to be clarified. I think that it's --

DR. ZIEMER: Well, you didn't mention that, the issue of what constitutes a recommendation here although we had that discussion.

DR. MELIUS: It's in part two for number two, the middle of that paragraph. It's the top of page two.

DR. ZIEMER: Okay, when you say "but not necessarily a recommendation".

DR. MELIUS: We did not specify, I did not specify what is a recommendation because it again it's one of these things that it is confusing because we also have, and have already, sort of split up petitions. So is it a recommendation on one part of a petition or is it a recommendation on all parts and so forth. And again, I think it's one of these areas where we're overall trying to achieve reasonable, appropriate timeliness and to keep the process moving.

And it may very well be that at the

evaluation stage we often will split, or when we're evaluating what NIOSH's report, we may want to approve one time period and not another or something like that. And so I guess I'd want to try to get in, trying to avoid having to get in a lot of specifics because it's fairly complicated. I just think there needs to be some recognition that to keep the process moving than just having an evaluation to have a recommendation or a recommendation --

DR. ZIEMER: Well, what you say in the second line of the second page in the parenthetical statement, the period ends with the presentation of just the evaluation report but not necessarily a recommendation.

DR. MELIUS: Right, that's my understanding of what NIOSH's current draft was, their current interim file.

DR. ZIEMER: Okay, but just the evaluation report but not necessarily a recommendation. And how does that relate to the 180 days as mentioned in the statutory requirement? I know, Larry, can you help me out here? Larry Elliott, there's a requirement for a

recommendation, but the statutory requirement does not necessarily spell out that the recommendation has to be kind of an up or down. I think you've interpreted it as it permits gathering more information or --

DR. NETON: Yes, this is Jim Neton. Larry just stepped out of the room.

DR. ZIEMER: Jim, can you clarify that point?

DR. NETON: I'm not sure I can. I don't know if Ted or Liz can help out with that.

MS. MUNN: What would an evaluation report be if it does not include a recommendation?

DR. ZIEMER: Say it again?

MS. MUNN: I said what would an evaluation report be if it did not include a recommendation; what kind of an evaluation would we have?

DR. WADE: Do we have Ted or Liz available to speak to that?

MR. ELLIOTT: This is Larry Elliott. I just stepped back in the room.

DR. ZIEMER: Larry, we're trying to get some clarification on the understanding of what constitutes a recommendation. I believe as

NIOSH has understood it, it's not necessarily a recommendation that the petition is -– that you're going to make a recommendation for a class or not a class be added, but the recommendation could also be that you need more information or something along that line.

MR. ELLIOTT: Are you asking about --

DR. ZIEMER: Yeah.

MR. ELLIOTT: -- recommendation as it's presented to us in the Defense Authorization Act?

DR. ZIEMER: Or how you're using it at least.

MS. MUNN: And I'm asking whether an evaluation would ever be made that did not include a recommendation.

MR. ELLIOTT: Well, I can answer that last question quickly and easily. All evaluation reports that we sign off on here as complete have a recommendation to either add or deny a class. That's on a scientific basis we provide that conclusion. And then, you know, the Board takes that up of course.

MS. MUNN: Good, so our parenthetical statement but not necessarily a recommendation

is not necessary. An evaluation report would by definition include a recommendation.

MR. ELLIOTT: Yes, that's correct. By definition an evaluation report would include a recommendation. To answer the other question that I hear you asking what is our interpretation of the word recommendation as it is presented in the Defense Authorization Act? The amendment to this rule --

DR. ZIEMER: Do you have 180 days to make an evaluation report?

MR. ELLIOTT: It's certainly our intent to try to come forward with an evaluation report that includes a recommendation within the 180 day time frame. In one instance, Rocky Flats, we were not able to provide an evaluation report, as you know, because we were all wrestling with questions that were raised about the site profile.

And we felt that those questions needed to be resolved and put to bed before we could provide a evaluation report. And so we made a recommendation to essentially postpone the delivery of the evaluation report until the site profile issues, questions, were

resolved. That was an interpretation at that point in time on that particular petition that we made.

DR. MELIUS: This is Jim Melius. But refresh my memory, but my recollection was that on Y-12 that the sort of I would call it the partial recommendation, recommended only one aspect of the petition was considered as meeting the 180 day --

MR. ELLIOTT: Well, Jim, you certainly bring up another set of nuances about this whole process. At Y-12, as an example, we had three petitions that we combined and responded to with one evaluation report. And one of those petitions, the proposed definition in that petition was broader than the time frame or the class that we evaluated and recommended adding, and we're still working on that now. That begs the question of interpretation as to did we meet the 180 days for all three of those petitions or not? And I'll let you all decide how you arrive in an interpretation of that.

DR. ZIEMER: I guess my main question is does the new rule, or what now is the interim

rule, address that in any way that helps the petitioner understand that as an option that could be, or an outcome that could result, that in essence there may not be closure in 180 days from the point of view of making an up or down recommendation?

MR. ELLIOTT: This is Larry Elliott again. I would ask Ted to chime in here, weigh in, but I don't believe we provide that specific level of detail that would give a petitioner that understanding.

DR. ZIEMER: That could be provided in a guideline such as we talked about with item three which would not be part of the rule but could --

MR. ELLIOTT: It's certainly something that we practice here in our assistance that we give to the petitioner. As we work with the petitioner, and we walk with them hand-in-hand through this process, we explain how their petition is being handled. But Ted, were you going to offer a comment about our language in the rule on this point?

MR. KATZ: Yeah, sure, we didn't change anything with respect to what constitutes a

recommendation in the rule because in the rule an evaluation report includes a recommendation, a recommendation. So we haven't changed, there's nothing in the rule that really addresses this which has really just come up, you know, late last fall.

DR. ZIEMER: Well, I wanted to make sure since it was discussed at the last Board meeting in the context of this document that if the Board wished to, and you may feel like item two already discusses it adequately and raises the issues, then that's fine. I just wanted to make sure that we've covered those things that the Board raised. And Jim, I think that your feeling was that it does raise the issue.

DR. MELIUS: Correct, and this needs to be clarified either in, to the extent it can in the regulation. If not, in guidelines that would explain what the various steps in the process are or could be.

MR. GIBSON: This is Mike Gibson. I agree with, I believe Wanda was saying that if you look at the, I guess, how do you define recommendation. And it's hard for me to see

someone coming forth with that after their 180 days is up and not having an approval or denial. I mean, I understand that there's complications, but just by the mere what I consider the definition of recommendation. If it doesn't have a recommendation to approve or deny, it seems like it's a meaningless deadline or something. I mean it just seems like it needs to be defined in the rule what a recommendation is.

DR. DeHART: This is Roy. Some of these recommendations we've already seen, of course, where we've divided topulations (ph) and time frames and so on. Perhaps what is needed is when that kind of recommendation is done or there is need to go further in time in reviewing or seeking out information or ensuring that we have the proper description of a site, there should be a time frame added to that then that says expect a interim recommendation, a further interim recommendation within 90 days or something of that sort instead of it hanging out there forever and the petitioner having no idea when they might hear again.

DR. ZIEMER: Okay, thank you, Roy.

Any further comments on this?

(no audible response)

DR. ZIEMER: It's probably an issue that would be worth clarifying in some way if only in the guideline. I think at least based on the discussion here, I think NIOSH folks might be in a position to at least try to address that as part of the clarification process.

I want us to try to come to closure. We have to provide some comments within the week. It would be appropriate at this time if we're comfortable with what we have already discussed and the few changes that we've made in the document to call for a motion to approve these comments and submit them to NIOSH.

MR. GIBSON: Paul, this is Mike. Is that what the sum of the discussion we've had that modifies --

DR. ZIEMER: It includes two typographicals. It includes adding a couple of references and includes a few minor word changes. Of course, there is a contextual discussion that's in the record with that as well.

DR. DeHART: I think that NIOSH having been a participant in listening to the discussion and joining in periodically that they certainly understand the Board's concern and can address that even though we may have only minor changes in the documentation that will be submitted as our comments to the proposed rule.

DR. ZIEMER: And therefore --

DR. DeHART: And therefore, I move that we allow for the modifications of the document submitted by Dr. Melius and forward that to NIOSH.

MR. PRESLEY: It's Bob Presley. I second that motion.

DR. ZIEMER: Further discussion?

MR. GIBSON: Yeah, I have one point of discussion. Do we expect NIOSH to look at these recommendations we have and modify their findings if they so choose and then let us see that again so that if we have additional comments we could submit them before the 30-day extension is up?

DR. ZIEMER: The period is up on the 23rd which is only a week away. They had a 30-day

extension to allow the time period to at least include our deliberations today, but it's not 30 days from today. There's only a week.

MR. GIBSON: I understand that.

DR. ZIEMER: So I think in I guess NIOSH people can comment. I think that the process is such that they receive the comments, but I don't think they're required to respond to them. They have a certain amount of period in which to make the changes. Isn't that correct, Larry or Ted? Or make any changes they believe that they should make based on comments.

MR. ELLIOTT: This is Larry Elliott and, Ted, you should weigh in here as well. I would offer this in response to Mike and to you, Dr. Ziemer. We are in public comment period in this rule making. We are listening to what you have to say. We would welcome the consensus comments of the Board, and as we have treated them in the past rule making.

We will show how we have reacted and how we addressed your comments as well as those of the public in the preamble of the rule when it's finalized. We will take the

public comments. We will take up the Board consensus comments that you're putting together today, and we will revise the rule as we see appropriate and produce a final rule that will specify how we handled those comments.

Ted, do you want to add anything to that?

MR. KATZ: No, thanks, Larry, that was perfect.

DR. WADE: This is Lew Wade. I would also point out the individual Board members are free to comment as they would.

MR. ELLIOTT: Yes, that's correct, right, appreciate your addition there.

DR. ZIEMER: And Mike, does that answer your question?

MR. GIBSON: Yeah, that answers it.

MR. ELLIOTT: Mike, I would offer this as well. Like all of our rules if there are comments that the public wishes to provide us once we have finalized a rule we certainly accept those comments. Even though we're not involved in rule making, we can take a comment of substance and go back into rule making and

make a change if --

DR. ZIEMER: So it's not frozen forever. If this motion passes, I'm going to ask Jim to make the changes with the appropriate references and get copies out to all of us, and then I will get it officially transmitted. Jim, is that agreeable?

DR. MELIUS: That's fine. I should be able to get that out later this afternoon or tomorrow depending on how long we go with our call today.

MR. ELLIOTT: Dr. Ziemer, this is Larry Elliott again. If I might offer one more suggestion for Dr. Melius' and your consideration? In your, as you're writing this up, I think it would be beneficial if you would refer to the transcript that's created from today's discussion so that it will add and enhance whatever you put in your recommendation to us.

DR. MELIUS: Right.

DR. ZIEMER: In other words the contextual background for this. Thank you, that's a good suggestion.

I think you can just add that, Jim.

DR. MELIUS: I will, and of course, our fine transcriber will have a transcript ready by tomorrow.

DR. ZIEMER: Do these comments go, do these need to go to the Secretary, Lew?

DR. WADE: I don't believe so.

I mean, Larry, where do the comments to the rule go?

MR. ELLIOTT: As the rule specifies they should be submitted to the NIOSH Docket Office or to me directly, and we'll include them in the docket for this rule making.

DR. ZIEMER: Okay, thank you.

We'll call for a vote now. We'll have to take a roll call vote here.

DR. WADE: To the motion before the Board, Brad Clawson?

MR. CLAWSON: Aye, I accept.

DR. WADE: Roy DeHart.

DR. DeHART: Yes.

DR. WADE: Michael Gibson.

MR. GIBSON: Yes.

DR. WADE: Mark Griffon.

MR. GRIFFON: Yes.

DR. WADE: James Lockey.

DR. LOCKEY: Yes.

DR. WADE: James Melius.

DR. MELIUS: Yes.

DR. WADE: Wanda Munn.

MS. MUNN: (inaudible)

DR. WADE: Wanda, are you with us?

MS. MUNN: Yes.

DR. WADE: Robert Presley.

MR. PRESLEY: Yes.

DR. WADE: Gen Roessler.

DR. ROESSLER: Yes.

DR. WADE: And Paul, there's no need for you to vote so it's --

DR. ZIEMER: Well, I vote anyway, yes.

That completes this item on our agenda. Thank you very much. We're not too far off of schedule.

DR. WADE: And this is Lew Wade. You're to be complimented for dealing with a very difficult issue in a telephone call. You did extremely well.

DR. ZIEMER: Thank you.

REPORT OF WORKING GROUP: Y-12 SITE PROFILE

Next we have a report of the working group on the Y-12 site profile.

DR. WADE: If I could, this is Lew Wade, if I could make some introductory comments on that.

DR. ZIEMER: Yeah, go ahead.

DR. WADE: Just to remind you, and it's fairly complex and even relates to the things we just talked about. The Board is actively involved in the review of the Y-12 site profile. The Board's contractor, SC&A, is actively engaged in the review of the site profile. At the same time we have an opened SEC petition on Y-12 that sits before us.

What the Board has done in its wisdom is it's asked the working group chaired by Mark Griffon that looks at site profiles, dose reconstruction and procedures reviews to try and focus their review of the Y-12 site profile to at this time focus on those issues that are in the opinion of all involved germane to the issues the Board will face on the SEC petition. And there's a broad matrix that exists that covers all issues. Mark and his working group have narrowed that, and we'll hear a report from them on the overall matrix but more focusing on the specific items

that relate to the SEC.

It is NIOSH's intention to put before the Board before the end of April meeting, and our target is very early April, an evaluation report on this SEC petition that contains a definitive recommendation. I refer to our previous discussion. Therefore, it's incumbent on all of us to try and close as many of the technical issues as possible.

To further complicate the matter, there's also a working group of the Board chaired by Dr. Melius that is looking at the activities related to SC&A as it relates to their work on their task that relates to an SEC. We asked SC&A to look at one broad review, that was Ames, Iowa, and two focused reviews, they being Y-12 and Rocky Flats. So that activity is going on in parallel. We'll hear from John Mauro after lunch on that.

But now the stage is set for us to hear from Mark Griffon's working group as it relates to the Y-12 site profile review with particular emphasis on issues that relate to the SEC petition that's pending.

DR. ZIEMER: Very good, thank you, Lew. And

Mark has distributed to the Board within in the last day the work group minutes which cover both Y-12 and Rocky Flats. Those are minutes of a February 27th meeting, and I think, Mark, maybe you sent those out yesterday or it's fairly recent anyway. And then also the matrix of priority items that are relevant to the SEC petition. And that matrix is officially, let's see, for Y-12 it's dated February 27th, and I think was distributed to Board members within the last couple of days. So you should all have those copies.

Mark, take us through the issues that you think are pertinent here. And keep in mind now that these are, there's a number of items that were identified by SC&A that are identified here as being related to the SEC petition.

DR. ROESSLER: This is Gen. Mark, could you tell us what the top of that document looks like to make sure that we're on the right --

DR. ZIEMER: Gen, we can barely hear you.

MR. GRIFFON: I'm going to speak mainly from the matrix, Gen, and it's titled Y-12 Site

Profile Review, Matrix of priority issues potentially relevant to SEC petition review, prepared by the work group, February 27th, '06.

DR. ROESSLER: Okay, thank you, Mark.

MR. GRIFFON: And Paul, do you want me to proceed?

DR. ZIEMER: Yeah, go ahead, Mark.

MR. GRIFFON: First, I should say I guess you just got these documents so you probably would not have had a great deal of time to review them. It did take a lot of time last week between myself, SC&A and NIOSH to sort of from all of our notes fine tune these things. And I still think there's probably some things that we have open for discussion on the wording. But --

DR. ZIEMER: But we did have the identified items in January at our meeting, right?

MR. GRIFFON: That's correct, and that's why in the middle column you'll see action items labeled January 8th, '06, and on the final column in the matrix you see the February 28th --

DR. ZIEMER: Right, because we had gone through those items at our January meeting.

MR. GRIFFON: Right, and the items underneath in the columns line up one-to-one. In some cases there's more items in February 28th. That means we had a new action item that wasn't previously identified on January 8th, but in most cases it matches up one-to-one. So you'll see for item one it's been completed by NIOSH. I'm looking on the first page. They posted the database on the O drive. And I can step through this, but, you know, to give you the major updates on where we're at.

Item two, this is looking at the Health Physics reports for Y-12. And the reason to do this is as a means to test the reliability of the CER database as the Y-12 databases because they are used for the coworker models and NIOSH is still in the middle of this assessment. They did give us a preliminary update on one of the points raised out of the Health Physics reports, but they're going to, as you can see, do a further assessment based on some of those reports and comparing the summary data in the reports to the actual full databases.

Any time anybody wants more detail on

these stop me, but I'll just go ahead through these. Item three is again NIOSH has identified I guess some former lab workers or a lab manager that indicated that these laboratory logbooks should be available, and they're trying to pull that thread and find out exactly where they might be. So again, this is an outstanding action item. They're going to attempt to find at least some of these laboratory logbooks. And again, this is to look at the reliability of the data in the databases.

Number four, this is the question of how the units were converted from the raw data to the database has units of dpm per day per 24 hour. And NIOSH has provided actually just yesterday or the day before an e-mail with some more clarification on that. So they were tasked with doing this, and actually they've provided us additional information which the Board or the work group and SC&A have just received.

MS. MUNN: Really nice to see that factor of eight issue.

MR. GRIFFON: Right, the factor of eight in

the equation.

Number five and, well, number five basically asked if there was any QC documentation available, QC reports or anything like that regarding the bioassay program from the early years or the years in question and to date nothing has been identified. So I think NIOSH foresees a dead end here. Although when they're looking for other materials, it may turn up, but at this point nothing has been identified.

DR. ZIEMER: What will be the impact of that?

MR. GRIFFON: I guess it was another way to lend a level of confidence in the database itself, the reliability of the data in the database.

DR. ZIEMER: That would be a kind of an independent assessment of data quality?

MR. GRIFFON: Right.

And the last item, number six, the other part goes on the next page, this is a dead end. I think this action is no longer outstanding. There was some discussion of the fact that Y-12 had received permission from

DOE for using the electronic record as the record of, the sort of legal record; and therefore, the raw data records might have not been kept. And but there was, theoretically they thought they could find some memorandum to this effect, and they could not produce this. So I think they've sort of stopped that action.

DR. NETON: Mark, this is Jim Neton. I can give you a brief update as to where we are with some of this. It turns out that we have identified a source of the original IBM punch cards that were used to record the data. In fact, the cards were sort of pre-made out and in the laboratory, the lab analysts wrote the results on the card and then they were keypunched. ORAU is going over there now to review this cache of these punch cards.

MR. GRIFFON: So this is not lab books, but it's punch cards?

DR. NETON: Right, the lab books just turned out to be a dead end, but the punch cards are there. And we've identified the room and the person that owns them right now. And they're going to go through and try to pull out some

representative samples of those cards.

MR. GRIFFON: That's a good find.

DR. NETON: Yeah, that was encouraging. We had a conference call yesterday on this issue.

MR. GRIFFON: Any other updates on that item, Jim?

DR. NETON: No, I think that was it.

MR. GRIFFON: On to the next page, 1a-3, and you'll see no action, and that means it's basically not considered an SEC issue here. One a-4, again, no action, so that 1a-5, 1a-6, same thing, no action. And on these when we say no action, again, we're saying it doesn't appear to be relevant to the SEC review. It's still on the site profile.

DR. ZIEMER: The site profile issue, but not --

MR. GRIFFON: Right, right, so we did try to narrow down issues here.

On to the next page, 1b, this was a major part of our discussion in the work group meeting surrounding the 6,000 pages, yes, 6,000 scanned pages that were identified, so we'll step through these. Item 1, the thorium air sampling data, this particular dataset is

post 1960, so it's not within the time frame of the specified SEC petition. So there's no outstanding actions on that.

Item 2 was an update on the 6,000 pages. NIOSH provided this to SC&A in its raw form, and also an ORAU team led by Mel Chew, I believe led by Mel Chew anyway, took a close assessment of this data. And there's several actions in here if you can sort them out. I'm going to try myself, but --

DR. ZIEMER: Yeah, Mark, let me interrupt, Ziemer here. On that first item on the thorium, the sample database is not within the sufficient time frame, right?

MR. GRIFFON: Right.

DR. ZIEMER: But if we had inhalations, I'm trying to get an understanding of, could there not still be individuals who got exposed at that time that are carrying body burdens forward into the specified time interval?

MR. GRIFFON: Well, this is air sampling data, I believe.

