

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

THIRTY-SEVENTH MEETING

ADVISORY BOARD ON  
RADIATION AND WORKER HEALTH

VOL. III

DAY THREE

ABRWH BOARD MEETING

The verbatim transcript of the  
Meeting of the Advisory Board on Radiation and  
Worker Health held at the Four Points by Sheraton,  
Denver, Colorado, on April 27, 2006.

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-- "uh-huh" represents an affirmative response, and "uh-uh" represents a negative response.

-- "\*" denotes a spelling based on phonetics, without reference available.

-- / signifies speaker failure, usually failure to use a microphone.

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SCHULTZ, JEFF & LAURA  
SHEPPARD, BOBBIE, ROCKY FLATS  
STACK, VICTORIA  
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TURCIC, PETE, DOL  
ULSH, BRANT, NIOSH

**P R O C E E D I N G S**

(8:35 a.m.)

**WELCOME AND OPENING COMMENTS****DR. PAUL ZIEMER, CHAIR**

1 **DR. ZIEMER:** Take your seats and we will get under  
2 way. As we continue the 37th meeting of the  
3 Advisory Board on Radiation and Worker Health I  
4 start with my usual reminder for Board members,  
5 federal staff people, observers and members of  
6 the public, please register your attendance  
7 with us. If you haven't already done so, you  
8 can do so later this morning. In the entryway  
9 are the registration booklets.

10 I also point out that there are copies of the  
11 agenda and a lot of related materials on the  
12 table in the back. Some of those are materials  
13 from portions of the meeting that have already  
14 been covered, and some that will be covered  
15 today, so please avail yourselves of those as  
16 you may feel necessary.

**ROCKY FLATS SEC**

17  
18 We're going to concentrate a good part of our  
19 session this morning on the Rocky Flats Special  
20 Exposure Cohort petition. And before we have

1           our first formal presentation I want to take  
2           this opportunity to see if any of the  
3           Congressional delegates or any of the staffers  
4           are here this morning from any of the Colorado  
5           -- yes, okay. If you would, please come to the  
6           mike and identify yourselves. And actually we  
7           do want to give you an opportunity, if you have  
8           any formal statements to make to the assembly,  
9           you can do that or you can wait till later if  
10          you prefer.

11          **MS. MINKS:** Sure. My name is Erin Minks. I'm  
12          from Senator Salazar's office. My coworker  
13          David Hiller will be here shortly. I would say  
14          right now we'll wait until the conclusion and  
15          then we'll --

16          **DR. ZIEMER:** And Mr. Hiller did present a  
17          formal -- made a formal statement to the  
18          assembly yesterday and that is on the record  
19          already.

20          **MS. MINKS:** And we would likely repeat that so  
21          we can --

22          **DR. ZIEMER:** Uh-huh.

23          **MS. MINKS:** Thank you.

24          **DR. ZIEMER:** You could if you wish. It's not  
25          necessary from the Board's point of view, but

1 it's entirely your call there.

2 Yes.

3 **MS. ALBERG:** Good morning. My name is Jeanette  
4 Alberg. I'm with U.S. Senator Wayne Allard's  
5 office. We made a statement last night during  
6 the --

7 **DR. ZIEMER:** Right.

8 **MS. ALBERG:** -- public comment period which was  
9 read into the record. I do have press releases  
10 on that statement, as well as a couple of  
11 copies of the statements, but the press release  
12 is on the back table. If you'd actually like a  
13 letter, please see me.

14 **DR. ZIEMER:** Do you have enough copies that the  
15 Board members could have a copy?

16 **MS. ALBERG:** I think I gave them to you guys  
17 last night.

18 **DR. ZIEMER:** Oh, that's the one you had last  
19 night.

20 **MS. ALBERG:** Yeah.

21 **DR. ZIEMER:** Okay, very good. Okay, thank you  
22 very much.

23 Then we will proceed and before the actual  
24 presentation of the SEC evaluation we're going  
25 to hear from Joe Fitzgerald, the representative

1 of SC&A. Joe, before you begin, I need to  
2 catch my breath a minute.

3 I neglected to ask our distinguished Federal  
4 Official, Dr. Wade --

5 **DR. WADE:** Thank you.

6 **DR. ZIEMER:** -- to make his opening comments.

7 **DR. WADE:** More distinguished every day, as it  
8 turns out.

9 **DR. ZIEMER:** Yes, aren't we all.

10 **DR. WADE:** Only that we do have a Board member  
11 who's conflicted on Rocky Flats. That's Brad  
12 Clawson. So Brad, while we will miss you, if  
13 you would please take a seat in the audience  
14 and then we will proceed. We'll welcome you  
15 back when we finish our deliberations on Rocky  
16 Flats.

17 **DR. ZIEMER:** Also we do need to double-check on  
18 Mr. Presley, who's -- can't travel because of  
19 health today, to see if he's on the line this  
20 morning.

21 **MR. PRESLEY:** Good morning, Paul.

22 **DR. ZIEMER:** Have we had him call in?

23 **MR. PRESLEY:** Can y'all hear me?

24 **DR. ZIEMER:** Not that we're aware. And --

25 **MR. PRESLEY:** Paul?

1           **DR. ZIEMER:** -- Dr. Lockey, also, who was ill  
2           and couldn't travel but may be on the line.  
3           Are either of you there this morning?

4           **MR. PRESLEY:** Hey, Paul, can you hear me?

5           **DR. WADE:** Supposed to be.

6           **MR. PRESLEY:** Hello?

7           **DR. WADE:** We're hearing --

8           **DR. ZIEMER:** Okay, here's -- here's -- I hear a  
9           distant echo.

10          **DR. WADE:** Get the volume up as...

11          **DR. ZIEMER:** Talk real loud and -- is that you,  
12          Robert?

13          **MR. PRESLEY:** It's Robert. I'm yelling.

14          **DR. ZIEMER:** Well, it sounds like you're way  
15          off in a cave there, up on a mountaintop in  
16          Tennessee, but can you hear us?

17          **MR. PRESLEY:** I can hear you all wonderfully.

18          **DR. ZIEMER:** I couldn't hear your response.

19          **MR. PRESLEY:** I can hear you all wonderfully.

20          **DR. ZIEMER:** Okay, very good. We can't hear  
21          you very wonderfully, but we'll proceed.

22          **MR. PRESLEY:** Okay.

23          **SC&A PRESENTATION**

24          **DR. ZIEMER:** Okay, thank you. So Joe  
25          Fitzgerald, representing SC&A, then will give

1 us the report from SC&A on their evaluation of  
2 the Special Exposure Cohort review -- or their  
3 review of the Special Cohort Evaluation. One  
4 of those. It's too early, Joe. Thanks.

5 **MR. FITZGERALD:** Thank you, Dr. Ziemer. Good  
6 morning, members of the Board, Congressional  
7 staff, NIOSH team and the -- certainly the  
8 audience. What I want to do is just give you a  
9 -- you're going to have a lot of different  
10 talks this morning on Rocky, but to give you  
11 our perspective on the -- a little higher?

12 **DR. ZIEMER:** Move it a little higher.

13 **MR. FITZGERALD:** Okay, let's do this -- is that  
14 better? Is that better?

15 **MS. MUNN:** Yeah.

16 **MR. FITZGERALD:** Okay, good. -- give you an  
17 update on the evaluation -- independent  
18 evaluation that we're doing as part of the SC&A  
19 audit role on behalf of the Board. And I want  
20 to -- take this down a little bit -- I want to  
21 sort of give you a little background as far as  
22 how we approach this.

23 (Pause)

24 Okay. First off, I think there's been much  
25 said about the intensity of the process, but I

1           just want to give you a real quick look at the  
2           number of meetings and interchanges that we've  
3           had on Rocky Flats since the site profile was  
4           issued in December and since we came up with  
5           the issue resolution matrix, which was right  
6           after New Year's. So it's been a fast-paced  
7           process over the last several months in order  
8           to be able to I think evaluate what's been done  
9           by the NIOSH team and to come up with some  
10          recommendations and feedback to the -- to the  
11          Advisory Board.

12          I think you heard much about Y-12 being sort of  
13          a model for how we're doing the SEC reviews  
14          from our standpoint. This was likewise a bit  
15          of a prototype in the sense that it's a focused  
16          review. We had a site profile. We did come up  
17          with issues related to the site profile. But  
18          we launched right into a SEC evaluation  
19          process, and in that process we focused on the  
20          issues that were critical to the SEC. And in  
21          particular we wanted to highlight those issues  
22          that were in fact raised by the petitioners  
23          that focus on establishing what some of the  
24          concerns would be from the standpoint of  
25          technical data and corroboration, and to

1 attempt over the last several months to  
2 converge in a working group environment on an  
3 understanding of what the issues seem to be and  
4 whether or not we agree with the NIOSH  
5 evaluation.

6 I might add there was no evaluation during this  
7 process. What we were looking at were the  
8 documents, the records and the analyses as they  
9 were emerging. This was a real-time review. A  
10 lot of the guidelines, a lot of the Technical  
11 Information Bulletins, were being generated and  
12 finalized during the same time frame that this  
13 exchange was going on. So a lot of the issues  
14 that we had initially were issues that were  
15 responded to by these documents as they were  
16 generated by NIOSH, and so it gives you some  
17 sense of the process and why we had so many  
18 interchanges. As these documents were provided  
19 us, we would then have comments and then we  
20 would have the interchanges and provide  
21 guidance back to the workgroup. The workgroup  
22 I think was a very effective mechanism, and I  
23 think it moved and propelled the process  
24 forward.