DR. ZIEMER: It wasn't used then as bioassay data so they don't need that for --

MR. GRIFFON: Well, that's the impression

right now. Jim, can probably speak to this better, but the indication we have there's still an outstanding question about thorium exposures in the '50s. There seems to be some question of, at least some pilot-run-type activities for pilot operations. And just how they're going to be assessed from a dose standpoint I don't think NIOSH has presented that to us yet. They're still reviewing that. But this air sampling data was for later years with different, I guess sort of a full production runs and they felt --

DR. ZIEMER: So these are for later years?

MR. GRIFFON: Yes.

DR. ZIEMER: Oh, not prior, oh, okay.

MR. GRIFFON: Post-1960.

DR. ZIEMER: Okay, post. Okay, that answers my question.

MR. GRIFFON: I guess because of the different types of operations they didn't feel that it would be necessarily a factor extrapolation or anything.

DR. ZIEMER: So that's post-1960. I missed that. You're fine.

MR. GRIFFON: So in item 2, the 6,000 pages

Mel Chew and his team actually assembled all this data in an Excel spreadsheet. I believe the spreadsheet's going to be provided to the Board and SC&A.

DR. NETON: Mark, this is Jim. I put it out there this morning on the O drive. So there's 7,400 individual bioassay records out there now on an Excel spreadsheet including some thorium results by the way.

MR. GRIFFON: Two a, they agreed to, in looking at this, what we're calling the Delta View dataset or data -- it's sort of scanned images in. It's not really a database. But in querying this dataset I guess ORAU and the team requested other radionuclides other than uranium, which was the task at hand. But in doing so several of the sheets also in addition to running for urinalysis for plutonium, for instance, they often did uranium urinalysis so now we have this new cache of uranium results.

And in item 2a we're asking NIOSH to give us an assessment of whether these uranium results within the Delta View dataset are bounded by the results in the larger CER

database. It seems like they are not included in the CER database necessarily, but it may be that the results are bounded by the distribution that's developed from the CER dataset if that makes any sense to people.

Did I state that correctly, Jim?

DR. NETON: Yeah, you got it exactly right, Mark.

MR. GRIFFON: So we're looking at additional, there may be some uranium data, and we're going to assess that. That's where that stands. I guess that's 2a and b, I kind of, I think I put those two together.

Two c, we asked that in the discussions there was quite a bit of useful presentation from Mel Chew regarding the Calutron/cyclotron production histories and the different runs that went on. And they said they could actually assemble a timeline and references for these production runs which might be useful in terms of looking at the source of different exposures over time. So they're going to do that as well.

DR. NETON: Yeah, Mark, this is Jim. Those references are now out there as well. I will

put out an e-mail later today to the working group and SC&A folks to outline what we've put out there in the last day or so, but they are there.

MR. GRIFFON: Great. Is that someone else, I'm sorry.

DR. ZIEMER: Go ahead.

MR. GRIFFON: So then we're on to item 3. Item 3 is the other radionuclides outside the Calutron/cyclotron processing -- and I'm just reading along with you here. So we have these other sources of exposure that NIOSH is going to look into including plutonium, uranium-233 and neptunium components.

And also further down there's this other question of the thorium processing that has come up. And this is the pre-1960 pilot runs is what we were led to believe anyway. So this is still an outstanding item, and I think it's outside the information that might have come out of those 6,000 pages.

Jim, is that correct? Hello?

DR. ZIEMER: Maybe we lost Jim. I don't know. Jim, are you there?

MR. GRIFFON: There was some static on the

line there.

DR. ZIEMER: No, go ahead.

MR. GRIFFON: Anyway I believe that's an outstanding item they're pursuing.

And then item 4, the X-10 department information, X-10 department 4000 or 4-X-X-X, actually, the 4000 series of departments, was theoretically supposed to be the X-10 workers that worked at Y-12, I believe, in these operations. And we were or NIOSH was considering looking at that data as another source of characterizing exposures in the Calutron/cyclotron areas for these runs. But I think they've sort of are not, no longer pursuing this approach in lieu of the, I think they're going to use the 6,000 records of production histories instead of that.

And then number five is the recycled uranium and the recycled uranium, I think, let's see -- there was a presentation of how they were going to handle recycled uranium in the original TBD, Table 5.2. SC&A provided comments, and I think NIOSH is reviewing SC&A's comments and were going to give an update on that. And the issue here, the

primary issue here I think is one of where these materials might have concentrated in various areas around the plant so as to have different ratios in different areas and how you place people in time, similar issues we've had before.

Going on to 1c, 1c-1 has no applicable items really for the SEC. On down to 1d, that whole page no action items remain for the SEC, 1d, 1e-1 and I think we're on down to external; 1f is also no action items, right?

DR. ZIEMER: Yes.

MR. GRIFFON: External dose issues, item 1a is very similar to the internal item 1a which is looking at the reliability of the database data for purposes of coworker models and you can see the (unintelligible) NIOSH has provided this information. They've completed those actions.

Item 3, NIOSH provided the data on the 147 workers. This was a previous action item, and SC&A has just done a preliminary review of that data, and we feel like we're in the middle of a discussion on that really.

The fourth item this is a comparison

between hard copy records similar to what Jim was just referencing was the punch cards, testing the, or checking the reliability of the database. And one source of analysis came from the Delta View data records. There were some external radiation records in there.

NIOSH provided a report on their comparison of those external raw records with the database concluding that actually there was a pretty good match. SC&A and the work group have not had a chance to really review that report, so we're in the middle of looking at that. And NIOSH only did a sample looking at 1953 records out of that. So again, this is an outstanding item to check raw records to the extent we can support their reliability or confirm or deny the reliability of the CER database.

And then the fifth item is the same quality control item, and again, they haven't found these sort of quality control reports they were hoping to uncover.

DR. NETON: Mark, this is Jim. I'm a little confused on number three where we're at. I guess I thought we had sort of come to some

conclusions there that --

MR. GRIFFON: My understanding from SC&A is that they -- is John on the line?

DR. MAURO: Yes, I am. Go ahead. I'll pick up after you proceed.

MR. GRIFFON: Well, I'm asking you for a response. Where do you think we're at?

DR. MAURO: With regard to the use of the 140 data, I see that as more of a site profile issue whereby the extrapolation method that's being used where they have 147 datasets that was compiled as a means to extrapolate back to predict what doses the workers were pre-1961, that the procedure, a sophisticated statistical method, and we are looking very closely at that from the point of view that this fundamental theme here is that the data that is available represents those workers that experienced elevated exposures and not a cohort sample so to speak.

And that goes to the question of can you use the approach, the statistical approach, as laid out in one of their procedures -- I forget the number -- as a good means, a coworker approach, to reconstruct the

doses pre-1961? Bear with me for a minute. I don't see that as an SEC issue, and the reason as follows: that approach, though it may have certain questions regarding is it really the optimal approach for reconstructing, for a coworker dataset for reconstructing doses. There are other approaches that could be used that would be more claimant favorable that we are currently looking at in looking at the records, the 147 records.

But it really becomes a matter of has NIOSH developed a protocol that is scientifically robust and claimant favorable? But it's really a matter of degree, and this is where a judgment will have to be made as to which strategy is the one that's most scientifically robust and claimant favorable. I don't see that as an SEC issue because there is a strategy.

In other words, we believe that you can reconstruct these doses, the external doses, and it's really a matter of how conservative do you want to be. So I guess I'm hoping that helps answer the question. We see it as certainly a site profile issue but

not as an SEC issue.

MR. GRIFFON: Well, the --

DR. MAKHIJANI: Mark, may I add something. Joe is not on the call, and before Joe left, and even after he left, we had some exchanges of e-mails and this is sort of an, like a yesterday and today issue. I'm sorry for the additional comments here, but Joe had asked me to make sure that the paper that George Kerr handed out on February 27th, which only he and I have since we were the only SC&A representatives there, was properly reviewed internally. Now I sent it to Ron Buchanan yesterday, and then he sent a preliminary response back.

I had some questions about one of the items in relation to the increase of beta doses that was significant on a per person basis within the 1950s which is not explained in the analysis by Dr. Kerr. And I would say that while broadly, you know, all of us thinking like John, but some questions that we need addressed in the paper that Dr. Kerr handed out.

DR. MAURO: This is John Mauro. I hope you

can hear me okay. I heard some noise on the line.

Yes, there's certainly some issues related to the patterns of exposures we're looking at in pre-'61 and whether or not those patterns are indicative that perhaps these are not the high end population or cohort as represented. And I think those certainly need to be aired out.

DR. NETON: I'm a little confused though, this is Jim Neton. The 147 worker extrapolation only refers to photon exposures and Arjun mentioned something about beta exposures.

DR. MAKHIJANI: But we were asked to evaluate, in looking at the question of external exposures, Dr. Kerr handed out that paper. And when we looked at that paper, there was a question as to who was monitored in the '50s. And there's a smaller anomaly like that in gamma doses, but it's very pronounced in beta doses, and the question really only arose as to who was monitored. Looking at those beta doses you expect the beta doses to be sort of higher because they

were handling uranium presumably. And so this is a question that just arose examining Dr. Kerr's paper.

DR. MAURO: Let me add a little bit to that. We're looking at that data as another metric as a way to convince ourselves that in fact the measurements that were made in the 1950's up to '61 were in fact these high-end exposures. And in the end if we come to closure on that, then the extrapolation method works.

However, if we run into some issues that in fact maybe there's some question whether it's because of the beta/gamma skin dose or it has to do with the whole body photon dose. As the data reveals itself to us and we look at it, we find that maybe there's still some question. Then there might be some other strategy that might be employed that would be more claimant favorable. But again I'll say it, I think this is a subject for site profile not for SEC.

DR. NETON: Okay, well, I guess we'll receive some comments from you then because this is news to me on this analysis of --

DR. MAURO: Yes, this is actually, as Arjun pointed out, something that was discussed amongst ourselves only within the last day or so.

DR. NETON: Okay.

DR. ZIEMER: Okay, so the working group and SC&A will need to touch base further on this with NIOSH then.

MR. GRIFFON: That's part of the reason I left that open, Jim, because I think we had just received the George Kerr report, too, at the last meeting so I didn't know if everybody -- we got the presentation of it at the meeting but I wasn't sure if it had been fully reviewed.

DR. MAKHIJANI: Yeah, one item -- this is Arjun. One item I might request if Dr. Kerr can send us a spreadsheet on which those graphs were based because it's awfully hard to try to read off the numbers on the graph. They are in logarithmic plots and so a small, small errors in reading kind of could make a big difference as to, so if we could have the spreadsheet that would be very useful.

DR. MAURO: And also, Mark, this is John

Mauro again. The statement I made, in other words, we're almost in real time now, in looking at that issue, Kerr's data, in effect, we had a conversation and the consensus among the SC&A folks right now is that this still resides in the realm of site profile. However, you and I and the working group, the rest of SC&A really haven't had a chance to engage you in this discussion.

So I don't want to by any means preempt the working group's position regarding whether or not this particular issue is clearly only a site profile issue. But right not, at least internally to SC&A, the general consensus is it is a site profile issue.

DR. NETON: So are we going to remove it from this list then or not?

DR. ZIEMER: I think you need to wait and discuss this further.

MR. GRIFFON: Yeah, I'd like to, if we could hold it on there at least until the next work group meeting, Jim. I'm actually proposing that we have another meeting before the April Board meeting.

DR. NETON: Yeah, I think I agree with that.

MR. GRIFFON: Yeah, and then if we can just hold it as an open item for that time I'd feel for comfortable because I also raised with George some questions about the -- and I'm not sure if it comes up in there, this action item or a later action item the 2A-1, but the question of whether the highest exposed individuals were likely included or covered in the monitoring program. And I gave him some specifics on some departments of concern which I don't think we should go into, might be some classified issues around that.

DR. NETON: Okay, I know where you're going with that, Mark.

MR. GRIFFON: So that's part of the reason I left it an open item as well.

DR. NETON: Okay, that's fine.

MR. GRIFFON: Item 4 we just went through and then item 5, okay. So we finished that unless these there's other comments on that section.

Going on to the next page, 1a, 3, 4 and 5 are all removed for SEC issue purposes. One a-6, that was just an action to provide the models, and they have been provided.

And then on to 2a, and this is really the question of the maximally exposed individuals. And I think in action one we're really deferring this action to sort of the sample DR cases will demonstrate the proof of principle here. And that's where we'll really get to review how this is being implemented. So that's being shifted into a question of NIOSH will give us a sample dose reconstruction applying this methodology, and then we can, it sort of for proof of principle.

Item 2, NIOSH is going to give a response on this criticality action. I think, Jim, you said you had prepared, or there was some draft preparation in this.

DR. NETON: That's right, we have a whole TIB on reviewing this criticality action. And you know, we've done so much I thought I had provided it, but we will get you a complete analysis of that scenario.

MR. GRIFFON: Then on to item 4, or wait, item 3, I'm sorry. NIOSH provided an addendum report. I think this was the real, that's where I was referencing the George Kerr

report. And I think George gave us two reports, didn't he, Jim? I'm trying to remember all this.

DR. NETON: You know, I don't remember. I know the one that we just talked about.

MR. GRIFFON: I believe there was one before that, but maybe I'm, I have to go back and look. Anyway, there's at least some George Kerr analysis on this issue. And I believe this is what Arjun and John were just referring to, and I think that's sort of an open discussion item still.

MS. MUNN: Are we on item 3?

MR. GRIFFON: Yeah.

MS. MUNN: So we're talking about DR and Kerr's report?

MR. GRIFFON: No, item 2a-1, item 2a-1, and then action number three.

MS. MUNN: Action number three.

DR. NETON: And Mark, honestly, I don't know what this addendum is that we're talking about here now.

MR. GRIFFON: Well, I thought that George's last report -- I can correct this if I'm in error --

DR. NETON: Oh, I'm sorry, it said NIOSH provided. I see, I thought we were to provide. Okay, yeah.

MR. GRIFFON: You provided this report.

The next item really should be a follow-up to three, SC&A will review those two reports and provide comments. It sounds like John's saying that you've done a preliminary review, and we just need to bring that back to the work group and discuss it really.

DR. MAURO: Yes, that's a correct characterization.

MR. GRIFFON: Finally, item 5, NIOSH will attempt to determine, this is actually the assembly worker question.

DR. NETON: Mark, Mel Chew and Bryce Rich are going down to Oak Ridge next week to attempt to address this issue. And we may need to have some communications related to that.

MR. GRIFFON: All right. And on to 2b-1, I guess SC&A provided comments to TIB-0051.

DR. MAURO: Yes.

MR. GRIFFON: And we need a response from NIOSH sort of so we're in the middle of

discussing TIB-0051 which is a new TIB developed by NIOSH and ORAU.

DR. NETON: Right, but we had some fairly good discussions, I thought, about it, and it seemed to me that most of the issues that were raised we kind of addressed at our working group meeting.

DR. MAKHIJANI: Yeah, this is Arjun. I think Jim is right about that. I think the principles were articulated at the February meeting and then what remains I think is to show that those principles can actually be applied to a dose reconstruction. That's why in the sample list there are some neutron items because practically how the knowledge of tail of the distribution is going to be extended to the areas where there were no measurements. That practicality I think is outstanding. The principle, I think Jim is right, discussed on February 27th.

MR. GRIFFON: So can this be changed to sort of like the way I had the previous action where NIOSH will demonstrate proof of principle in a sample DR?

DR. MAKHIJANI: That's the best of my

recollection, Mark. I mean, I think the principle was outlined.

John, you were on the call so jump in.

DR. MAURO: Yes, this is John Mauro. I think, in fact, all of these issues that we're discussing now related to Y-12 have matured to the point where now we believe that really closure is going to occur or not when we move into the sample dose reconstruction. You probably have all received a list of, I believe, 11, what I will call sample cases that will test just about every issue that appears to be coming to closure here on Y-12, but to see if in fact the rubber meets the road going through these cases. I believe we delivered that list only recently.

Arjun, did you send that out over the weekend?

DR. MAKHIJANI: I did send it on Sunday, John.

DR. MAURO: Okay, on Sunday, so you folks may or may not have seen it. I believe it's 11 items.

MS. MUNN: Yes, very thorough I might add.

DR. MAURO: And I think now we recognize the

degree to which NIOSH can in fact do that sample cases. We're in the part of the process now where I see it as that's where we are, cases being developed and presented that test each one of the issues and how they will be closed. I think we're really, in my mind stepping back, we're in the home stretch of either coming to closure on the issues that yes, in fact it appears that that strategy works or it does not.

And now bear in mind that I think that issues related to data reliability, this is more of an amorphous type of matter that's under both internal and external, that in effect, once there is consensus that we've achieved data reliability then we can go through the cases using that data and using the protocols as developed by NIOSH to see how well they serve us. That achieving closure on data reliability questions in my mind right now, in fact, I'd like to put this on the table a bit, is how do we get there?

A lot is being done looking at data, making certain comparisons as laid out in the action items. I guess it's a little bit

ambiguous right now as how do you really get to the point where we say I think we're okay or not?

MR. GRIFFON: Can we just hold off on that one for a second, John, and just finish these last couple of items --

DR. MAURO: Sure.

MR. GRIFFON: -- and go back to the summary of the whole.

Under 2b-1, item number two, NIOSH is going to provide a new model for beta exposures. Is that correct, Jim?

DR. NETON: Yes.

MR. GRIFFON: And then as John just started discussing, item three, the sample DRs and there are 12 sort of scenarios.

DR. MAKHIJANI: There's 11.

MR. GRIFFON: Eleven that SC&A has mailed forward. And I just wanted to say I generally agree with John, since he added on the reliability part I generally agree that most of these issues are going to come down to let's do some sample cases and demonstrate, sort of proof of principle here. But the data reliability question does still hang out there

over all this on both sides, external and internal.

So with that in mind, John, I think we can get back to your discussion of how do we get to closure on the data reliability questions.

DR. ZIEMER: Well, before we discuss data reliability per se, let me just ask -- and thank you, Mark and work group, for it looks like you made good progress. I want to ask two general questions. Do you feel like we're pretty much on schedule now for the April meeting? Or to put it another way are there any show stoppers? And is it going to, it looks like it's going to come down to the data reliability issue?

MR. GRIFFON: It sounds, I mean there's some pieces that we still haven't heard about, the other radionuclides other than the cyclotron/Calutron. And I'll speak from my standpoint anyway. The cyclotron/Calutron I don't know that we have a clear model of how workers in those areas are going to have the dose assessed. It wasn't clear whether there was enough isotope specific data in those

6,000 pages that Jim just mentioned. It's on the O drive now, the spreadsheet related to the 6,000 pages.

So we're not clear on valid data there, but otherwise I think the data reliability question has been the big question as to how long is it going to take to locate some of this raw data and to do a sampling comparison against the CER database. And it sounds like they've made good progress in that regard.

MS. MUNN: It sounds like we're pretty much on track from my point of view.

DR. NETON: This is Jim Neton. I tend to agree with the two big issues in my mind are related to the other radionuclides that we're working towards very intensely right now and some degree the data reliability although I asked that question very early on if we can't identify all these sources to validate the pedigree where do we end up at the end of the day given that there's been no indication that the data are corrupt in any way?

But the other big issue that I think we need to knock down, and I'm a little bit

discouraged from our call today that the highest monitored workers for external, I think two or three meetings we've sort of put this to bed I thought, and it keeps resurfacing. We really need to get that resolved if we're going to make any progress, and I'm somewhat concerned about that because we've provided numerous approaches to addressing this issue and even that analysis, 147 worker, that SC&A did, I saw nothing in there that indicated that we were off base. And now again we're morphing into another discussion so that's my concern.

MS. MUNN: I'm a little surprised about that too. I was feeling comfortable about it.

MR. GRIFFON: I mean, you said that Mel Chew and someone else are on their way to Oak Ridge.

DR. ZIEMER: Bryce Rich.

MR. GRIFFON: So clearly, there was, you saw an action there, too, Jim, that --

DR. NETON: That's the other radionuclide issue. I mean, they're down there working on the other radionuclide and in addition I will say that the --

MR. GRIFFON: But I thought you were assessing the assembly worker. You mentioned that after --

DR. NETON: No, the assembly worker, that's a separate issue, but I think we're still talking about this 147 projecting back into 1961 independent of that assembly worker issue. And I'm somewhat concerned --

MR. GRIFFON: Well, part of the question I was raising was with regard to the highest monitored, you know, highest likely exposed workers were monitored was the question of were they monitored in these assembly areas?

DR. NETON: Right, and I agree with that. That needs to be addressed.

MR. GRIFFON: That's where --

DR. NETON: I'm hearing some dissention even among SC&A when John has one opinion and Arjun says no, it's not exactly that. So we need to come to grips with this. We can't keep working to moving targets like that.

MR. GRIFFON: I agree, but also I want to say, Jim, we received that report the day of the last work group meeting from George Kerr, that second one, so I don't know that, you

know.

DR. MAKHIJANI: This is Arjun. I think because we have been in this real time kind of science discussion it does make it very difficult because it's not possible to resolve all discussions internally and then present a finished product. This issue that I brought up really arose as a result of the analysis for which we do not have the data and spreadsheets. We have just graphs on logarithmic paper, but George Kerr put on the table this information was not provided before to my knowledge.

Now I haven't been involved in the site profile review, and so Joe left me with this responsibility. And so I do feel my duty to look at that paper and see that the analysis is properly completed. And we just began this analysis so it's very natural that we're going to have maybe different ideas of which pieces of it are important. But I don't think, I don't know that John even has got the George Kerr paper as yet.

DR. MAURO: No, if again I guess this issue again, I think we owe the working group

a discussion with Mark related to whether we're talking an SEC or a site profile issue here. I think that there are matters, technical matters, that we're engaged in right now, as Arjun described, that warrant discussion.

The more important question at this time is whether or not those discussions somehow will bear on this being an SEC issue or not. And I think certainly we owe it to the working group to have this discussion with Mark and the rest of the working group so that the working group could come to its own judgment as to whether we want to drop it in the box as still an issue that requires SEC consideration or whether or not it's off the table.

DR. ROESSLER: This is Gen. As a part of the Board not involved with the working group and these discussions, this whole conversation has been quite confusing because I'm not quite sure what we're concentrating on. And I think before we have our next meeting we need some clarity and some agreement and a presentation that we can understand that doesn't take us

off in various directions that aren't pertinent.

MS. MUNN: Gen, your voice is very faint when you come on.

DR. ZIEMER: Right now, Gen, this is primarily a status report so that we know what issues have been addressed, what issues are ongoing, which ones have been closed. But clearly the working group is going to have to meet again at least once with SC&A and NIOSH. And ultimately the question that John raises on credibility or the data reliability is a judgment the Board will have to make based on the criteria that we set up spelled out in the Melius document, the pedigree of the data and the internal consistency and representativeness of the data as it relates to other information sources and so on. So ultimately that will be a judgment the Board will have to make.

DR. ROESSLER: I got off the speaker phone now. I wonder if I can be heard more clearly.

DR. ZIEMER: Yeah.

DR. ROESSLER: That probably helps. I guess my point was that by the next Board meeting

when we do have to vote and when those of us who have not been involved in the work group are required to vote that it becomes much clearer what items are important to the data reliability and what for the SEC review, and what items are not.

MR. GRIFFON: Right, I think one thing we need to do maybe by the next work group even is ask NIOSH to look at SC&A's list and come back to the work group with some of the sample DRs because that will sort of show proof of principle in all these areas where we're concerned.

I do think that 147 worker question is close to closure, Jim, so I just left an opening because I'm not completely sure everyone's reviewed that last document provided, but I think we're making headway on those issues. I think we're also still receiving new stuff in a real-time basis as Arjun pointed out. And the last item, these data cards, could go a long ways towards this question of database reliability. So we've got some loose ends, but I think we definitely can tie it together in the next work group

meeting and with some sample DRs really show proof of principle for areas of concern back to the petition class. That'll be our product for the Board meeting in April I believe.

DR. WADE: This is Lew Wade. Maybe I could just talk a little bit about what's in front of us to sort of bring some context to the discussion. Again, it is all of our hope, it is certainly NIOSH's hope, that the Board will vote on this open Y-12 SEC petition at its meeting in Denver at the end of April. That means NIOSH has to have a definitive evaluation report before the Board and the petitioners in early April.

NIOSH will be working towards the production of that report. Obviously, the more issues that can be resolved before NIOSH finalizes that report it would form NIOSH's activity the better. It's quite possible the issues on data reliability will be left for the Board to decide on when it votes on the petition. What I see happening in April is on day one of the meeting we'll have a thorough vetting of the site profile issues, hopefully as much closure as we can bring to bear, and

on the second day we'll get into the SEC issues, and we'll come to the point where the Board will vote.

So the working group needs to take into account the fact that NIOSH will be preparing a definitive evaluation report in early April. What we can do towards making that a consensus quote/unquote even the better.

DR. ZIEMER: Thank you, Lew, that's very helpful. There's no action required of the Board today, but we do want to make sure if there are still outstanding questions Board members wish to raise right now on Y-12 to do so. Any issues you want raised with Mark or with Jim or SC&A with John?

(no response)

DR. ZIEMER: If not, I thank you, Mark, for the work of the working group and as well as the others involved.

MR. GRIFFON: I think the one item, I don't know if we need to do it here but since everyone's on the call we do need another work group meeting for this. And with just following up with what Lew said if we're going

to get an evaluation report in early April, I think we need to do this probably in late March. So I don't know if anybody, if you want to think about dates maybe at the end of the meeting today and whenever we can --

DR. ZIEMER: Yeah, and probably, Mark, well, it's you and Wanda and --

MR. GRIFFON: Mike and Bob.

DR. ZIEMER: -- Mike and Bob, right?

MR. GRIFFON: Right.

DR. ZIEMER: And maybe you can work that out individually by e-mail or something afterwards.

MR. GRIFFON: Yeah, but we need SC&A staff and NIOSH for that.

DR. ZIEMER: Do you want to try to identify right now some times?

DR. WADE: We could do it now. The last agenda item on today we're supposed to work on that, but --

MR. GRIFFON: Okay, that's fine because it impacts Rocky as well probably so --

DR. WADE: It also could impact, you know, SC&A has an SEC task that we'll talk about after lunch.

DR. ZIEMER: Let's do all those then at the end when we have it on the agenda. I notice it's 12:30. I'm wondering if we shouldn't just take our break now and then start Rocky Flats after the break. Is that --

DR. WADE: This is Lew Wade again. I know that there are petitioners and interested parties for Rocky Flats on the line. I mean, the Board does reserve the right to be flexible with its agenda. I would hope that you would be able to accommodate our taking a lunch break and then coming back and working on Rocky Flats immediately after lunch. If there's a strong objection, please voice it.

(no response)

DR. ZIEMER: Are there any Rocky Flats folks on the line for whom that would be a difficulty?

(no response)

DR. ZIEMER: I hear none. I'm wondering also, Board members, can we cut the lunch break down to 30 minutes?

MR. PRESLEY: This is Bob Presley.

DR. DeHART: I'm here by the phone. It doesn't matter.

DR. LOCKEY: Do we hang up and call back or what do we do?

DR. ZIEMER: I think we hang up and call back, don't we, Lew?

DR. WADE: Right, you could do either, but that's normally what we would do. The line will be open.

MR. CLAWSON: This is Brad Clawson. I need, I got your Y-12 site profile, but I never got a Rocky Flats profile.

DR. WADE: Okay, I'll try and re-send it. I did send it, Brad, but I'll try and send it again.

MR. CLAWSON: Okay, I appreciate it. So we're going to reconvene in --

DR. ZIEMER: So we'll recess for 30 minutes, reconvene at one o'clock. How's that?

(Whereupon, a luncheon break was taken at 12:30 p.m., and the meeting resumed at 1:00 p.m.)

REPORT OF WORKING GROUP: ROCKY FLATS SITE PROFILE

DR. ZIEMER: We're ready to reconvene the meeting back to order. We're ready to take up the next agenda item which is a report of the working group on the Rocky Flats site profile. And again Mark and Bob and Wanda and Mike were

that working group. And you should all have, in addition to the minutes of their meeting of February 21st, you should have the Rocky Flats matrix with actions as of February 27th. I think the matrix date is February 27th. Everybody have that? And again, Mark will basically give us an update of where we are on Rocky Flats' review and have a chance for questions or comments.

Mark.

DR. WADE: Paul, this is Lew. Just very briefly, I won't repeat my message about Y-12. It applies to Rocky Flats as well. Again, NIOSH intends to present a definitive evaluation report to the Board in early April with the vote at the Board meeting hopefully at the end of April.

I would just take a moment if there are people involved in the Rocky Flats petition who are on the line, possibly they could identify themselves so the record could reflect their involvement. Anyone from Rocky Flats with us?

MR. DeMAIORI: Tony DeMaiori with the USW, and I'd also like to state that Jennifer

Thompson couldn't continue on the line because she has a job.

DR. ZIEMER: Okay, thank you.

MR. HILLER: This is David Hiller with Senator Salazar's office calling from Denver.

DR. ZIEMER: Thank you, David.

Any others?

MS. BARRIE: This is Terrie Barrie with the Alliance of Nuclear Worker Advocacy Group.

DR. ZIEMER: Thank you, Terrie.

(no more responses)

DR. ZIEMER: Okay, Mark, why don't you proceed?

MR. GRIFFON: Sure. For Rocky Flats there's one note I should make on the matrix here, and the minutes also, the one set of minutes I should have mentioned before cover both Y-12 and Rocky so that part of the minutes will reflect these actions in here.

But one important note on the top of the matrix you'll see for Rocky, which really didn't come up in the Y-12 site profile, but it's basically saying additional issues may arise as a result of the review of the petition and amendments and NIOSH's evaluation

report. And that's particularly important I think for the Rocky one because the petition in total, I guess with the amended parts is some 700 pages or more.

And actually, I had not at the point of this last work group meeting I had not gone through the whole petition myself. And I know that the issues as defined here in the matrix come from SC&A's review of the site profile. So I think we certainly, I don't know if NIOSH has looked through the entire petition.

I think we need to ask, I think SC&A has done a preliminary read on it, and I think in lieu, now since we're in the SEC task I think it's appropriate that the Board or the work group ask SC&A to look at the entire petition and make sure that there are not other relevant issues that would add to this matrix. I wanted to note that up front.

DR. WADE: We'll deal with that specifically through the next agenda item, Mark, but thank you for putting it on the record.

MR. GRIFFON: And then so just to go through these, comment two, some of these comments are, have multi-parts to them. Comment two

happens to be one of those that has several pieces to it. But basically, it's the super-S plutonium question, and NIOSH has developed a Technical Information Bulletin 49 and has now provided that as of several days ago to the work group and SC&A. I think we're still waiting for the chief data and analysis files that go along with that TIB-0049, but they will be provided by NIOSH.

DR. NETON: Yes, that's right, Mark. We're still, we lost a couple days due to, as you may have heard, a small fire in the building here, and I've got a draft on my desk right now. I hope to get it out fairly soon.

MR. GRIFFON: And 1b is NIOSH will provide all data and analysis related to the USTUR, the Transuranic Registry autopsy cases which are used not, my understanding is not directly in TIB-0049, but they're used to sort of bound the approaches outlined in TIB-0049.

DR. NETON: That's correct.

MR. GRIFFON: And 1c is NIOSH will provide a procedure for addressing the GI tract doses from the super-S plutonium exposures. I think that was in development, right, Jim?

DR. NETON: Correct.

MR. GRIFFON: So that's also a deliverable.

And 1d, NIOSH and SC&A will set up a conference call to follow up on -- there's a lot of details in this. Basically, the TIB-0049 is looking at some case-specific data for Rocky cases where known exposures to super-S-class plutonium occurred and there was extensive follow-up monitoring that was done. So they're using these cases along with some from Hanford, I believe, to sort of develop adjustment factors for the S-class model.

And in discussing this we get down into the details of the ICRP modeling and the methods for calculating doses to various organs there. And so we decided to set up a, let them have a conference call separate from the work group to work on some of these details. And I don't know. I don't think that's occurred yet. I think you still have some items to deliver and then you're going to set that up probably.

DR. NETON: Yes.

MR. GRIFFON: Anything to add on comment two?

DR. ULSH: I don't think so. I think that pretty well covers it.

MR. GRIFFON: Is that Brant?

DR. ULSH: Yes, sorry.

MR. GRIFFON: Then going on to item four. This is the question of the americium question, americium-241 and how this would affect the in vivo counting I guess. And I think I left the meeting actually before this was finalized, but I think that there was some good discussion on this issue. I think really where we're at is that SC&A would still like to see the supporting documents to back up the assertions. The presentation by Roger Falk seemed reasonable, but I think SC&A was asking for some of the documents that supported that approach to that presentation.

DR. ULSH: So you're looking for some documentation that older plutonium, aged plutonium that came back to Rocky Flats, as Roger explained, was then mixed with newer plutonium, which would have had the parent for americium. And you're looking for some documentation that occurred? Is that kind of the nugget of it?

MR. GRIFFON: I think that's it, yeah. SC&A, if --

DR. MAKHIJANI: Yeah, this is Arjun. Yes, what Roger said that the concern that we had raised earlier that plutonium-241 concentrations would go down over time with decay with the 14.4 year half-life. And then you'd lose your americium signal after that plutonium was refined. We indicated that plutonium-241 concentration was never allowed to go down below a certain amount and because of specifications of what Rocky Flats had to produce.

And it seemed to me that a reasonable thing, and Joe and John and all of us talked about it afterwards, and that's where we are. But we thought that the process of control of this plutonium composition and who worked on what, when needed to be examined to make sure that the degree to which it occurred and what's in the site profile is right. The site profile has only two plutonium-241 concentrations and so we thought that some verification of this, just a purely oral presentation, was needed.

DR. NETON: Yeah, Arjun, this is Jim, Jim Neton. We had discussed at the meeting I thought that we felt that if you could do a plutonium urinalysis, which was done throughout the operating history of the plant for workers, would bound that, and that this would only apply to when we were using in vivo counting.

DR. MAKHIJANI: Oh yes, I agree. This only applies to in vivo counting of course. But I don't know whether, yeah, I don't know when you're going to use in vivo counting, what the intake situation is corresponding to your mda, whether it would be unreasonably large, I mean all those issues are still in the air.

DR. NETON: Right, but it would seem to me though to be not an SEC issue if we agree that the plutonium would be a bounding analysis. Then it's a matter of whether we could refine it based on the in vivo measurements.

DR. MAKHIJANI: Well, it depends on whether your intake is calculated from your mda limit, and urine would be less or more than your intake from a weak americium signal. I mean, that's what the issue is here.

DR. NETON: I can almost guarantee that the mda for the plutonium in urine will be higher.

DR. MAKHIJANI: Well, I would tend to agree with you qualitatively, but it's a question of just putting it to bed.

DR. MAURO: Hey, Jim, this is John Mauro. I guess we were looking at, you have two fundamental strategies for reconstructing doses. One was developed more recently, implemented more recently which is the chest count. And of course, the one that has been in place all along is the urinalysis. Now I guess we were looking at this as we have a lot to talk about regarding the high-fired plutonium and the implications of it when you're trying to reconstruct doses based on urinalysis. So we saw that as one, I guess, area of investigation that we need to achieve closure on.

The chest count, we saw that as okay, that puts us, once you have the chest count program in place, you basically have now sidestepped the urinalysis issue. It's okay, we've got our chest count, and at least we can say that notwithstanding what happens

regarding the high-fired plutonium issue, if you've got reliable chest count data, at least you have constrained the time period, for example, or the classes of workers that might be at issue regarding an SEC because you could say, well, starting at this point in time, we have the chest count. And we could sort of hang our hat on that.

But we did, now for that reason we bifurcated the two, and now once you do that then it becomes important that we're all comfortable that there are no surprises related to, let's say, areas where you might have some difficulty using the chest count. And I think Roger Falk had pointed out he does not anticipate that because all the information needed in order to interpret the signals coming back from chest count are available to you. So that you could always use your chest count data and reliably predict what the body burden is or the lung burden is on the inhaled plutonium.

So that's the reason why we sort of have these as two separate items. I would agree with you if you were to argue that well,

once we achieve closure on the high-fired issue, and let's say that that's achieved to everyone's satisfaction that you've got a tractable problem, then you don't have to have, then we don't have to engage the chest count as an issue. Although frankly, I think that we probably would like to go down both roads and make sure we're comfortable with both approaches.

I mean I hate to say well, let's just take the chest count issue off the table because we expect to be able to achieve closure on the high-fired plutonium issue related to urine. I think we want to leave the chest count issue on the table until we resolve the high-fired plutonium issue.

DR. NETON: Okay, I understand what your logic is. Maybe we should annotate item number four somehow to reflect that because technically and really you're right. If we come to closure on item two and number four, I don't think in my personal opinion, it doesn't become an SEC issue.

DR. MAURO: I'd agree with that.

DR. NETON: In fact, plutonium is measurable

in the lungs. I mean it's just easier to detect it via the americium as you know. But plutonium does have a finite detection limit in lungs, admittedly much higher. It depends on the person's size, but it's not totally undetectable in lung counts.

But anyway, if we just made that notation I'd feel a little better so that we know --

DR. MAURO: Before we, one more point though. Let's say you do have a pretty good handle on what's in the lung based on chest count for a moment. Don't we still have an issue on the kinetics? So that if you were trying to reconstruct the doses to the bone, liver or kidney from your chest count not knowing the chemical form of the plutonium that you're counting for your chest count, you still have a bit of a problem there trying to reconstruct the dose to the other organs. Would I be correct in that statement?

DR. NETON: No, not really, I think --

DR. MAURO: Then I could use a little help in understanding --

DR. NETON: Yeah, I think we can go back, I

mean, if you know what's in the lung, you can know what's getting out of the lung. And we would apply the solubility factors that were the most generous, and TIB-0049 is our shot at doing that. So we're saying once you know what's in the lung, we would clear it from the lung using the TIB-0049 calculates to the lung, and then we also have the amount that would show up systemically.

DR. MAURO: I stand corrected.

MR. GRIFFON: So Jim, I can say on this, pending closure on item two basically for item four?

DR. NETON: I don't want to browbeat anybody into that but --

MR. GRIFFON: No, no, no, I think we agree on that.

DR. NETON: -- in my mind that's true.

DR. MAURO: Well, I understand what you're saying, Jim, and you're absolutely correct.

MR. GRIFFON: And then item six is OTIB-0050, and I'm not sure where we stand on closure in that one. Can someone help me with that? I guess there's a question of the NTA calibration versus the glass track dosimeters.

DR. MAKHIJANI: This is Arjun. I don't think our team has fully digested the NDRP report. This came up. It was discussed at the Boston meeting. The issue raised there is the NDRP report says the calibration factor for NTA film applies also to the glass track but doesn't provide any analysis. There are few other issues I think that were raised in the February 21 memo sent to NIOSH, but actually, I don't have it in front of me. I have to open it to see what they were. But we're not sure that all of them have been addressed maybe because we haven't gone through the NDRP report thoroughly enough as yet.

MR. BUCHANAN: This is Ron Buchanan. We are presently -- with SC&A. We are presently, I'm presently finishing up the analysis of the OTIB-0050 to be sent to SC&A internally for review to see how it reflects on the NDRP report. The questions on the NDRP that we had was, two, there was two questions.

Number one was using the NTA calibration for the NTP plates rather than having a separate calibration for those. That

was a question. And a number two question was using only a moderated and an unmoderated figure F source, neutron source, to cover all the different energy ranges at Rocky Flats. Those were our two concerns in number six.

MR. GRIFFON: Okay. And I think they're still on the table, right, Jim? Are you, or Brant?

DR. ULSH: I think so. Roger, are you on the line?

MR. FALK: Yes, I am.

DR. ULSH: Do you want to talk about that now or would you rather wait?

MR. FALK: I would much rather wait.

DR. ULSH: Okay, that is an issue.

DR. ZIEMER: It's still an open issue, right?

MR. GRIFFON: We can save that for a work group discussion. It think it's better served there.

DR. ZIEMER: Okay.

MR. GRIFFON: Item seven, now my understanding was, and Roger is on the phone, but I think some of this is described in a TBD but I thought that you were going to provide

support reference documents for the calibration technique. Maybe I misunderstood that in the work group meeting. Is that the case?

DR. ULSH: Okay, Mark, this is the plutonium tetrafluoride calibration information?

MR. GRIFFON: Yes.

DR. ULSH: And I think what Roger said was that that was included in the NDRP. Is that correct, Roger?

MR. FALK: Yes, it is described, I think, on page 16, but it’s in section eight.

MR. GRIFFON: So I thought in the meeting that you said it was described in the report, but you had some backup document that detailed the calibration technique. That was my understanding. Maybe I was wrong.

MR. FALK: It is described on page 14 in the NDRP report. There is also a paper written by Mann and Voss which basically described the initial calibration of that source. And that is a part of the documents on the O drive.