25 I'm going to go right into our key issues, and

1           you'll hear more about these issues from NIOSH  
2           and from the working group.  But from our  
3           standpoint, we had four principal issues.  The  
4           first issue -- the first issue had to do with  
5           the sensitivity of bioassay methods to detect  
6           highly insoluble super S -- or I think someone  
7           was calling it super Y, it's also the high-  
8           fired issue, so it goes by many names.  But  
9           it's the question of whether or not you can  
10          detect the highly insoluble form of plutonium,  
11          and certainly at Rocky Flats that was -- that's  
12          an issue, the petitioners have cited the issue.  
13          And we're looking beyond the question of  
14          detecting lung burdens in the lung, but also  
15          looking at the relevancy of detectability in  
16          the respiratory and GI and systemic organs.  
17          We had two independent reviews of this.  Now I  
18          heard Bob Bistline's name mentioned by some of  
19          the petitioners.  Bob Bistline is on our team.  
20          He certainly is a site expert, as well as a  
21          subject matter expert on the subject of high-  
22          fired plutonium.  And certainly we are going to  
23          rely on his expertise as a subject expert, but  
24          we also have Joyce Lipsztein, who is right  
25          here, who I'm going to ask to come up in a few

1 minutes, who has a wealth of information and  
2 knowledge and has been involved heavily with a  
3 number of ICRP task groups looking at this  
4 subject and other subjects. So I think we  
5 benefit from a considerable amount of  
6 expertise, both on the NIOSH team as well as on  
7 our group, on this particular subject. So I  
8 think the petitioners can be assured that for  
9 the subject of high-fired plutonium, the super  
10 S issue, we're certainly going to have a fairly  
11 comprehensive and detailed analysis and  
12 hopefully a answer on the questions by the next  
13 Board meeting.

14 Now before I go beyond this, I do want to have  
15 -- for the benefit of the Board, have Joyce  
16 Lipsztein come up and give you a little bit  
17 more of a flavor for what I think is a lot of  
18 analysis and work that's been going on  
19 independently within the SC&A team on this  
20 question, and perhaps not giving you a final  
21 answer, but giving you the process by which we  
22 examined this issue and where we're going to go  
23 with it. Joyce.

24 **DR. LIPSZTEIN:** Good morning, members of the  
25 Board. Good morning, members of the public and

1           fellow...

2           We have reviewed the NIOSH proposed method to  
3           evaluate the lung dose, systemic organ dose, ET  
4           and GI tract organ doses due to the inhalation  
5           of high-fired -- so-called high-fired plutonium  
6           oxides, also called super S because of its long  
7           retention in the lung.

8           The ICRP has not provided us at present with  
9           absorption parameters from the lung that should  
10          be used in case of inhalation of this very  
11          insoluble plutonium oxides. There will be no  
12          draft parameters from the ICRP before the end  
13          of this years (sic), and probably before the  
14          end of next year, so we recognize that NIOSH  
15          cannot wait that long.

16          So NIOSH has provided us with two documents,  
17          OTIB-0049 for lung adjustment factors, and a  
18          draft "Approach to Dose Reconstruction for  
19          Super Type S Material" that was dated March  
20          2006. Those two documents give multiplication  
21          factors that should be used to derive doses  
22          from the so-called super type, SS or super S  
23          from calculations done with type S compounds.  
24          So the dosimetry for the type S compounds is  
25          well-established, so the NIOSH approach was to

1 give us an adjustment factors that we should  
2 multiply the doses that were calculated for a  
3 type S.

4 The first document, OTIB-009 (sic) gives the  
5 adjustment factors for the lung content for the  
6 super type S compounds. What -- the NIOSH  
7 approach was to look at several cases that has  
8 -- had this high retention in the lung. They  
9 took the two cases with the highest retention  
10 in the lung and derived an empirical model for  
11 them. It's an empirical model -- I'm saying  
12 it's an empirical model because the lung  
13 parameters were modified to fit mathematically  
14 the data. This fitting is not biologically  
15 realistic or it's not done in a way that would  
16 be accepted, for example, by ICRP. But in  
17 favor of the NIOSH approach, the only thing  
18 that is important in this case is to be  
19 claimant favorable. And in this document the  
20 adjustment factors that are used for the lung -  
21 - they are claimant favorable. They were made  
22 with the two highest cases of intake and they  
23 are favorable -- claimant favorable for the  
24 lung -- adjustment of lung.  
25 Then after you adjust the lung content, you