MR. GRIFFON: Okay, maybe that was, is there anything else outstanding on this item? Maybe that is the document I was thinking of unless

SC&A had anything else on this item.

MR. BUCHANAN: This is Ron Buchanan. I just wanted to make a comment, Roger. In the NDRP report they mention it on page 14 through 16. They do not describe any details. Are you saying that the details, all the details available is in that Mann and Voss report, 64 or something around that area?

MR. FALK: That is how they did the initial calibration. They also used the Hanford long counter and also a couple other specialized techniques. But this is the paragraph in section eight is how I did the updated calibration for the neutron films in 1967. And those were the calibration films that we used for the NDRP project.

MR. BUCHANAN: They did not do any re-exposures or anything. They used the old calibration film from the past in the NDRP analysis. Is that correct?

MR. FALK: Yes, we did.

MR. BUCHANAN: Okay, thank you. That would be something I need to look into in more detail on that calibration to solve this issue.

DR. ULSH: So the action item on number seven, should that be shifted back to SC&A's court to review?

MR. GRIFFON: I think that sounds right, yeah. So I'll note that the references have been provided on the O drive and SC&A will review further.

Then I think we're on to item nine, and this is a broader one. It has several actions in it. The NDRP report has been provided and OTIB-0050 has been released for SC&A review, and as Ron just described, he's in the process of doing that.

DR. ZIEMER: Mark, let me interrupt. This is Ziemer. Could you describe briefly for the Board members the content of the NDRP report?

MR. GRIFFON: Well, I'll probably give that to Brant to describe. It's a neutron dose reconstruction project.

Brant, maybe you can give a quick overview of what that encompasses.

DR. ULSH: Well, I'm going to say just a little bit and then maybe defer to Roger since he was the author of it. But the idea of the NDRP was to go back and look at the neutron

films that were taken at Rocky Flats and to correct those recorded neutron doses due to some recognized deficiencies in neutron film.

Roger, would you care to maybe expand on that just a little bit?

MR. FALK: Yes, it turns out that back in 1993 when the Colorado Department of Health with the (inaudible) Med Center was going to do their epidemiology study of the Rocky Flats workers, we had a dosimetry meeting and then the question was raised what is the weakest part of the dataset? And then I mentioned that probably the weakest part of the dataset was the neutron doses which were evaluated by the films in the ‘50s and the ‘60s.

Then the DOE sponsored a pilot study that I was the primary investigator to scope out what was the nature and the magnitude of the problem. And then I gave a presentation to the DOE back in 1994, and the overheads for the presentation is part of the SEC petition documents. And so that is the nature of the problem. Based on that the Rocky Flats DOE sponsored the project to essentially re-read all of the old neutron films to try to get a

handle on what are our best shots at the reconstructed neutron doses for the ‘50s and the ‘60s.

And we finished that project in the year 2004, and the NDRP write-up is a description of the methods and the outcomes that we used for this study. And then we gave all of the data for each affected worker to be appended to that worker’s Rocky Flats dosimetry history.

DR. ZIEMER: Okay.

MR. ELLIOTT: Roger, this is Larry Elliott at NIOSH. Just to provide a little clarification on the context here. Am I correct in my understanding that the neutron films that were used in the ‘50s and ‘60s that the issue about the weakest part of the dataset and those being neutron films is not how they were collected. It was the fact that they were in some cases never read, or if they were read, were never recorded and assigned to an individual. Is that correct?

MR. FALK: No, that is not correct.

MR. ELLIOTT: Okay, I’m sorry then.

MR. FALK: Basically, all the films that

were read the doses were actually assigned to them. What the problem was, especially in the '50s, many of the plutonium workers were not monitored with the neutron film. Therefore, we had to assign some type of a notional dose to those workers. Also, the workers who were monitored with the film the issue was the quality of the reading of the film. That is why we took it on ourselves to actually re-read all of the films that we could find and then match to a worker. And that was about 93,000 films.

DR. ZIEMER: So it was a hundred percent re-read then, not just a sampling?

MR. FALK: It was a hundred percent re-read.

DR. ZIEMER: And what was the elapsed time since the original readings, the smallest elapsed time? In other words, you went back to what years and --

MR. FALK: We captured all of the films that were archived through 1970, although starting in 1970 many of the films were not archived so 1970 was not a well-behaved year.

DR. ZIEMER: I assume you looked at storage conditions and made determinations about

signal fading since --

MR. FALK: Yes, I had personally done that during the pilot study, and I basically observed that the images are just as sharp as I recall in 1967 and ’68. Those were very high quality photographic films of an image.

DR. ROESSLER: This is Gen; I have a question. How did you match then the information with the workers which you said had not been done before?

MR. FALK: We also captured all of the original worksheets. Also, starting I believe in 1960 they started to X-ray the workers’ employee number on the films. And prior to that there was a badge number that we had to correlate with the worker based on the worksheet data which had both.

DR. ROESSLER: Okay, thank you.

DR. ZIEMER: Very good, that’s the answer to my question. Sorry for the interruption, Mark.

MR. GRIFFON: That’s all right, that’s a good clarification.

MS. MUNN: For those of us who have not read the NDRP, what was the bottom line with

respect to your findings?

MR. FALK: The bottom line is that we found the general increase in the doses to the workers and the maximum increase over the lifetime for a single worker was actually 49 rem extra neutron dose.

MS. MUNN: Okay, that's what I need to know, thank you.

DR. ZIEMER: But that had to do with missed doses and so on, not on the readings themselves?

MR. FALK: It was on the readings plus --

DR. ZIEMER: Well, it sounded like you were saying that --

MR. FALK: -- plus the unmonitored notional doses that were assigned. It's the sum of the two.

DR. ZIEMER: So basically, you're using a different algorithm to define the doses based on the reading, right?

MR. FALK: Not really because we had the same calibration films that were used in the late '70s.

DR. ZIEMER: Oh, okay.

MS. MUNN: That was inclusion of possible

missed dose.

MR. FALK: One of the things that we did differently was that we did not subtract off any background tracks; and therefore, that is also claimant favorable.

MS. MUNN: Very.

DR. ZIEMER: Okay, thank you.

MR. GRIFFON: Thanks for that clarification.

Item two is the, there's some additional data University of Colorado, I believe. Jim Ruttenber (ph) has done some work through NIOSH actually and under the medical surveillance program I believe, and there's some job exposure information, particularly I think looking for job category information from that data. And I think they're still working with Dr. Ruttenber to obtain that data.

Is that accurate, Jim?

DR. ULSH: This is Brant. That is correct, Mark. We are still trying to get access to the Ruttenber data. I do, however, want to clarify what we expect from the Ruttenber data once we do get it. I don't think it's accurate to say that we can't do a coworker

dose reconstruction unless we get the Ruttenber data. We are pursuing coworker data distributions now. The Ruttenber data may prove helpful, but I don't think our ability to do a coworker dose reconstruction is dependent on the Ruttenber data. That's one of the --

MR. GRIFFON: I don't think that's stated here, is it?

DR. ULSH: Well, it's not, but it is on this matrix as an SEC issue and I'm not sure that that is entirely appropriate.

MR. GRIFFON: Well, it was an outstanding issue from last time. I guess that's something for discussion.

DR. ULSH: Right, I do agree that it was an outstanding issue. It's just I'm not sure it rises to the level of an SEC issue, and if you prefer we could talk about that at another time.

MR. GRIFFON: Yeah, or maybe a (unintelligible) if you provide another coworker approach and it doesn't rely on any Ruttenber data then maybe this just goes away. I guess that's sort of the way I see it.

DR. ULSH: Okay, that's fair enough.

MR. GRIFFON: Item number three, NIOSH will provide analysis regarding the completeness of external exposure data SC&A will review. I think that's all. I don't have any more expansion on that. I think --

DR. ZIEMER: That remains to be done by SC&A?

MR. GRIFFON: Well, NIOSH has to provide an analysis on it, too. And I've got to say I'm forgetting where I quoted that completeness of external exposure data from. I think that came from one of the internal memos back and forth.

DR. MAKHIJANI: Mark, this is Arjun. I'm not current on everything with Rocky Flats. Joe is not here. He gave me some items to work on. Has NIOSH provided analysis regarding?

MR. GRIFFON: NIOSH --

DR. MAKHIJANI: Ron, do we have this? Is this correct?

MR. BUCHANAN: No, I do not have any data on completeness of external exposure.

DR. MAKHIJANI: I have not seen this, but I

may be ignorant of all this.

MR. GRIFFON: Was that delivered in the last meeting?

DR. ULSH: Yeah, that was our written responses to comment nine that we did provide to, let's see, it was the working group, and I think I sent it to Joe Fitzgerald. We did provide some material there on the completeness of external exposure data.

MR. GRIFFON: Was it just your letter there or was there more than that?

DR. ULSH: Yeah, I think it was my letter. The cover page is NIOSH preliminary responses to issues with potential SEC implications. That's the cover page and then it's our written responses that wouldn't really fit easily into a matrix.

MR. GRIFFON: That's right, so that's why I quoted it this way I guess, yeah.

So you need to look at that letter report, and I don't think because we just got it a few days before the meeting, I don't think it was really reviewed by SC&A.

DR. ULSH: I think that's correct.

DR. MAKHIJANI: I guess this will have to

wait. John or Ron, unless you know something to say, I guess this will have to await Joe's coming back.

DR. MAURO: Yeah, unfortunately, I can't add any more except to say that this, if you recall when we first started to develop a list of focus issues for SEC potential consideration for Rocky Flats, we originally identified three broad categories. First and foremost was data reliability, and then second was the high-fired issue. And the third one was the americium or chest counts.

And that's where we came in. And then what happened was subsequent to that we also had these conference calls, working group conference calls where we started to dive in a little further primarily in response to some questions that Mark had raised related to neutron exposure. And that surfaced a discussion we had just completed, but at the same time we noticed also that the data for photon exposures in the TBD showed that they were primarily roll-ups.

That is, starting I believe up until 1976, I think the data that was available, and

you can certainly correct me if I'm wrong, were not individual measurements but were roll-up data of total photon and neutron exposures, external exposures. And then the intent was to somehow disaggregate them so that we could actually reconstruct the photon doses versus the neutron doses.

And I believe that all of what we're talking about now, mainly the neutron exposure discussion we just had and this matter of these other data, go toward the, please correct me if I'm wrong, the deconstruction of the roll-up data in a form that will allow reconstruction of individuals' doses, I think, pre-1976. And that's where I believe then the delivery of the special neutron study and also now these other data that we're talking about, the latest external dose.

So this was like the fourth item that was added on to the original list of three that we felt we needed to start to explore. Now it seems to me the conversation that we're having now is a mixture of data reliability issues and also this business of reconstructing photon and neutron doses in the

earlier years. So when I look at number nine and the way it's constructed, I see a little bit of both in there as looking at the data from the point of view of dealing with reconstructing historical photon exposures, but also there are some items in here that will also go toward data reliability.

And that's where I am right now in my understanding of where we are in the process. And NIOSH is providing these data and records for us to review to see if, in fact, the concerns we originally raised related to this roll-up issue, neutron-photon roll-up issue, are, in fact, not a problem. And that's where my understanding is right now of this particular potential SEC issue.

DR. ULSH: John, I would point you to that --

MR. GRIFFON: That issue, yeah.

DR. ULSH: -- that Mark just referenced about the roll-up of neutron and gamma doses together. In our written responses for the Boston meeting on pages nine and ten we talked about that very issue. And we reported that for the time period that you're talking about

where the photon and neutron doses were combined, we applied that measurement to both neutrons and to photons. So effectively that doubles the reported dose, and we presented that as a claimant favorable resolution to this issue. I don't know if you guys have reviewed that yet, but it's on pages nine and ten of our written responses.

DR. MAURO: Now that you mention it, yes, I do recall that, and I haven't. Unfortunately, as pointed out earlier, Joe is, I believe, in Europe right now, and he's been sort of the point man on this, and I wish, and I'm not thoroughly briefed on this.

MR. GRIFFON: And I think we, that's why and on the last page new issue number one, I left that as an open item that SC&A's reviewing your response, Brant. That's sort of where that stands.

I agree there's a little bit of overlap between the neutron and the data in the number nine issues here. I think we can proceed on though. We're on the right track, John.

Item number four is the description of

the coworker model, and I don't think at this point that NIOSH has provided anything to us.

DR. ULSH: That is correct. We have not provided you coworker models. We are developing that from the Rocky Flats database. Now I want to point out that there's a difference here between Rocky Flats and some of the other sites that you previously considered. And that is that we are not proposing to use CER data. We are using actual data from Rocky Flats. We have about -- Craig jump in and correct me if I'm wrong, but I think 360,000 bioassay data, and I don't even know how many external. But it covers just about all the, it covers all the years that we're talking about the operations at Rocky Flats, and we are currently bouncing the results of, the results that are contained in the electronic database against paper records for this. But I do want to point out that this is not CER data. It's not third-party data.

DR. ZIEMER: Okay, go ahead, Mark.

(no response)

MS. MUNN: We seem to have lost Mark.

DR. ZIEMER: Mark, are you there?

DR. WADE: I say we wait a minute, he'll be back. Mark, you're not on mute, are you?

MR. GRIFFON: Hi, Paul. This is Mark. I got cut off somehow.

DR. ZIEMER: We just were waiting for you to get back. We figured you'd come back if we waited. I think we're down to item five under nine.

MR. GRIFFON: Item number five is this question about the zeros or no data available fields, and I think where that stands is that NIOSH has basically outlined an approach for this.

Brant, you referenced this in that same document I believe and also maybe in the TBD. I'm not sure.

And SC&A has to look at this and see, review it as it applies to the SEC petition I guess is the question.

DR. ULSH: Yeah, we presented, Jim Langsted presented a discussion of this issue. It was primarily related to after the years 1964 and forward where they had the combined dosimetry and security badges. And the question that

SC&A raised was after that time period why do you still see blanks in some cases or zeros in some cases when everyone was badged.

What Jim described was that in some cases workers would miss a badge exchange cycle and so there would be no recorded dose for that cycle. However, they were still wearing the badges they were issued, and they would turn it in at the next badge exchange period. In cases like that --

DR. ZIEMER: Presumably, that period dose was on the next time period.

DR. ULSH: That's exactly right. All of the doses recorded on that badge would be recorded in the latest time period when the badge was actually exchanged. And of course, that leaves you with a hole for the first monitored period, but in that case NIOSH would assign missed dose because this worker was continuously monitored.

So by assigning missed dose that's actually a claimant-favorable approach. We laid that out in the comment responses that we prepared for Boston, that letter that we keep referring to, and I think it is in SC&A's

court to review that.

MR. GRIFFON: Right, but that doesn't really address the question of potentially leaving badges aside when doing, when working in an exposure area.

DR. ULSH: You're right. That's a separate issue.

MR. GRIFFON: That's a separate issue.

DR. ULSH: Those two issues weren't rolled into one.

DR. ZIEMER: As they approach their dose limit to take their badge off so they --

MR. GRIFFON: But I think, Brant, you also offered a way for handling that second issue.

DR. ULSH: Yeah, the assertion was that in some cases workers as they approached the dose limit would leave their badges in their locker or stick them in their back pocket or something like that. We have heard that, similar stories from other sites. I don't think that NIOSH is questioning that that might have occurred in some situations.

However, I did mention that we do have methods to handle that, nearby technique, looking at the worker's monitoring results

over time. There is a paper by Kumazawa (ph) that describes how you can identify situations when this occurred, and when it does, how you can adjust the recorded dose.

MR. GRIFFON: And have you looked at that method as it applies to this particular site, this particular petition? Whether it would apply or if that approach can be used? I guess that's the question here.

MS. MUNN: Is it generic enough?

DR. ULSH: It is generic. It's a generic approach for adjusting recorded doses. I think Jim has something he wants to add.

DR. NETON: Yeah, I think what Brad's talking about is the Kumazawa approach was not specific to adjusting doses. It evaluated lognormal distributions of individual worker exposures. And you can see that as workers tend to get closer to the administrative limits, the curve tails off and doesn't go in a straight line all the way up through.

That could either be due to the fact that they weren't working or that they were leaving their badges in their rack. And we've adopted techniques at places like Hanford

where we would just extrapolate that straight line right up and not account for the curvature and give credit for the fact that the person may have continued working and didn't wear their badge.

I would say this only does apply to people who were fairly heavily exposed. I mean, the ones who would leave the badge to continue working to get their incentive pay or whatever would be the ones at the higher end of the distribution.

MR. GRIFFON: Right, I would agree.

MR. DeMAIORI: I've got a question. This is Tony DeMaiori with the Steel Workers. And my first question is what internal procedures, written procedures allowed for badges that weren't counted to be counted again the following period? I guess that's for Roger Falk. What procedures did we use that allowed for that when a badge was missed?

DR. ULSH: Actually, I think that might go towards Jim Langsted. Jim, are you on the line?

MR. LANGSTED: Yes, I am.

DR. ULSH: This is Brant Ulsh. I can say

that we are tracking down right now QA procedures or procedures that the radiation control group would have used in terms, in situations where there was a suspect badge reading. And we do intend to present that in the evaluation report or at the time we present the evaluation report. But Jim, I don't know if you have an answer for that or...

MR. LANGSTED: There were procedures during the '80s and '90s and the 2000s that did account for reading badges that were submitted off cycle or after two cycles. And those results did go into the database. There were also procedures that Brant referred to for investigating and documenting badges that were off normal, for instance one crystal that was odd or a badge that was, with an unusual reading on it and investigating the dosimetry to assure that the badge was reading correctly and assigning the appropriate dose.

MR. DeMAIORI: Well, I understand conduct of ops and the conduct of operations was perfectly clear that if you had an unusually high dose you trusted your instrumentation and

you assigned that dose. So I know procedures that would require you to assign the dose, I just don't know any other procedures that would allow for no current data available. I guess that's really what I'm shooting at. What procedure allows that insertion to the permanent document?

MR. LANGSTED: The procedure did not address no current data available. That was a record keeping issue while there was not a number available for that exchange period. And like we discussed earlier if the badge did not get exchanged but got exchanged the second period a no current data available would show up in the database for that first period. And then all the dose would show up for the second period.

DR. MAKHIJANI: Mark, this is Arjun. There are a number of these data integrity questions, and they're quite different, and the approaches might be quite different. And I guess it might be useful to make a list of them and discuss it at the working group so we know the issue is being addressed. Because apparently, NIOSH is contemplating addressing

them, but --

DR. ZIEMER: And we certainly can't address them here today so that's probably a good suggestion. Just to identify those kinds of issues and whether or not they get addressed in some kind of a procedural way or operational way.

MR. GRIFFON: That might be a follow up from item five, Arjun, is that look at NIOSH's response, and when you come back with your comments make sure we cover all the areas of data integrity issues there.

DR. MAKHIJANI: But since Tony was speaking, you know, this is the point that you raised earlier. The petition I think has additional issues some of which Tony's been raising here. And so it might be, the reason I made the comment is it might be good to combine all those issues into one list so that we're sure that they've all be taken care of including the petitioners' issues.

MR. GRIFFON: I agree. At the outset of this I think we said that, I think SC&A under the SEC task we'd need to review the full petition and provide comments back on that.

So to the extent you can have that done before the next work group meeting that would be beneficial. Does everybody agree with that?

DR. MAURO: Yes, this is John Mauro. Our intent in our February 21st proposal for the task V, the SEC task that has been recently authorized, it includes reviewing the full Rocky petition. And as you indicated in your note at the top of the matrix table, certainly there are other issues that may emerge that need to get into this matrix. So we're sort of caught right now between working off the original site profile set and transitioning into the SEC activity.

And given the magnitude of the petition itself, we're not there yet in terms of, in order to say that we have not only looked at the material that is being provided to us by NIOSH to deal with the issues that we've already begun to identify, but we really have not moved into a mode where we're comfortable that we've explored and reviewed the full petition to the extent that we think that we have our arms around it.

DR. MAKHIJANI: In that context I might say

is NIOSH has undoubtedly reviewed the whole petition and if they have a list of these issues that would maybe make it more efficient and cut down the time. Because it is 700 odd pages, I have tried to kind of take a first look at it, but it's very long.

DR. ULSH: It is a very extensive petition, very thoroughly documented. We are in the process as required preparing an evaluation report which we plan to have, as Lew mentioned at the beginning of the call, we plan to have that in the hands of the petitioner and SC&A and the Board in early April. I don't know that we would be prepared to provide a breakdown of the petition before that time.

But I would like to take the opportunity to point out that the time is short here. To the extent that we can capture the issues on the matrix so that we're not shooting at a moving target, I think that would be beneficial for everybody. I don't think anybody wants to go into the Board meeting with brand new issues that have just come up recently because I really think the petitioners are anticipating a vote in April.

And we certainly want to be responsive to any concerns that are reflected both in the petition and raised by SC&A. I think we've done that, and we're in the process of doing that, but we need to know what the issues are in order to prepare responses to them.

MR. GRIFFON: I think we're in agreement with you, Brant. We're doing our best. We're all working hard on this. And it is partially because it's from a site profile that we started this process that we're, I guess, modifying these slightly as we move because we're understanding the issues better, quite frankly. I think that's what's happening.

DR. MAKHIJANI: It's a little bit more than that. This is Arjun. It's different than Y-12 in that the Y-12 petition is short and has been on the web. We only recently got the Rocky Flats petition. It's very long, as Brant has said, it's thoroughly documented. It's technically very complex and the Board is just charging us, or recently has charged us with looking at it as a petition. So I don't know what the pleasure of the Board is in terms of asking us, but as a task manager for

SEC I do feel constrained to say that these issues that have been raised from a site profile there's no necessary connection with what the petitioner might have said. I do know there may be overlap, but --

MR. GRIFFON: From my standpoint that's part of why we put this under the SEC review process. And we certainly owe it to the petitioners to fully review the petition they've put together. I mean, that's what we're doing here so to the extent we can, we want to do this in a timely fashion, I agree with you, Brant. But it is extensive and lengthy and we also owe it a thorough review so I agree. I think we're getting there.

DR. ZIEMER: Well, let's proceed here, Mark, with the rest of this.

MR. GRIFFON: Item six, this is something that was addressed in Brant's response document that he's referring to, and basically, I think it needs further follow up. It was a finding in a 1993 GNFSB report, and I think it just hadn't been tracked back. Is that accurate, Brant, that you're working on that?

DR. ULSH: I think that's accurate, Mark.

MR. GRIFFON: Item seven is -- and since there's no previous item six, this is kind of a new item. This was a, Tony brought this up, a petitioner, on the last work group meeting. He was on the phone, and it's a question of following up on some criminal investigations.

And I put this as an action because I think that NIOSH needs to work with the petitioner on this. I think at the time of the phone call Tony didn't have specific dates, times or who was involved. And I think that we were hoping that NIOSH could follow up with the petitioner and at least pull the thread on this and check into it and make sure, or see what's there basically.

DR. ZIEMER: Does this refer to the original grand jury investigations that were done after the FBI visited Rocky back in '89 or '90?

MR. GRIFFON: That's what we're not sure of.

Tony, do you have any more that you could offer on this for clarification?

MR. DeMAIORI: Under clarification I would give you, we just concluded an investigation at Rocky Flats under an (unintelligible)

sample. It was (unintelligible), whatever term you want to use. It's with pure plutonium, no americium ingrowth, so that's a current one that was just completed by Kaiser-Hill and the United States Department of Energy, and there was no criminal prosecution; however, there was no dose added to the individuals' record. And this is not uncommon. This has been continuous throughout the history of that site.

MR. GRIFFON: Well, can I ask --

MR. DeMAIORI: And I've got the current one. I've got the report in my filing cabinet right here as this is something that we just completed.

MR. GRIFFON: Are any of these that you referenced in the last work group meeting, are they included within your petition or is this something beyond the materials that you provided already? I mean I guess that's what we sort of need to know. We want to make sure we cover --

MR. DeMAIORI: Right, it's a challenge under the record keeping, the no current data available. You know, we don't believe that

it's simply because there was no data available. The workers don't believe it. I've got a package right here from Norm Worwin (ph) from the '90, when we were adding plutonium to the stacker/retriever in Building 371, he was the (unintelligible). We were turning out our ADRTs as two-week limits so that they didn't exceed their five rem a year so we were rotating them out.

But Norm did the job for all four months from the inside of the C cell, and his records indicate no current data available quite often during that time period and low dose even though the people he was supporting had high doses, and we were rotating them in and out on a routine basis. And so in the petition these are the types of things that we are questioning on the record keeping absolutely.

And so as I brought up historically that is when the doses weren't believed to be correct as there was the (unintelligible) no current data available. And so this is really where we're at.

DR. ULSH: Tony, this is Brant, Brant Ulsh

with NIOSH. You mentioned that you've just finished up, I don't know if you used the term investigation, but --

MR. DeMAIORI: It was an investigation by Kaiser-Hill and the United States Department of Energy.

DR. ULSH: If there are situations like that, investigations, can you please forward that to us? We would be very interested in considering it and responding to it. And if there are other ones that you're aware of but you may not have in hand, if you could point us in the right direction, tell us whatever you can tell us in terms of who we call or --

MR. GRIFFON: When this first came up, just to respond to what Paul said, I was thinking it was related to the 1989, you know, the FBI --

DR. ZIEMER: Although I think that original case had less to do with personnel monitoring and more to do with dumping, illegal dumping into the environment.

MR. DeMAIORI: Yeah, the grand jury investigation was more of an environmental investigation, no question about it. What I'm

telling you is, you know, and this relates directly to using the coworker model as when in fact out at Rocky Flats as some of the doses came in that were a lot higher than the operations would normally expect to see, and there were investigations, internal investigations. (Unintelligible) were not justified in the minds of those who did the investigations. They were zeroed, just like this person, the investigation we just completed was zeroed.

You know, the people investigated it, determined that the samples had been doped with pure plutonium, and we never worked with pure plutonium. As did who did the doping, that's why there's no criminal prosecution due to the chain of custody. So you know, but once again we're at the zero. Now conduct of operations out at Rocky Flats is something that we implemented in the mid-'90s anyway. And would say yeah, we believe your instrumentation and your assigned dose.

So really what I'm saying is that if there are procedures that I've been told about here recently on the telephone that would

explain these type of things and direct, we'd like to know what those procedures are.

MR. GRIFFON: All right, I think I'll leave that action. Brant, you can call up with Tony and maybe see if he has more materials to provide, and we'll leave it there. Is that okay?

MR. DeMAIORI: I've got the current investigation. I've got the files. My sister was part of the investigating team.

MR. GRIFFON: And number eight, and this goes to the data reliability similar to the Y-12 matrix, this NIOSH/ORAU will demonstrate reliability of bioassay and external database data for the comp program. And this is, you know, I think we're asking for NIOSH/ORAU to give a method by which they're going to determine the reliability of these databases.

And it sort of depends, it's related to the coworker models in that I'm not even sure how extensive their reliance on coworker models will be for this petitioning cohort. We know at Y-12 for that period of time the coworker models were going to be fairly heavily relied on. I'm not sure the same is

true for this, for Rocky Flats. So I think they're sort of tied together with the coworker model in that respect.

DR. ULSH: Mark, I think you're right. If you look at the graph that we put together in our written responses for Boston, there's a very high proportion of the plant population that was monitored, particularly between the years of -- I'm trying to eyeball it off the graph here -- about 19, in the early '60s up into the '90s. It, of course, ramped up in the '50s up to that peak in the '60s.

MR. GRIFFON: So if a high percentage were monitored, and you have enough data to do individual dose reconstruction, obviously, these kind of things go away.

DR. ULSH: That's exactly right; however, I don't want to say that we had a hundred percent monitoring. We certainly will in individual situations rely on coworker data. But again I do want to point out again that we're relying on the site, the actual site data, not CER data that might have been massaged by, for an epidemiology study.

MR. GRIFFON: Correct.

MS. MUNN: Not third party stuff.

MR. GRIFFON: These are identified as new issues. New issue one I think John pretty much outlined earlier, this roll-up question. And I think that's this basically we need to, SC&A needs to review that. We just got that response at the last meeting. And then the same issue, too, is kind of a specific issue I think in that this question of an inappropriate algorithm being used.

And I believe we had a response which seemed to be, you know, result in higher doses, but SC&A just has received it at the last meeting again, so you know, that last item might, for instance, be resolved very quickly. But we want to give SC&A a chance to further consider.

Anything else to add either --

DR. ZIEMER: Board members, any further questions on the material that Mark's presented?

(no response)

DR. ZIEMER: The same issues or the same questions apply in terms of timing. Are we on track? It looks like we're going to be really

pushed hard on this one timetable wise. NIOSH is doing their best to come up with their recommendation by early April, but then also the opportunity for SC&A to evaluate that material and for us to look at it before the Board meeting --

MR. GRIFFON: I guess the big, you know, one big sort of unknown right now for us is the petition is some 730 pages, and we've just asked SC&A to really look into it. So this is fairly recent that they've been tasked with that part of it. They've been looking at the profile in the past. So that's, you know, I know we have to like everything else, we're going to try to expedite that, but that's sort of a big unknown and hopefully we've captured a lot of the same kind of issues in the original matrix, but we're not sure of that. So we definitely need to look at that thoroughly.

DR. ZIEMER: Board members, any other questions for Mark?

(no response)

DR. ZIEMER: Okay, thank you very much. We appreciate again the work group's efforts on

this. It's been extensive and time consuming.

MR. HILLER: This is David Hiller with Senator Salazar's office.

DR. ZIEMER: Yes, David.

MR. HILLER: It sounds like you're ready to move on past this issue, and if I can I'd just like to, I guess, echo your question regarding whether or not this petition is going to be ready for action at the April meeting. I'm not sure that anybody can answer that question, but as you all know, this petition is well beyond the 180 day limit now. And there's a great deal of concern both among the community of Rocky Flats workers and the congressional delegation this is going to be postponed yet again.

DR. WADE: Well, I can try and answer your question. This is Lew Wade with NIOSH. It is NIOSH's intent to present a definitive evaluation report to the petitioners at the early April and bring the petition evaluation report to the Board so that the Board can vote on it at its meeting at the end of April in Denver. That is really NIOSH's expressed intent that I would imagine will live true to

that intent.

What really is being discussed now is how much closure there'll be on the variety of issues that we've raised prior to that. And I think that's where the push is. I think this next discussion on the Board's contractor and their progress on the SEC task will relate to this issue as well. But it is NIOSH's intent to issue a definitive evaluation report prior to the end of April meeting and to see that the Board is in a position to vote at the Denver meeting at the end of April.

MR. HILLER: Well, fair enough --

MR. GRIFFON: With that in mind -- I'm sorry. This is Mark Griffon. I didn't mean to cut in. But with that in mind I think one, I'm just looking back at our matrix and one big item that's missing in my mind is the sample DRs, the sample dose reconstructions. And I think I don't know if, you know, giving this timeline I think we need to ask SC&A now to develop the same thing they did for Y-12 and get those to NIOSH as soon as possible possibly for, so NIOSH can do some sample dose reconstructions for the next work group

meeting.

I don't know if this is all possible, but I'm throwing it out there that it seems like we need to have some sample dose reconstructions to sort of stick by our draft SEC review procedures as well. This is sort of the proof of principle. Show us some draft dose reconstructions of representative cases.

DR. MAURO: Mark, this is John Mauro. I agree with you completely. I believe, especially in light of this discussion, we're in a position to begin to craft cases similar to the set that we sent down on Y-12. The only thing I would caution is that while we do that and we'll begin that, we have already begun that, and we do want to leave the door open, that in parallel we are reviewing the large, the petition, all the data that is being provided, information and procedures that are being provided to us.

So I think that if acceptable to the working group and the Board, we could probably put something out as an initial set of cases that we think, given our, the maturity of our understanding of the issues, we think these

are cases that would help achieve closure. But we may have to add additional ones as we proceed.

DR. MAKHIJANI: Mark, this is Arjun. I agree with John. As I said we have done a very rough look to of the first part of the petition. And part of our suggested procedures, and granted you haven't voted on them, but in the commonsense spirit that Dr. Wade instructed us to work a couple of weeks back, we think that it's important for us to interview the petitioner and, or at least one of the petitioners, and we can begin to develop this partial dose reconstruction list even as we did with Y-12 based even on the site profile issues and in the initial reading. But as John has said there's no, we can do that within a few days, but we don't, probably it will not be complete, or at least we won't --

MR. GRIFFON: Yeah, I think we understand that. I think we need to get a partial listing though and maybe within a week if that's possible. And then NIOSH will have some time to possibly turn it around before

the work group meeting at the end of the month.

DR. MAKHIJANI: Yeah, we can work on that and if you like we can integrate some of the issues that we see in the petition into that as well to kind of move things along in the spirit that's here.

MR. GRIFFON: I think that would be advisable, yeah.

MS. MUNN: This is Wanda. I would hope that that list of scenarios would not be unmercifully long. This site had from its outset a very focused mission and very focused activity range. And added to that a very high level of worker monitoring that we don't always see. Given those parameters I would hope that we'd be able to focus in on a limited number of issues that affect the SEC and reduce the number of potential dose reconstructions that we need to prove.

It would certainly seem reasonable to expect that we might not need to have 12 or even 10 or even nine different scenarios that we need to cover. I would hope we would be very, very circumspect in choosing what we are

expecting our people to do.

DR. MAKHIJANI: Ms. Munn, I guess you're directing us to work with the working group that developed this, and we will, of course, take our guidance from the Board members on the working group, and you're on it. So I suppose we will develop a process in that light and send you --

MS. MUNN: I'm just asking that it be focused specifically on issues that are raised by the SEC.

DR. ZIEMER: And you'll be there to help do it, Wanda.

Other comments or questions?

MR. GRIFFON: And maybe you can provide that list within a week, John, and circulate it to the working group and NIOSH.

DR. ZIEMER: And we really haven't answered the question from the Colorado delegation in terms of reaching closure, but I think it's safe to say we'll do our best effort to come to closure at the April meeting.

PROGRESS REPORT SC&A SEC TASK

DR. WADE: This is Lew. The second discussion we're going to have now is hearing

from SC&A on their work and plan for the SEC task. That is also part of this. So until that discussion takes place I don't think we've explored all of the issues we need to explore prior to making our plan. I would suggest we move into that agenda item.

DR. ZIEMER: Right, that this the next item on the agenda. Lew, do you want to make any other preliminary remarks on that before we look at the proposal?

DR. WADE: Only that again, we asked SC&A to take on three reviews, one full-blown review on the Ames, Iowa petition, and then two very focused reviews on Y-12 and Rocky Flats, the focus being the issues identified in the site profile activity. And based upon that charge John has prepared, I think it's a February 21st bit of report plan that I think maybe, John, you could simply walk us through and just paint us a picture as to where you are and where you're going. And then let us know what guidance you need. Now again this work is happening under the able leadership of Dr. Melius who's --

DR. ZIEMER: Still there?

DR. WADE: Yes.

So I would ask Dr. Melius if he has any introductory comments, and then we could hear from John.

DR. MELIUS: I have no introductory comments.

DR. ZIEMER: And before John begins here, Lew, I just for clarification on process, this material from John is actually the material that was sent to the contracting officer. Does this require any Board action or is this for information only? It's basically responsive to the Board's already what we've designated as our desire. Do we need to formally approve this?

DR. WADE: I think we do have an opened action in that SC&A has made a proposal, two proposals really to us as to the procedures they would follow. And the Board has never formally approved those procedures. So I think there is an opened action. Whether or not you want to take that action now I leave to your wisdom. It is something we could do at the full-blown meeting in April as long as we have SC&A working to the Board's desires

between now and then.

DR. ZIEMER: Well, there's several documents that go back to last fall. You know, we have the, I think they were November documents dealing with Task Five and the sub-tasks thereof. And this letter proposal basically is an addendum to Task Order Five. But has Task Order Five not been formally issued already?

DR. WADE: Yes, it has.

DR. ZIEMER: So it does exist, and this is a proposed addendum or -- is that the proper word?

DR. WADE: Yes.

DR. ZIEMER: Yes, Addendum to Task Order Five. So I think we'll go through this and see if the Board is in agreement that this is what we would like you to concentrate on.

DR. MELIUS: This is Jim Melius. Can I change my mind and make some preliminary?

DR. ZIEMER: You bet.

DR. MELIUS: I thought they could come later, but in our last meeting as I recall, what we decided to do was postpone approval of the proposed procedures that SC&A had given to

us and try to merge those procedures with our work group report so that we made sure that their procedures were developed before and sort of independently of our work group efforts. And we needed to merge the two documents in a way that would, I think, provide more focus to what SC&A would be doing.

DR. ZIEMER: We actually on our own procedures though, we did in a sense approve those as a working document that we could always modify if necessary. So I think we said that we were going to at least operate under that draft that your work group prepared. And then SC&A had developed this item Board procedures for review. That's the November 30th document I believe.

And those were the two that we had talked about possibly merging those as a formal document, but in essence we are already, I believe, operating under our own document subject to later refinement as we review the SC&A. But in terms of our own document that talks about key considerations for Board review of SC&A, or of special

exposure cohort documents, I think in those issues such as the credibility of the datasets and demonstration of feasibility and sufficient accuracy and those things. We actually are operating under those if I'm not mistaken.

DR. MELIUS: That is correct; however, SC&A's procedures as outlined in the November 30th document was written beforehand. And I think the task that we need to do is to somehow combine, merge the two so that their procedures reflect the focus of what we want. I propose that we do that in a sort of going forward at the next meeting. Meanwhile, the three issues that we have under consideration now, we handle sort of on an interim basis as best we can, operating under the guidance for that document and how SEC –- SC&A is approaching these.

DR. ZIEMER: Right, which means in essence we're going to focus on this February document that John sent to the contracting officer.

DR. WADE: Right, and just to -- this is Lew again -- to assure that we're on sound contractual and legal ground, in proposal five

that SC&A developed is incorporated now as part of the contract. That proposal laid out certain activities that SC&A was proposing to do. So we can operate under the cover of that proposal and this amendment. Now the Board has to decide intellectually how it reacts to this amendment.

DR. ZIEMER: Right, okay, and John, why don't you proceed then?

DR. MAURO: Well, I have to say you've done a very good job in stealing my thunder and anticipating everything, and many of the issues that you have just been discussing are issues that I've been thinking about and from the point of view of an SEC Task Five status report. I think it's a good idea for us to step back and recollect that Task Five has been fully funded and approved. It consists of a number of sub-tasks. The first two are the delivery of one was a review of NIOSH's evaluation procedures for SEC petitions and one was -- pardon me? I thought I heard a question.

DR. ZIEMER: I think we're getting some offline static or something. Go ahead.

DR. MAURO: The other deliverable, November deliverable that we mentioned is SC&A's proposed procedures to review SEC petitions on behalf of the Board and for the Board. So those two deliverables are in the hands of the Board for your consideration. Now --

DR. ZIEMER: I'm getting a lot of side chatter again.

DR. WADE: We're getting talk and laughter and someone's going to remind somebody of a discussion. That's all on open mike. Please, if you're doing that, mute your discussion.

DR. MAURO: Okay, I'll continue. Now the framework that Dr. Melius' working group put together represents really the only approved, I guess, guideline under which let's say work is proceeding. The other two documents that we've submitted are yet to be approved.

DR. ZIEMER: That's correct.

DR. MAURO: So where we are in terms of stepping back and the big picture is we have authorization and budget to proceed with the full scope of work that's laid out in the February 21st letter that you folks have in your hands. The reason that was needed is the

original authorization of Task Five was only really authorized us to proceed with those first two deliverables.

All the other tasks which consists of other sub-tasks which consists of the review of five SEC petitions that have site profiles, the review of one SEC petition that does not have a site profile which turns out to be the Ames case. So we basically, that sub-task now has been officially authorized, and then there is the focused reviews. So that was the framework that was set up originally, and that was approved.

But now that we've been given through the working group and through the Board authorization to move forward with specifically with Ames and these other two what I will call focused reviews, I felt it was necessary for me to inform the Board with the February 21st letter, okay, we are now about to proceed with some additional work that up until that point in time really was not authorized. Here is what I believe will be the budget, and here's what I believe to be the scope and the approach that we will use.

I elected in that letter to treat the Y-12 and Rocky work as focused reviews. So they really fall under one of the sub-tasks that we have a budget for. And the Ames work that we have begun is a full-blown review that is, that we have draft procedures in place but really not approved. So we're using right now our commonsense approach to the problem. Mainly, we have Dr. Melius' framework, and we have the dialogue that's going on of what we need to do.

But we really have never married Dr. Melius' framework to our procedures that we proposed in November. That's probably needed in order to firm up the framework within which we're doing our Ames review because the Ames is a full-blown review. With regard to the two focused reviews -- and I'll get into the specifics. I'm trying to stay back right now to give you the big picture.

With regard to the two focused reviews, we have a little bit of an unusual circumstance in terms of originally the focused review concept was put in place when Task Five was first authorized as a way in

which the Board could authorize SC&A to do some special studies, relatively small studies, and that would be performed after the Board had received an evaluation report on a particular site profile from NIOSH. And then the Board would then say, well listen, SC&A, you may want to look into this, this or this.

What we have here is hunting a little bit different, and appropriately different that emerged as a result of the maturation of our understanding of how best to proceed. With regard to the Y-12 and Rocky it became clear that in order to expedite the process it's better not to wait until the evaluation reports show up at the Board, and then the Board to deliberate and determine what areas you'd like SC&A to look at and not look at. So the judgment was let's try to get this process moving forward as early as possible following the qualification of a particular SEC petition.

Now moving closer and closer now to where we want to get into, talk about the details. Y-12, Y-12 in my mind is, even though it's been initiated prior to the

evaluation, it is our understanding of the issues are very mature. Our ability to define the issues, you could see where we were able to do that very effectively. There really has not been a growth in the number of issues that need to be looked at because we were working on the site profile for Y-12 for quite some time, and our understanding of what issues really rise to the level of an SEC issue and what does not is pretty clear.

So the idea of a focused review for those issues really makes a lot of sense. And I think it's well in hand. I think we're progressing very nicely with that. That is, the next real stage of activities is those sets of cases. Granted we have 11 cases there that we suggest. The reason there are that many is because there's a lot of complexity especially to these special radionuclides that need to be aired out.

But I think if we can go through cases that address those 11 issues, we'll be in the position fairly quickly to give advice to the working group and then the working group to the Board regarding the degree to which NIOSH

has demonstrated that they're proposed approaches do, in fact, work. So I think our progress on Y-12 is very, I'm very optimistic that we're going to be able to move pretty quickly through the various issues and using the case studies as the basis to achieve closure.

Now the focused review for Rocky as you can tell is still a bit, I guess, early. What I mean by that is we really move very quickly from the, moving from a mode, the site profile review mode, where out of the site profile we were able to identify three, perhaps four, major categories of issues that emerged from the site profile. We are now in a mode where we're looking at the petition itself, and unlike Y-12, the Rocky petition is a very large petition, a complex petition.

We believe that it would be inappropriate for us to presume that the four fundamental issues that are in the matrix, even though the matrix has a lot of elements to it, they really boil down to four fundamental issues with a number of sub-issues, it would be inappropriate to say that

that is the boundaries of the SEC issues at play simply because I think there are two things that SC&A has to do.

One is we have to very carefully review that petition, and two, we have to interview the petitioners to make sure that we feel that we've given due process to understanding the issues and getting our arms around it. Which brings me to a question, maybe it was inappropriate to call the Rocky review a focused review simply because from what I just said, obviously, it's not that focused. So I guess one of the matters I'd like to leave before the Board is perhaps in light of the process we're engaging in right now, it would have been more appropriate to define the Rocky work as something that's more akin to a full review as opposed to a focused review.

Now for a practical sense the reason that, and I'm not saying we should do this, but from a practical sense, as we move, unlike Y-12 where I think we understand how much time it's going to take and how much it's going to cost to work our way through the process. On

Rocky it's a lot more open ended as I see it right now. And I don't want to leave anyone with the impression that it's what I would call a standard focused review where the issues have been defined, the process for closing out the issues have, or the need to address the issues, whether they'll be, achieve resolution or not, of course, it's yet to be seen, but I think that the issues may still be unfolding before us.

Unfortunately, I think early on when we had one of our conference calls we all were optimistic that, well, let's define those issues and move ahead. I think we did that effectively on Y-12. I think we were a little bit overly optimistic on Rocky. I'd like to leave a little elbow room to allow us to explore with the working group other issues that might emerge as we move through these processes. From a practical standpoint the implications are that it does have cost and schedule implications.

I noticed in the previous conversation that everyone is very anxious to try to move this as quickly as possible especially with

the April meeting coming up. But I also want to caution everyone that I think we've got a very large petition in front of us and we really are only, we're in the beginning stages of totally digesting that document. I think it would be unfair to claim that the work we've done on the site profile certainly gets, certainly moved this up the learning curve in addressing the issues. But I wouldn't presume that, that we have captured all of the SEC issues completely as a result of the work we did on the site profile.

So I guess one of the things I think we might want to do is decide whether it's important that rather than work from a commonsense approach that we've been operating under perhaps it's time to formalize our procedures for performing reviews, mainly marrying Dr. Melius' framework with our review procedures so we have an approved set of protocols under which the Ames review can move forward.

The Ames review is moving forward, but it really, and it's moving forward from the commonsense approach. We are starting to,

there are only three of us right now reading all of that material. So there's a lot of material by the way, and we're starting to develop a sensibility regarding what those issues are. We're hoping within the matter of a week or so to start to communicate to the working group some of the, to tee up some of the things that we think might be issues related to Ames, might be SEC issues. Because that was one of the reasons we began as early as we could on this so that we could communicate to the working group and the Board some of the issues that emerged.

And so from the point of view of the status report three of us have read substantially the two CDs that were provided and about 70 documents that are on the O drive. And we're starting to -- our opinion regarding what might be some of the SEC-related issues at Ames are starting to take form, but we are very much in the early stages of that.

As those issues start to emerge and within our own group of people that are working on it, we achieve general agreement

that we think we've identified X, Y and Z as an issue, at that point in time we will communicate them in writing to the working group. With regard to Y-12, as I mentioned earlier, I think we're very mature, way out in front of a power curve so to speak, and because we have, I think, one of the big milestones in the process we're in is to get the list of cases that we'd like to look at.

Because really what that means is that we understand what we believe to be the key SEC issues, and we understand, we believe we could define the kinds of cases that if we can work our way through those cases to everyone's satisfaction, we have gotten to the point where we fully appreciate the degree to which we have issues that are resolvable or issues that may not be resolvable. And so I think we're well along on Y-12 in that matter.

So I think we're pretty much in the earlier stages on Rocky. Even though we've identified a number of important issues, I think we're, and we're about to deliver to the working group a list of at least initial cases that we think will serve us well in testing

those issues, I believe that there is quite a bit more to be done there. I hope that this gives you the overview that you're looking for.

DR. ZIEMER: Thank you very much, John.

DR. MAURO: I'd be happy to answer your questions.

DR. ZIEMER: Thank you very much.

Bottom line on Rocky is that although you've identified four issues in your proposal and that makes it look focused, but in fact, there's a high possibility or even probability that other issues may emerge as you get into the petition itself and as you examine the issues that we've already talked about in the matrix which makes it look a little less focused than it might otherwise have looked.

DR. MAURO: Right, exactly correct.

DR. ZIEMER: Okay, let's get comments from Board members. And then the other implication of what you said in terms of resources for Rocky, whenever that's the case, one of the important resources is time. And that makes me awfully nervous about the April time frame, not in terms of what NIOSH is able to do, but

what the Board and its contractor will be able to do in terms of assessing the recommendation and coming to closure on it.

DR. MAKHIJANI: Dr. Ziemer, this is Arjun. I have a question in this regard. What we're doing is sort of developing as we proceed and the calendar when NIOSH is going to put the evaluation both on Iowa and Rocky Flats is fairly short; Iowa is March 22nd and Rocky Flats is early April. And given the fact that in both readings of those petitions and the associated materials, earlier for Ames and more along for Rocky Flats, but still not very far along. What portions of the review maybe the Board would like to happen after the evaluation report is published? What parts of the dose reconstructions might be done afterwards or before?

This is a little bit unclear. I mean, we are going to submit a list of dose reconstructions for Rocky Flats as soon as possible, soon. But I am a little bit unclear about what happens before and after. I guess not much is going to happen before in Iowa, but whether the Board is anticipating some

kind of more extended conversation with the working group and with NIOSH before the Board meeting on Rocky Flats after the petition evaluation is published, if not published, at least sent around to the Board and petitioners?

DR. ZIEMER: Well, number one, I think we're anticipating another work group meeting before the NIOSH recommendation on Rocky. That would be correct, Mark, would it not?

MR. GRIFFON: I think so. I mean, the way they were framing it they're looking at giving that evaluation report in early April so I think, yeah.

DR. ZIEMER: But the other part of that is that, and I think this is sort of the question that Arjun is raising, is what do we expect before that happens and what do we expect after that happens. Part of this is a time constraint that gets imposed a bit in terms of wanting to be timely on these petitions. And of course, NIOSH itself is constrained by the requirements of the law in terms of the 180 day thing.

We have no such constraint per se

except that we recognize based on our interactions with the public that they also are looking for a timely action. We are in a situation where we want to be able to responsibly review a petition and feel like we have done it justice or basically review our recommendation by NIOSH, and yet we don't want to drag this on and on and on.

But we don't want to get into the kind of thing we had at Mallinckrodt where every time we met we had a new set of issues to deal with, and we couldn't come to closure. I'm just saying that right now particularly based on what John has said about Rocky and the fact that we're just now getting into looking at the petition itself, and we'll have the NIOSH recommendation in early April, that's only two or three weeks at best before our meeting. And whether or not we can do a credible review and meet our responsibilities in that time would be a concern for me.

DR. MELIUS: This is Jim Melius. I want to share that concern and sort of back up a little bit because we're trying to facilitate the process, but it is important that, one,

that our review be, it's an independent review of NIOSH's evaluation of that SEC petition. And so we maintain some separation from NIOSH, and given like the circumstances on Rocky Flats I even question why we're submitting or attempt to submit cases to NIOSH, sample cases or illustrative cases to NIOSH if we're not confident that the issues, that we understand the issues with the SEC.

And until their evaluation report, I mean, we want to make sure that NIOSH's evaluation report is independent of our review of that. And so I think the idea of starting this early was to be able to make sure we better understand some of the issues particularly with the site profiles, some experience with the site can be gained, and it would facilitate the process. We still have to, one, maintain independence yet, secondly, recognize that when NIOSH does produce its evaluation report we may suddenly notice a number of new issues that haven't been, you know, we didn't have the foresight to identify. And they may require some amount of work.

DR. ZIEMER: We have asked NIOSH as part of their report to us to include sample dose reconstructions.

DR. MELIUS: Correct, I think the issue is whether we have SC&A suggest to them what sample dose reconstructions to do.

DR. ZIEMER: Yeah, a priori, yeah.

DR. MELIUS: It's a little problematic. I wasn't too uncomfortable with it with Y-12, at least as uncomfortable, because I thought that everyone sort of understood what the key questions were. But I'm very uncomfortable with trying it on Rocky Flats, and I also just think procedurally -- and I participated, we had two conference calls to discuss Y-12/Rocky Flats and then another call to discuss what to do about the Ames. And at the time of those calls, which were earlier in February, I believe, SC&A did not even have access yet to the Rocky Flats or the Ames petitions.

And I think we need to sort of look at our task, or to me there ought to be maybe a separate task early that's awarded where it's for them to become familiar with the, for SC&A to become familiar with what's in the

petition. These are, some of them are quite extensive, familiar with the site, again depending on whether or not there's been a site profile, whether or not they've reviewed that site profile. And then based on that, propose to us what issues might be worth evaluating or becoming familiar with prior to NIOSH's evaluation report.

But I don't think we can accelerate this process too much and yet retain sort of the independence of it. And I also think we need to maintain control of our contractor so to speak. I get a little worried when they're proposing 1,000 hours of work on the Ames petition when they haven't even read it yet. And I understand why they did that because they hadn't read it, and they weren't familiar with the site. There's no site profile. But still, that's a lot of effort for something that nobody's really started to understand yet.

DR. ZIEMER: Thank you.

Other comments?

DR. MAURO: This is John Mauro. Is it okay for me to just --

DR. ZIEMER: Yeah, John, sure.

DR. MAURO: -- help out a little bit here. When we originally put in our proposal for Task Five and we were required to put in a cost estimate for doing one SEC petition review for a petition that did not have a site profile and five reviews for petitions that did have. What we did was we said, well, we have a lot of experience in doing site profile reviews. And we envisioned that a petition review was in many respects very similar, the kinds of things you have to do were very similar so we used that as our baseline.

That is, our experience quite frankly in doing site profile reviews turns out to be, to deliver the product that you folks have seen, the large document. We envisioned that the SEC petition review would be at a similar level of effort or level of analysis. So we basically used, the rule of thumb that we've been using is approximately 1,000 work hours to do, deliver one of those products. And we assume that the site profile review without -- I'm sorry, the SEC petition review without a site profile would be a comparable cost.

You're absolutely right, the actual cost that we incur are better known right now. We're reading the document, the Ames material. There's a lot of material there, but it's not that much more than the material we review when we review a site profile.

When you consider the size of most of the total volumes that make up a site profile and all of the documents that stand behind it. The reality is perhaps it will be less expensive to do an SEC petition review because its range may not be as extensive. But I'd be the first to admit that, yes, the costs regarding a full-blown review are difficult to anticipate. So we put in our best estimate in our proposal which was 1,000 work hours, and we're working towards staying within that budget.

DR. WADE: This is Lew Wade. Maybe I could talk a little bit about each of the three issues and begin to talk about how we might proceed. I do this really with my two hats on, that is, the technical project officer for the SC&A contractors and the Board's DFO. Let's take what I think is the easiest of the

three issues, and that's the Ames full-blown review.

For just as background NIOSH will likely issue an evaluation report on Ames within the 180 days, which will have it issued at the end of March. It is not NIOSH's intent to bring that proposal to the Board to vote until the meeting after the end of April meeting. Let's say that's early July or late June so there is some window.

One course of action could be that once NIOSH issues its evaluation report, the working group chaired by Dr. Melius, that's the working group looking at the SEC issues for the contractor, would meet. It could consider that report, and it could instruct the contractor as to what it might want to focus on or to highlight.

At the full Board meeting at the end of April, as Dr. Melius suggested, there could be this merger of the SC&A procedure proposal and the Dr. Melius proposal. And we could leave that meeting with SC&A tasked to undertake its procedures focused as the Board might wish leading up to a presentation by

SC&A of its findings prior to the early July meeting at which time it's likely that the petition would be voted on.

So again, right now SC&A would be reviewing the materials once NIOSH's petition was out. The working group would meet, decide upon if it wanted to give any particular instructions to SC&A. Certainly, at the end of April meeting, we would finalize the procedures, and SC&A could operate consistent with those procedures. So again, just as straw man, you can modify it as you might want.

Let me go on to the second easiest which is Y-12.

DR. MELIUS: Why don't we talk about them one at a time?

DR. WADE: I only propose it as a means for reaching a solution. It's not perfect.

DR. ZIEMER: That's fine, go ahead, Ames.

DR. MELIUS: Well, on Ames, I mean, actually I agree with your proposal, Lew, and I think that the time we had our first call wasn't clear what the schedule would be for NIOSH. SC&A hadn't had a chance to look at the

petition which is quite extensive, and I think that a work group meeting, discussion of that in early April would be appropriate. I think we should involve the petitioners in that discussion so they're aware of what's going on. But I think that would facilitate that. And I just want to make sure that we're focused. Again, I'm not sure, until we've, you know, we've looked at the petition and understood the site, we have to decide what really needs to get focused on and use our resources appropriately for that.

DR. MAKHIJANI: Dr. Melius, this is Arjun. I've been tasked with coordinating the Ames review task that you've asked us to do. And I think at the April Board meeting we'll be able to give you a pretty good progress report on where we stand. And of course, we will have looked at NIOSH's evaluation report also.

DR. MELIUS: Arjun, as I understood there's some issue of scheduling that because I don't think NIOSH planned to present their evaluation report at the April meeting.

DR. ZIEMER: July meeting I think is what you said.

DR. WADE: The report will be out there. The report will be in everybody's hands at the end of March. So it'll be there for intellectual consideration. We won't be presenting it at the April meeting.

DR. MELIUS: If possible we could do a work group meeting after you've had an opportunity to look at the evaluation report, become more familiar with the petition, and then we can decide exactly what would be appropriate to do at that point.

DR. WADE: The only reason my proposal talked about a work group meeting possibly before the full Board meeting was just to give a little bit more time in case there are substantive issues raised by the evaluation report.

DR. MELIUS: Correct.

DR. ZIEMER: You're talking about a work group meeting before the July meeting?

DR. WADE: I'm talking about a work group meeting in early April once NIOSH has released its evaluation report by Dr. Melius' work group so that they could look at that evaluation report and decide if there are any

special instruction they wanted to give to the contractor relative to the evaluation of the Ames situation.

DR. MELIUS: Again, just in response to what John Mauro was saying earlier, I'm not convinced that a full site profile review is necessary or at least that scope of work. So let's gather the information and determine, it may be; it may not, but let's use our resources appropriately.

DR. MAURO: Yeah, Dr. Melius, the way of thinking about, I think our way of thinking about the full-blown review when we originally conceived of it back when we wrote our proposal was, it was -- I use the work monolithic -- in the way that now we review all this material and we deliver our draft report with its findings. That's how, we were thinking about it the way we think about site profile reviews.

What I'm hearing -- correct me if I'm wrong -- is that it might be a little more iterative than that but we'll review this material, and then as early as possible in the process once the document is qualified. In

this case Ames has been qualified. We've been authorized to start reading all this material, which we are. Along the way I guess it sounds like sometime the end of March, there would be an evaluation report which SC&A will review.

But as you, while that's going on there will be working group meetings whereby SC&A's perspectives, what we've been reading, what we've learned from reading NIOSH's evaluation report, the question becomes more of an iterative process that is ongoing and matures as opposed to, I guess, the way we've been doing things on the site profile. It's a little bit different. It's more where we do a lot of work and then we deliver this product that you see at the end of this process.

It sounds like the process you'd like to use for doing full-blown reviews such as Ames is more one where we try quickly to focus in on the issues through a process, a working group process where it might have a little bit different form than the way in which we proceed for site profile reviews. Do you see it that way also?

DR. MELIUS: Yes, I do.

DR. WADE: And I do, too, John. And again, remember we're dealing now with a finite amount of time. I think that really shapes the reality we're pursuing, so yeah, I'm not troubled by your characterization.

Let me talk about Y-12.

DR. ZIEMER: Let's see if there's any other comments on Ames, otherwise we'll take it by consent that we could proceed on this basis.

(no response)

DR. WADE: Let me talk about Y-12. It's interesting in that you have the Mark work group that's done excellent work on the site profile issues. I would ask that work group to complete its work on Y-12, to have another meeting as quickly as is practicable to look at the remaining issues, try and close the issues in the matrix, look at the NIOSH sample dose reconstructions and intellectually try and tie a knot around the open technical issues.

Then NIOSH issues its evaluation report and then the Dr. Melius work group takes precedence. It meets with the NIOSH evaluation report in its hands. It also will

have the benefit of Mark's working group. I would suggest they invite Mark to come to their working group and to share the final thoughts. And then the Melius working group takes up the task of instructing SC&A on anything it might want it to do prior to the full April meeting. Again, SC&A is taking on a focused review of the Y-12 site profile so it would not be inappropriate for the working group to issue some very focusing instructions.

Now it could well be that the Mark working group would have gotten it right, and the issues will be on the table. And it's simply of matter of proceeding forward, but I think that judgment needs to be made in light of the released NIOSH evaluation report, and I would suggest then that, again, these meetings can happen at the same time. But the Melius working group meets after the evaluation report has been released, reviews the material and decides what instructions, if any, it might want to give its contractor. That's my Y-12 proposal.

DR. MELIUS: Jim Melius. I had always

presumed, and maybe I misunderstood, but I would almost think it would, there's overlap in these groups so I'm not sure it makes that much difference, but given all the back and forth that's gone on with the Y-12 issue that it would be better staying with the same working group, not establish, not trying to switch working groups in mid-stream.

DR. WADE: Makes sense to me.

DR. MELIUS: Again, if I remember who's on that working group, but certainly Mark's been part of the SEC evaluation working group also so there'd be enough continuity there, and I think we'd avoid -- for people that have not directly participated in the site profile review meetings, it's very hard, and it takes awhile to get up to speed. And I think, I'm afraid we might, with a new working group we could do more damage than help.

DR. ZIEMER: I think the main thing here would be for that work group to have available the merged document, Lew, that you're talking about, right?

DR. WADE: I don't think that merged document is going to be --

DR. ZIEMER: Okay, that's not going to be acted on until the April meeting, but it's going to be --

DR. WADE: The only driving document we have is the Melius document right now, and I think that's enough to steer the group.

MR. GRIFFON: Yeah.

DR. MELIUS: I will work on drafting a merged document so to speak.

DR. ZIEMER: Yeah, that's right because that'll be the April meeting.

DR. MELIUS: Paul, except that there's a time, again, I don't know the exact timing of this, but I will work on a merger of the two with a procedural merger. I've already started doing that.

DR. WADE: So this means, Mark, that if we agree to this proposal then your working group would have two meetings. It would meet some time in March to try and wrap a bow around the Y-12 matrix. And then it would meet again once the NIOSH evaluation report was available and decide if there is anything else it wants the contractor to do between the day of that meeting and the end of April full Board

meeting.

MR. GRIFFON: Yeah, for good or bad that sounds like we need to do that.

DR. DeHART: This is Roy for a point of clarification. With Jim's working group, which I think I'm a participant in, is the Y-12 issue out of bounds for me?

DR. WADE: It would be, yes.

DR. DeHART: That's what I thought so I could not be --

DR. WADE: So Dr. Melius' proposal works even better then because you wouldn't be able to pick up the Y-12 issue anyway.

DR. MELIUS: I think Paul has the same issue also so--

DR. WADE: It's best staying with Mark's working group.

DR. ZIEMER: Yeah, now the other part of that is on Y-12 since you've been working right along there I think many of the issues, you might get to the point when the evaluation comes out that it becomes very clear that you don't have any issues. Or at least it wouldn't take a big effort to identify what they are because you've been working on this

for quite some time.

DR. WADE: Yeah, our hope would be that there wouldn't be many new issues resulting from the evaluation report, but we would cover that --

MR. GRIFFON: That's our hope with this parallel processing. I think we at least need to leave a time frame for a potential meeting.

DR. ZIEMER: If you have to meet, yeah.

DR. WADE: Well, now it gets difficult because now we're to Rocky Flats although we've learned some things from the previous two discussions. I would say on Rocky Flats that SC&A needs to be put to work immediately with reviewing the petition, and I think they're doing that based upon John's proposal.

I would see value in Mark's working group meeting one more time even before the evaluation report is out to try and sort through those issues because I still think that you'll find the issues raised by that working group will be paramount in the discussions that follow. They might not be all inclusive but they're going to be important issues. So I would think again --

MR. GRIFFON: My attempt -- sorry.

DR. WADE: Go ahead, Mark.

MR. GRIFFON: My attempt would be to have that the same day of the Y-12 meeting like we did last time if that's --

DR. WADE: I would agree. Although the only difference would be I guess we would stop short of the sample dose reconstructions at this point given sort of Dr. Melius' caution which I think is a sound caution.

MR. GRIFFON: It is a sound caution. I guess I was getting a little ahead of myself trying to keep the ball moving. I'm not sure that we can identify some at this point that are of interest, but I think you're right. I think it's, you know, we have many issues that we're not as far along on such as, we don't even know how often a coworker model will be used, and what the coworker model is. So I'm not sure, we might be better served to hold off on that.

DR. WADE: So then NIOSH issues its evaluation report we can only hope, and then a working group meets armed with the materials of the evaluation report, the work of the Mark

Griffon working group, and decides what the instruction will be to the contractor on continuing the focused Rocky Flats review. The only question in my mind is should it be a continuation of Mark's working group for the reasons that Jim mentioned or should it be the Melius working group? I leave that to the wisdom of the Board.

DR. ZIEMER: Well, particularly because of the time issue I think it would be very difficult for a new working group to get up to speed on that one. What do some of the others of you think?

DR. MELIUS: This is Jim. I concur on that. It just, it's hard enough at the time of the meetings when some of these issues have been distilled to catch up that try to do so and not disrupt their burden, you know, NIOSH and their contractors with lots of questions and potential misunderstandings. I think it would be better if we --

MR. GRIFFON: My only concern with the timing on this, Lew, is that if we meet before the evaluation report comes out and we don't have any sample DRs from NIOSH, then we're

going to get an evaluation report and then I think we would have to, I mean, as part of our procedures we're now asking for sample DRs as proof of principle, and I think we'd have to, I guess we could ask for them over the telephone or NIOSH could outline some sample DRs covering the breadth of potential classes within, you know --

DR. ZIEMER: The current procedure requires NIOSH to provide some sample DRs.

MR. ELLIOTT: This is Larry Elliott. And certainly, we have taken to heart the need to present an evaluation report to the Board. Although the evaluation report itself will not include sample dose reconstructions, the presentation of that report to the Board will include sample dose reconstructions when and where we say we feel we can reconstruct dose.

MR. GRIFFON: Okay, I guess that's why I was requesting that we sort of get some ideas in mind for sample DRs, but I think it's more appropriate that NIOSH, like Jim Melius said earlier, I think it's more appropriate NIOSH self-identify at this point and --

MS. MUNN: Mark, how many DRs do you feel

like we need to see?

MR. GRIFFON: Well, I think we leave that up to NIOSH in this case, you know, but because I think, I agree with your general statement earlier, Wanda, that --

MS. MUNN: I'm concerned about the number.

MR. GRIFFON: But we want to make sure, I think NIOSH can consider that it covers the, it's representative of the class.

MR. ELLIOTT: This is Larry Elliott again. I think Dr. Melius' comment is on independence in our evaluation review for a petition is something that came from a discussion we had back in February trying to kick off the Ames review. I made that plea that we wanted to maintain our independence in developing our evaluation of a petition. And even though SC&A has come forward on Y-12 and offered suggestions on dose reconstruction examples that they think would demonstrate either we can or we can't do dose reconstruction, I think that there's some help in that. I think we're going to learn from talking through those 11. I think you're going to hear us where we feel it's appropriate to respond and

show a sample dose reconstruction we will. But on some of these 11 we're going to point out quickly that they have no merit to the class as being designated.

MR. GRIFFON: Yeah, that's fair.

MR. ELLIOTT: So I would offer that those 11 are going to serve us as an example and gain experience, but I prefer not to see example dose reconstruction suggestions given to us while we're in the midst of an evaluation report for Rocky Flats or any other petition.

DR. ZIEMER: Lew, as I understand what you're suggesting here, there would be a work group session after the petition evaluation report is out at which time the work group would identify for the contractor issues that need to be addressed or reviewed. Is that correct?

DR. WADE: Correct, and with the contractor bringing that intellectual content to the Board prior to the Board being formally presented the petition at the meeting so that you would hear the contractor report back to you on things you asked it to focus on so you could consider that as you deliberated on --

MR. GRIFFON: Right.

DR. ZIEMER: And with respect to Rocky and the comments you made earlier, John, and as you guys are looking at the petition, and of course, you're probably going to be identifying things along the way as you go anyway. And then meeting with the working group as you exchange comments and ideas, it's possible that you will identify a number of things that aren't on your list now. You've got four issues here in your letter proposal.

DR. MAURO: That's correct.

DR. ZIEMER: But I think there is a fair possibility that that could expand by maybe significantly.

MS. MUNN: It could, then the question, the next question that comes to my mind is how long would SC&A need to look at the result of the Board's review? Is two weeks enough time for them to do that?

DR. ZIEMER: Well, I think one of the problems is the following: SC&A will have the NIOSH evaluation report. They will have a number of issues that they identify, and this could take a couple of weeks. I don't know,

but then you have the issue of well, when does NIOSH get to respond to the issues that are raised?

MS. MUNN: Right.

MR. GRIFFON: Right.

DR. ZIEMER: That's what worries me about the timetable for Rocky. As was pointed out, we're quite a ways along on resolving issues on Y-12. At Rocky we're sort of just underway.

MR. GRIFFON: I would agree, yeah, I would agree.

DR. WADE: Your concerns are real, Paul. I think what we can do is work the issue and see where it takes us. The Board might find itself in a position at the end of April that it's not prepared to vote. And that would be the Board's decision. It'll be a tough decision, but it'll be the Board's decision.

DR. ZIEMER: Yeah, but again, I hope that the Rocky Flats folks, and I don't know if any of them are still on the line, but would recognize that although we do want the process to move along, we do want to do it right at the same time and not short-change it. So,

you know, that's the pressure.

DR. WADE: And I think that's (unintelligible) with the technical issues in hand as opposed to hypothetical. And the reality is that the Melius working group will likely meet in early April. Its focus will be on the Ames petition and possibly some work in terms of the merging of the SC&A procedures proposal and the Melius thought piece. Then the Griffon work group will meet twice, one, third week in March, not ten days from today, not far from now, and try and work on its matrix work, and then early April following the release of the NIOSH evaluation reports. Again, it's very compressed, and I think on Ames and Y-12 I think we can all see our way through. In Rocky Flats it really needs to start now in earnest and NIOSH needs to get its evaluation report on the street, much will be informed by that.

MR. PRESLEY: Lew, this is Bob Presley.

DR. WADE: Sir?

MR. PRESLEY: Before we get too far, and you just told a couple of people that they have problems with Y-12. Now, have y'all got a

problem with me with Y-12 because I sit on this working group?

DR. WADE: I think when it changes its focus, Robert, to the SEC petition I think you won't be able to sit on the working group. And I think the meeting in March would be fine. I think the meeting in April I think we would need to replace you or not have you involved.

MR. PRESLEY: Okay, I'll agree to that.

DR. ZIEMER: Any objections if we proceed on this basis then?

(no response)

DR. ZIEMER: Okay. I take it by consent that that's what we'll do in these three cases.

What do we need to do on the letter, the Mauro letter? I'm sort of asking you, Lew.

DR. WADE: Well, John, John Mauro, are you comfortable now working consistent with that plan based upon the contractual documents in place?

DR. MAURO: Yes, I think that the letter, the February 21st letter leaves enough room to

implement the task that we have just discussed. When all is said and done, the thing that I just learned that bear on that letter go toward really two points.

With regard to Ames there's going to be active working groups and an iterative process, something that's not actually stated in the letter, but it's sort of silent. So the letter really does not need to be modified. Right now it says we're going to perform a full review of the Ames document, and that we're going to do that in accordance with our Task Five overall proposal of work which really joins directly from 42-CFR, Part 83. So there's nothing in there that contradicts anything that we've said so far. So I don't see any problems with Ames.

With regard to the focused reviews right now the only, we really didn't identify the issues that we felt were part of the focused reviews for Y-12 and for Rocky, in the February 21st letter, but we also put in some qualifying words in the letter that says we are going to review the full petition as part of the scope of work. And we also had some

words that if it turns out, you know, that the number of issues may expand beyond four.

If it does and it has a potential to affect the budget, I will inform the contractor officers, the Board, the working group, that we are about to exceed the budget that we set forth for Rocky if that turns out to be the case before that happens, then seek guidance from you all on what we should do. But those words are in there right now. So as far as I'm concerned I think we have everything in place we need to move forward. And there's nothing that we've discussed here that requires a modification to the February 21st letter.

DR. ZIEMER: Well, with that in mind I think we can then proceed as you've outlined and as we've gone through here on these particular cases.

BOARD CORRESPONDENCE, AGENDA FOR APRIL MEETING, FUTURE BOARD MEETINGS AND WORKING GROUP SCHEDULE

DR. WADE: Some logistics questions, I mean, so the Mark working group would need to meet a couple of days in March. Might I make the suggestion we meet in Boston again? Is that overly difficult?

MR. PRESLEY: It's very difficult for me.

MR. GRIFFON: Cincinnati's probably better for most people.

DR. WADE: Okay, so let's say Cincinnati.

MR. PRESLEY: Correct.

MR. GRIFFON: And then NIOSH has their resources there as well.

DR. WADE: Okay, I was just trying to be respectful.

MR. GRIFFON: How about the 29th/30th though, either one of those days? I don't know that we need two days, but either one of those days.

DR. NETON: Mark, this is Jim. I'm going to be in St. Louis on the 29th.

MR. PRESLEY: How about the 27th and the 28th? This is Bob Presley.

DR. NETON: I'd have to leave early to get to the airport.

MR. GRIFFON: Yeah, and Jim, do you think we'll need two days or one day for this meeting?

DR. NETON: I think one day.

DR. WADE: One good day.

MR. GRIFFON: I was going to do Y-12 and

Rocky.

DR. WADE: Full day the 28th.

DR. NETON: I will have to leave probably by at three o'clock, but --

MR. GRIFFON: Well, do Y-12 in the morning and then we can go into Rocky. We can even work a late day if we need to. I mean everybody likes to put in the hours on this work group.

DR. WADE: The 28th in Cincinnati.

DR. NETON: My only concern is I'm probably going to be involved in some of this super Y discussions, super-S rather, but if we --

MR. GRIFFON: That'll be the first one on Rocky, right?

DR. NETON: Yeah, right.

MR. GRIFFON: And we'll try to accommodate you, Jim.

DR. NETON: Sorry, I'm not trying to be difficult.

MR. GRIFFON: No, no, no, I mean, I'm serious. I wasn't being facetious.

MS. MUNN: Are we going to try to do Rocky and Y-12 on the 28th?

MR. GRIFFON: Yeah.

MS. MUNN: Oh, you dreamer.

MR. GRIFFON: I'm a dreamer?

DR. MAKHIJANI: This is Arjun. I think there are a bunch of dose reconstructions to consider, Mark.

MR. GRIFFON: Oh, yeah, we have sample DRs.

DR. MAKHIJANI: And I think just from the experience of last time, they do take awhile to understand. And if Jim has to leave at 3:00, it's a question.

DR. NETON: I also just noticed on my calendar, Mark, that right now we've got a tentative date with Dr. Howard coming into town.

DR. WADE: We can change that.

DR. NETON: I'm checking right now to see if that might be moved. Yeah, Lew, you could speak for that I suppose.

DR. WADE: Yeah, we could change that.

MS. MUNN: We have to push it out that far in order to have any DRs, right? We can't do it the preceding week like the 22nd, 23rd?

DR. NETON: We're going to be pushing to have any DR --

MS. MUNN: Right, that's what I wanted to

verify.

MR. GRIFFON: And we can't really push it forward because then we're getting, we've got another meeting after the evaluation report.

MS. MUNN: Right, so who can't appear on the 27th?

MR. GRIFFON: I can't, but I might be able to rearrange that. Let me --

DR. WADE: What if we were to try and travel the morning of the 27th, Mark, if you could rearrange, meet the afternoon of the 27th and then as much of the 28th as we would need?

DR. NETON: Sounds good to me.

MR. PRESLEY: It'd give us more time.

MR. GRIFFON: Okay, 27th - 28th.

DR. WADE: So we would plan a new start, one o'clock start on the 27th, and then we'd have the 28th as much as we needed.

DR. NETON: Yeah, that sounds good.

MS. MUNN: That way we could run late on the 27th.

DR. WADE: And then the other two we will schedule off line.

MR. GIBSON: I will not be able to make the afternoon session on the 27th, but I could be

there on the 28th.

MR. GRIFFON: And the other one, I don't know. Do you want to wait on the other meeting, Paul? I mean, Lew. I was going to say April 11th, 12th and 13th by surveying SC&A. And the dates I have the week of like or the days of April 11th, 12th and 13th are almost all that are left except for right before the meeting.

DR. WADE: Well, let's take one right now.

MS. MUNN: Let's do it then for goodness sake. That only leaves now a bare couple of days before --

MR. GRIFFON: Do we need two days for this one or one day?

MS. MUNN: I'm always in favor of scheduling two and then if you get through with one, more's the better.

MR. GRIFFON: Let's say the 11th and 12th then with the same format that we just described starting at noon or whatever. How does that work for people?

MS. MUNN: Yeah, don't get out ahead of us, Mike.

DR. NETON: Now this is NIOSH's involvement

here as well I suppose?

MR. GRIFFON: Yep.

DR. NETON: This is the SEC meeting that we were talking about with Dr. Melius' group. Is that right?

MR. GRIFFON: I guess it's going to be, yeah, covering the evaluation reports though.

DR. NETON: Would this be the meeting where we would have example dose reconstructions nailed down I suppose?

MR. GRIFFON: Well, we'll discuss your evaluation reports to the extent you provide sample DRs to demonstrate the case, yeah.

MR. PRESLEY: This is Bob Presley. I don't have to worry about that meeting, right?

DR. WADE: Just half of it, the Rocky Flats part.

MR. GRIFFON: The Rocky portion which would be the second day, I imagine.

MR. PRESLEY: What's those dates again?

MS. MUNN: Eleven, 12.

DR. NETON: Eleventh and 12th of April.

MR. GIBSON: And those are all day meetings?

MR. GRIFFON: I think starting at noon on the 11th was the idea or just after noon and

going through as long as we had to on the second day.

MR. PRESLEY: Couldn't start on the 10th, could you?

MR. GRIFFON: I can't do the 10th.

MR. GIBSON: In fact, I'll miss the afternoon session on the 11th again also.

DR. WADE: Well, it's a plan. I don't know if Dr. Melius if you want to wait to schedule yours or do you want to try and do it now?

DR. MELIUS: When do you think the evaluation report will come out on Iowa?

DR. WADE: I think it should be the end of March; correct, Larry?

MR. ELLIOTT: Yes, it's our full intention to have an evaluation report completed and in the hands of the Board and the petitioners by the end of March.

DR. WADE: So it's your call, Jim, as to when you want to try it.

DR. MELIUS: I could do the 11th, the 13th or 14th.

MR. GRIFFON: Can I ask a silly question? Who's on this work group, Jim?

DR. MELIUS: You're on the work group, Mark.

MR. GRIFFON: I don't think I am for Ames though.

DR. MELIUS: I thought we were just using the --

MR. GRIFFON: -- members of the SEC work group. I don't know who it --

DR. WADE: The SEC? I don't have it in front of me. I think it was Dr. DeHart, correct?

MR. GRIFFON: Okay, well, I'm on that work group, but I thought you had a separate work group looking at Ames.

DR. WADE: No.

DR. MELIUS: No.

MR. GRIFFON: Okay, sorry.

MS. MUNN: Isn't two enough?

MR. GRIFFON: If you do it the morning of the 11th, I'll be out there.

DR. DeHART: The 11th is good for me.

MR. GRIFFON: I mean, would it be done in a half, I could get there early and do that in the morning and then Y-12 start after that?

DR. ZIEMER: (Unintelligible) and Jim on your subcommittee or work group?

DR. MELIUS: Pardon?

DR. ZIEMER: Who's on your work group?

DR. MELIUS: You, Roy, Mark and myself. It was the group that did the SEC audit.

DR. ZIEMER: I couldn't remember who all was on that. I'm not available on the 11th and 12th, but if you have three, go ahead.

DR. MELIUS: Roy, are you available?

DR. DeHART: Yes, I am, on the 11th, 12th and 13th. It's nice to be retired.

DR. ZIEMER: The 13th I'm okay.

DR. MELIUS: I think the morning of the 11th. I don't' think it's going to take a full day, so it's --

DR. WADE: So let's say the morning of the 11th we'll get a bright and early start.

MR. GRIFFON: Okay, in Cincinnati I'm assuming.

MS. MUNN: Yeah.

DR. DeHART: I can be downtown by nine o'clock. I think that's when we made it before, Jim.

DR. MELIUS: Yeah.

DR. NETON: This is Jim Neton. We have a little confusion around the table here as to which meetings we are required at. The 11th

and 12th meeting, which is the Mark Griffon meeting, and now we're talking about another 11th and 12th meeting that is with Dr. Melius?

MR. GRIFFON: No, the morning of the 11th.

DR. MELIUS: Just the morning of the 11th.

DR. ZIEMER: But that's got to be --

MR. GRIFFON: They won't overlap.

DR. ZIEMER: -- with SC&A and, right?

DR. NETON: Yes, and NIOSH would not be involved in that?

DR. WADE: NIOSH wouldn't be required. I would be there as the DFO.

DR. NETON: I mean, if we're available and there's no overlap, we could be there. I just want to make sure we understand.

DR. DeHART: We will have documents in hand in advance of that meeting, correct?

DR. MELIUS: Correct. You've already got the Board, we've already received the petition. It was extensive. It's on a CD disk.

DR. ZIEMER: A CD, right.

DR. MELIUS: And then we'll have the evaluation report by then.

DR. WADE: Because I think it would be

worthwhile NIOSH having a technical person available just if there are any questions.

MR. PRESLEY: Mark, this is Bob Presley. When are we going to do the other Y-12 dose reconstructions? Is that on the 11th or the 12th?

MR. GRIFFON: The afternoon, we're going to go over NIOSH's evaluation report on the 11th in the afternoon. So at that point I'm assuming they will show some sample DRs.

MR. PRESLEY: On the afternoon of the 11th I do not need to be there?

DR. WADE: You do not need to be there. That's correct.

MR. PRESLEY: But I do need to be there the morning of the 12th.

MR. GRIFFON: Correct. Now there might be a little spillover in the, you know. If we don't finish Y-12 in the afternoon, we may go over into the next morning, but we're going to try not to.

MR. PRESLEY: Okay, well, I'll plan to be there on the 12th then.

MR. ELLIOTT: When you say be there, you're coming here to Cincinnati?

MR. PRESLEY: Yeah, I hope.

MR. ELLIOTT: And Dr. Melius, are you proposing to have your work group meeting in the morning on the 11th by phone?

DR. MELIUS: I thought we were coming to Cincinnati.

MR. ELLIOTT: Oh, you're coming to Cincinnati, too.

DR. NETON: That's fine as long as we've got the hotel.

MR. ELLIOTT: Yeah, that's fine. I just wanted to make sure we knew where we were supposed to be.

MR. PRESLEY: Are we going to stay out at the airport again?

DR. WADE: Might as well.

DR. NETON: Okay, what about the March meeting? Is that at the airport as well?

MR. GRIFFON: Same thing, yeah, I would assume.

DR. NETON: Can we get it?

DR. WADE: Yes, we'll try. We'll start working this afternoon to get the room.

MR. PRESLEY: This is Bob Presley. I appreciate it. I've got to go to therapy.

DR. WADE: Dr. Ziemer, it's back to you. I'm sorry we took so long.

REPORT OF WORKING GROUP: INDIVIDUAL DOSE RECONSTRUCTION REVIEW

DR. ZIEMER: Just looking at the time here, we have just a couple more items to be reported on. We have the individual dose reconstruction review. Is there anything there that we need to do today other than the, do we need to go through that matrix today, Mark?

MR. GRIFFON: I think I should go through every line of --

DR. ZIEMER: Right.

MR. GRIFFON: -- in the next 20 minutes. No, I just got those out this morning, and actually, just to report, we finished going through the third set matrix as well, but I just didn't have time to get everything together on that one. So these really, the second set of cases now have the sort of resolution column filled out and the procedures review and also in the second set of cases.

And what I would ask at this point is that, NIOSH and SC&A just got these when the

Board got them. They're in raw draft form. There are some gaps. There are some places where I highlighted in yellow because I was not sure with my notes what the resolution was.

So I propose to do the same with the third set, which we finished in the work group meeting, circulate it to NIOSH and SC&A and the work group. Then get comments back and assemble them for final form for the April meeting if that's okay.

DR. ZIEMER: That would make sense. I don't think we can really act on them today.

MR. GRIFFON: No, they're not in the form --

DR. ZIEMER: They're not in the format to do that.

MR. GRIFFON: And I still need to complete the Board action column as well, but I was waiting to get NIOSH and SC&A feedback to make sure I got all these correct. So we need a little more work on these, but the good news is that we completed the procedures review matrix and the second set of cases and the third set of cases, made a lot of headway at the last work group meeting.

MS. MUNN: And the really good news is that there's virtually nothing, there's only one high priority item or so in there.

DR. DeHART: Do we need to hold onto the documents that you've just transmitted if you're going to be modifying them?

MR. GRIFFON: Not unless you want to submit comments, and that will primarily be for the work group probably. So yeah, there'll be another final draft coming out, and I'll try to --

DR. ZIEMER: Okay, so we'll plan to have that on the agenda for the April meeting then if you try to come to closure on groups two and three of dose reconstruction reviews.

MR. GRIFFON: There's only one thing I want to bring up relative to this which I'm not sure where we stand on, and it's the action tracking process. And as I develop all these matrices, it becomes, it's fast becoming difficult to follow where actions stand. And in some cases, as you'll see if you look through these matrices, many times the procedures that were reviewed have been replaced, or as a result of the findings, have

been replaced with new procedures. So the resolution is that SC&A is going to review a new procedure or the resolution is that SC&A and NIOSH will discuss in the site profile review process. So it's getting complicated.

DR. ZIEMER: Are you on the procedures review?

MS. MUNN: Yes.

MR. GRIFFON: But it's the question of following these resolutions through to completion I guess is my concern. And I think we need to make sure that all these are being tracked.

MS. MUNN: We've never even identified which agency is going to do this much less what person inside the agency is going to be the person of contact to track.

MR. GRIFFON: To track these.

MS. MUNN: And it really is --

DR. ZIEMER: Well, I do want to ask a question in that regard and maybe direct it to NIOSH. There was a, in the GAO report there was an issue on tracking findings, and I thought that there was some plan underway to do that. Lew or Larry or Jim, can any of you

speak to that?

MR. HINNEFELD: This is Stu Hinnefeld. In our conversations we've talked that a convenient way to do this in the sort of matrix form that we've been collecting so far is an additional column that provides this is the action that's being done, and this is the status, and so that, I mean, we've talked about that in terms of what kind of products we've had so far. My own view though is, you know, we have a GAO report that essentially calls upon us to develop tracking systems for Board recommendations and resolutions. You know, what was done in response to Board recommendations.

And so I guess our own thought process here is that the conversation that occurs in these various working groups and a compilation of these matrices does that constitute a Board recommendation that we've added to it or is there going to be a Board correspondence to the Secretary recommending that we resolve these matrices in that fashion.

MR. ELLIOTT: And this is Larry Elliott. Let me kind of answer Stu's question as we see

it here. The GAO report refers to a Board recommendation and as an advisory board to the Secretary and under FACA, we're interpreting that to mean a recommendation to the Secretary. That's what we are required to track. And letters that would come forward from the Board with consensus recommendation would be those things that we would track and be held accountable for.

DR. ZIEMER: Right, well, the dose reconstruction reviews will be in that category because each of these will be going to the Secretary.

MR. ELLIOTT: But what Stu was just referring to as the matrix, those are the matrix between us and SC&A and the working group --

MR. GRIFFON: But the matrices in the first set of cases for review the matrix was an attachment to that letter, and I would think the same is going to be true eventually --

MR. ELLIOTT: Has that letter gone out yet?

DR. ZIEMER: No.

MR. ELLIOTT: The letter has not gone out yet?

DR. ZIEMER: No, it hasn't.

MR. GRIFFON: Oh, it still hasn't gone out?

DR. ZIEMER: No. There's a, I'll need an electronic copy of the matrix from you, Mark, but I'll get, I'll check with you offline on that. Everything else is ready to go. But those reconstruction matrices will be in that category. They'll be part of the reports to the Secretary.

MR. GRIFFON: So to that extent they should become part of that overall tracking tract?

DR. ZIEMER: Well, I was just asking what the plan was.

Obviously, independent of that we need to be tracking what's happening.

MR. ELLIOTT: I think to answer your question, Mark, a letter that comes from the Board if it simply includes recommendations in the body of the letter, we would track that. If it includes, as I hear the first review of 20 includes a matrix attached to the letter, we would track that as well.

MR. GRIFFON: Okay.

DR. MELIUS: This is Jim Melius. I think we've got to take a little broader view than

just the GAO recommendation. I think NIOSH is supposed to provide assistance to the Board as needed in doing our tasks and if it would be helpful to have some sort of system to track some of these changes and so forth. I think we need to figure out how to get it implemented. I don't think we can do that on the phone now, but I think it's sort of more than just the GAO requirement or a response to a GAO recommendation.

DR. WADE: Right, let us bring, this is Lew Wade. Let us bring a proposal to the Board meeting at the end of April on how best to do this.

MS. MUNN: I would appreciate -- one of the things that concerns me is that some of these things are going to be fairly long lasting. I hate to continue to see the entire matrix revolving before our eyes time after time. I would like to be able to see action items specifically taken out of the matrix so that eventually what we see is only action items who have the action and what its status is. I'd like to see the matrix go away after we've finished beating it to death and it's been

submitted.

DR. WADE: And on the other side of the coin the thing that worries us all I think is that sometimes in the dose reconstruction review the action is really to deal with something through a procedures review. And once you start to cross from one matrix to another we need to be sure there's a mechanism for capturing that and not losing that intellectual content.

MR. GRIFFON: In other words, the site profile reviews. It gets quickly complicated.

MS. MUNN: Which is one of the reasons why in my mind there needs to be an individual that is perhaps even a separate individual who tracks outstanding issues from the procedural point of view and someone else who tracks the outstanding issues from the DRs. That just seems to be two separate things to me and --

MR. ELLIOTT: I think it goes back to the recommendation from the Board and however and whatever shape or form that takes would still require us to address those recommendations and react to them. And there needs to be a response given back to the Board, something

that goes back through the Secretary's office that says here's how we have reacted to the Board's recommendation. We may not take the recommendation, and we would need to in that case say why we didn't accept the recommendation and move forward with it. And so I think this will be accommodated. As we proceed you'll see how it works. My experience with other FACA committees is that the FACA committee provides a recommendation in writing, and they expect a response to that and so we would have to do that.

DR. WADE: Well, let's think about it internally and then come up with a proposal.

DR. ZIEMER: Mark, on the procedures review you also distributed the latest matrix and all of those still require Board actions, right?

MR. GRIFFON: I had just closed it out so I'm pulling it open again. I thought I put Board actions in there.

MS. MUNN: Yeah, they're in there. Board action and the procedures, we have --

DR. ZIEMER: -- got the right version here. That's the most recent version, most recent undated version.

MS. MUNN: Yeah, needs to have 3/14 on top of that.

MR. GRIFFON: That file name is 3/14, but yeah, I agree.

DR. ZIEMER: Anyway, do we need to actually act on those Board actions?

DR. WADE: Not today I don't think.

MR. GRIFFON: I don't think today only because there's still some holes in that.

DR. ZIEMER: But we at some point need to take final action on this whole matrix.

MR. GRIFFON: Yes, yes, this is the work group still recommending this.

DR. ZIEMER: We'll view that as a status report for the time being.

MR. GRIFFON: Yes.

DR. ZIEMER: Okay, thank you.

NIOSH UPDATE BETHLEHEM STEEL

DR. WADE: All we have left is really the Bethlehem --

DR. ZIEMER: Yeah, what's the update on that? Who's got the lead on that?

DR. WADE: Larry or Jim.

DR. NETON: This is Jim Neton. I've got the shtick here. There were six issues or six

findings that we worked through SC&A, have had numerous meetings and have came to agreement on on all six findings actually. And we are moving forward in revising the Bethlehem Steel profile and incorporate all of them with the exception of one finding which had to do with the oronasal breathing issue.

And we agreed in our discussions with SC&A that we would pull that out as a separate document because it's universally applied to a lot of other locations. So of the five remaining findings we're working them in. I can go over them individually or just assure you that we are working them and hope to have a revised site profile complete and in the Board's hands in advance of the end of April meeting.

DR. WADE: Could you just give a quick update, Jim? I know that there's some people on the line who are interested in this.

DR. NETON: Sure. The first finding had to do with the models used in a 1951 and '52 time frame. And you recall we have air sampling data for those two years at Bethlehem Steel, and the issue between NIOSH and SC&A is how

best to use those data to bound exposures. And after some discussion we came to agreement as to how we were going to do that. And most notably that involved adjusting the GA samples upward to represent the breathing zone, and we were going to do that in the site profile.

The second issue had to do with the cobble issue. SC&A questioned whether our 95th percentile took into account short and episodic events, most notably the cobbling where there was some assertion that these uranium rods were cut with torches. And we were working to address that. We talked to a number of experts with uranium handling with multiple years of experience. And everyone that we've talked to suggests that that would be a very bad idea. We do have a somewhat of an open item here to interview, attempt to interview some workers from Bethlehem Steel and we're trying to work with Mr. Walker in that area to identify some workers to flesh this out a little better. Thus far we have not been able to connect there.

MR. ELLIOTT: Before you go on, Jim, let me add some clarification. A bad idea meaning

that to use a cutting torch on uranium would result in a major fire. And so, as Jim says, we're looking forward to talking with some workers from Bethlehem steel. And it's our belief and our thinking that this was a typical process, cutting cobbles on steel or iron when they were working through the rolling mill, but we doubt that it happened on uranium rods.

DR. NETON: But we do know pretty well when the rods were rolled in 1951 and '52, they had very good records as to which ones cobbled. I mean, we know exactly how many cobbled, and so given that universe of cobbles, we would estimate a certain time frame to cut it up and we just have to put an upper estimate on that operation for generation of airborne uranium.

Right now, if they cut them with a saw we believe we're fairly bound in giving what we have. If there's some indication that torches were used, we might have to rethink that. That's the only one where we still have a little bit of information to flesh out.

Finding three had to do with the oronasal breathing that I just spoke about.

Finding four had to do with ingestion intakes. We came to an agreement with SC&A that we would use an approach where we would take air concentration to surface concentration to ingestion, and we've agreed to flesh that out in more detail in our site profile. And in fact, we're going to modify TIB-0009. It is a generic ingestion model, and it will be applicable to other sites as well.

Finding number five had to do with resuspension in, oh, yeah. SC&A had made a suggestion that we would use the median value of the general area air samples to be representative of resuspension in the vicinity of operations, and we ended up agreeing to that, and are going to incorporate that into the site profile.

And finding six had to do with external doses from beta particles, and we have agreed to modify our profile to include skin dose and clothing contamination to the extent that it would add one and a half millirem per hour, which would add about a 1.8 rem per year to skin dose during all years of operation.

That's it. It's a fairly short list, and we've been working on it.

DR. ZIEMER: Jim, the beta thing is a general skin dose, not a hot spot dose.

DR. NETON: Right, that's right. The clothing were contaminated and we got statements from actually people who were at our meeting that indicated that workers may have worn their clothes for up to, I believe it was a couple of weeks. And so we're just assuming that they remained contaminated for up to two weeks. We also have some data from Simonds Saw that indicated that was a fairly reasonable approximation.

So those are the five issues that we're adding, and they're not that extensive, but they do require us to go back and modify some tables and go back and revise the front end. We will go back once the profile is revised though and review every single dose reconstruction that was passed back to the Department of Labor that had been, you know, had a PC in our estimation of less than 50 percent and see what effect this might have on those cases. And we hope to provide a full

report on that at the end of April.

DR. WADE: Thank you.

DR. ZIEMER: I think that completes our agenda.

Lew, any final comments from your end?

DR. WADE: Amazingly, we're close to on time, and thank you. I know this is difficult work, but it needed to be done, and I appreciate all of your efforts.

DR. MELIUS: Are we going to do a future Board meeting? You had sent around the (unintelligible).

DR. WADE: LaShawn told me this morning that she needs more time so we'll be in touch by e-mail.

DR. MELIUS: Well, if you're going to need more time then I think you need to re-poll at least maybe 'cause I can't hold dates.

DR. ZIEMER: Filling in the calendar, right?

MS. MUNN: Yeah, mine's filling in, too.

DR. MELIUS: It's been three or four weeks now and since I sent her dates and --

DR. WADE: We'll get an e-mail out starting fresh.

MS. MUNN: And Lew and Jim, I sent a note

out this morning probably too late for anyone to get it asking that if we had an opportunity to do so during this meeting, I don't know about other members of the Board, but I'd certainly like to share what went on with the House Subcommittee on Immigration, Border Security and Claims, what a mouthful, and appreciate Jim's testimony and (unintelligible), but I'd really like to know what went on.

DR. ZIEMER: Lew, do you want to report on that?

MS. MUNN: What stimulated that, what we're, you, we, being asked to do? What was the motivation? What's going on other than the usual power play?

DR. WADE: Everything I will offer is my own opinion and speculation when it gets to the issue of why the hearing was held. I believe it was held because there was a pass back from OMB became public. That pass back seemed by the interpretation of some to raise issues that would result in trimming back of the special exposure cohort activities, and at the same time there was an OMB budget release that

looked at trimming, a reduction in the costs of the program.

So the committee was wondering about the nexus of these two things. The pass back specifically made a number of potential recommendations that talked about independent review of the HHS process and raised some questions about the balance of the Board and the unbiased nature of the Board's contractor. I think these issues just triggered an interest on the part of the subcommittee. So a panel was put together that included Shelby Hallmark from DOL, John Howard from NIOSH, our own Dr. Melius and Richard Miller, and they offered statements and there was rigorous questioning.

I don't know, Jim, I'll defer to you now in terms of your telling of it.

DR. MELIUS: Just a couple more things on background, one is the OMB issues that were, quote/unquote, had been raised by the Department of Labor and some solutions had been suggested like changing, quote/unquote, changing the balance of the Board, adding steps to the review process, having an outside

external review. So I think there were five separate items. The subcommittee involved the Subcommittee of the House Judiciary Committee which was the same committee that had asked for the GAO report about the functionings of the Board. So there had been interest there. The subcommittee was chaired by, the chairman was Hostettler, who's a Republican from Indiana. (Unintelligible) who attended the meeting was one other Republican and then two Democrats were also in attendance during the hearing. The Department of Labor raised some concerns in their testimony and their questioning though not as pointed as what were in the OMB document. I think Richard Miller, John Howard and myself basically, I think, defended the current process. And there were questions about how we, what our procedures were. It turned out that a number of the issues, I think, raised by the Department of Labor were misleading or misunderstood, and I think we corrected those issues in sort of both questions and answers. Basically, my testimony and my response to questions was saying I thought that the Board was

functioning well. We represented a diversity of viewpoints, that we worked hard to reach consensus and usually did or came close to that and the process I thought was working. We recognized there was always room for improvement. We would continue to work to improve it. And the questioning from the committee, at least for us, was for the most part friendly, a little bit more pointed towards the Department of Labor. The committee had scheduled another hearing for last week that was going to include OMB, some other, like Senator Bond was scheduled to speak, Denise Brock, but that meeting has been postponed or that hearing has been postponed and my understanding at least for the time being has not been rescheduled, that apparently these issues are getting resolved partly as a result of the public scrutiny. There were newspaper articles about what was going on that Wanda had passed one on from the Hanford area, and there were a number that ran around the country.

MS. MUNN: Yeah, there were two from here. So this additional hearing that was scheduled

but has been postponed is the same subcommittee under Judiciary, right?

DR. MELIUS: Right. They will be continuing I think to monitor the --, but my conclusion of it is, yes, I thought we had a process in place. It was what was envisioned by congressional legislation, and that we were, you know, functioning was fine, and that we should sort of just continue to do what we're doing.

MS. MUNN: Yeah, I appreciated your testimony. With only one or two minor exceptions I would have slapped you, but --

DR. MELIUS: As I said I pointed out there was a diversity of viewpoints.

MS. MUNN: I noticed that.

DR. WADE: This is Lew. The only take away message I took from the hearing is that I think there might be some follow-up hearings. I think there'll be a great deal of interest related to conflict of interest, and I wouldn't be surprised if several among you or among us were back up there on that issue. It does seem to be attracting some attention.

DR. MELIUS: Though I think I feel what the

exact issue, one of the issues that had come up, it was interesting that Representative Hostettler had, as he was addressing the questions and talking about the issue, had actually come to the same conclusion that we had about how to handle a certain situation which I thought was --

MS. MUNN: That's encouraging.

DR. MELIUS: -- encouraging, yes.

MS. MUNN: Anytime the Chair comes to the same conclusion we've come to, that's a good sign.

DR. MELIUS: I very quickly pointed out that we agreed with him.

DR. WADE: Larry, I know you were there. Do you have any observations you'd want to make?

MR. ELLIOTT: No, I think you guys have covered it.

DR. ZIEMER: Okay, thank you very much. Any other comments or --

DR. LOCKEY: Yeah, Jim Lockey. May I ask, I don't know what everybody thinks, but is it possible that we look at our calendar like always 12 months ahead of time? Is that not feasible? That would be great for me if we

could do that because things do get booked in and if we're on other panels or in study sessions or something like that it creates problems.

DR. ZIEMER: It's certainly worth an effort to do that if we can.

DR. WADE: I'll have LaShawn come out with a year query later this week.

MS. MUNN: The further out we go the better it is for me, too.

DR. LOCKEY: That'd be great, thanks. This is a real education, thank you, everybody.

DR. ZIEMER: Okay, then I'm going to declare the meeting adjourned. Thank you very much.

(Whereupon, the Board meeting concluded at 4:50 p.m.)

CERTIFICATE OF COURT REPORTER

STATE OF GEORGIA

COUNTY OF FULTON

I, Steven Ray Green, Certified Merit Court Reporter, do hereby certify that I reported the above and foregoing on the day of March 14, 2006; and it is a true and accurate transcript of the testimony captioned herein.

I further certify that I am neither kin nor counsel to any of the parties herein, nor have any interest in the cause named herein.

WITNESS my hand and official seal this the 14th day of April, 2006.

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STEVEN RAY GREEN, CCR

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