1 also have to adjust for the intake if the data  
2 comes from bioassay, from urinalysis. And the  
3 way they did this was through the other  
4 document, the one that was handed out in March  
5 2006, and it's proposed that you should  
6 multiply the intake by 4 or 4.7, depending if  
7 it is chronic or acute intake, and then adjust  
8 for the intake, calculated using super type S.  
9 We are still evaluating this approach because  
10 you come from an empirical -- empirical lung  
11 fitting, and it's okay for the lung because the  
12 lung was adjusted like that. But then to go  
13 down to the systemic and to the adjustment of  
14 intake, I think it will require from us a  
15 little bit more work in order to validate that.  
16 NIOSH has compared the results they obtained  
17 with this multiplication factor for the intake  
18 with autopsy cases from Rocky Flats, seven  
19 cases of autopsy from Rocky Flats, where they  
20 have compared the lung content of these people  
21 and the liver content. And they say it's  
22 claimant favorable. Okay. So they -- if you  
23 do this adjustment, you come out with a number  
24 that is higher than the one that were found on  
25 those autopsy cases. They did not give us the

1 data for bone also, just liver and lung. But  
2 we have looked at the bone data from two cases  
3 that were published from the U.S. Transuranium  
4 Registry, and it also super-estimates the bone  
5 content on those two cases.

6 On the other hand, there were -- there is  
7 another model that is proposed in the  
8 literature that was done by Keith Eckerman and  
9 some coworkers from Russia using Mayak exposed  
10 workers also to insoluble plutonium. Eckerman  
11 and coworkers, they examined 58 autopsy cases,  
12 and 50 were smokers and eight were non-smokers,  
13 so Eckerman examined the data model for smokers  
14 and no smokers. The approach used by -- by  
15 Eckerman was to modify the absorption  
16 parameters to -- to the lung by introducing --  
17 by using a bounding compartment and -- to --  
18 with an infinite half-time in the lung.

19 The approach used by Eckerman is one that would  
20 be, for example, accepted by the ICRP. I'm not  
21 saying it is the one that ICRP is going to  
22 take, but it's one that is accepted by ICRP.

23 And we have compared Eckerman's prediction in  
24 organs from urinary bioassay data taken one  
25 year after single acute intake and the approach

1 taken by NIOSH, and we have come to the  
2 conclusion that NIOSH is more claimant  
3 favorable than Eckerman's model for systemic  
4 organs and GI tract and ET, also.

5 Also, in Eckerman's paper he also points out to  
6 the problem that he adjusted the lung -- the --  
7 the model to fit the lung, and then his --  
8 should not really be used for systemic.

9 So -- so now what we have to do is to take --  
10 to take a further look on this approach to  
11 calculate systemic organs from this model. But  
12 we believe that NIOSH is going on the direction  
13 of claimant favorability. Thank you.

14 **DR. ZIEMER:** I wonder if you would remain at  
15 the mike just for a moment. I want while  
16 you're there, Joyce, to see if any of the Board  
17 members have any questions on what you've just  
18 related to us. Well, since I have a question,  
19 I will start.

20 Very quickly, did I understand you to say that  
21 there were two cases in the Transuranic  
22 Registry that actually involve super S --

23 **DR. LIPSZTEIN:** Yeah.

24 **DR. ZIEMER:** -- category?

25 **DR. LIPSZTEIN:** Yeah, that were published in

1           2004 --

2           **DR. ZIEMER:** Okay, so there --

3           **DR. LIPSZTEIN:** -- on the record, yes.

4           **DR. ZIEMER:** Okay. And then I was trying to  
5 understand what you said about the Eckerman  
6 model and a -- a compartment that had an  
7 infinite half-time -- basically you're saying  
8 there -- a compartment with no biological  
9 clearance, I believe. Is that --

10          **DR. LIPSZTEIN:** Yes, right. What -- the ICRP  
11 approach on the lung model, even from ICRP-66,  
12 has this bound compartment. It was never used.  
13 It's always -- like -- this is -- are all not,  
14 you know, mathematical compartments --

15          **DR. ZIEMER:** Yes.

16          **DR. LIPSZTEIN:** -- so the lu-- it's like as if  
17 there were small lungs in all those  
18 compartments, so there is a fast retention time  
19 and there is a long retention time compartment,  
20 so those two compartments were used until now.  
21 But the bounding compartment was always there,  
22 it just was never used. I know for sure that  
23 the ICRP is going now to start using for  
24 several nuclides this bound compartment to  
25 explain a longer retention of some nuclides in

1 the lung. It has not yet come with the  
2 parameters for this lung bound -- bound  
3 compartment, and Eckerman has proposed a model  
4 for these parameters, some numbers for those  
5 parameters, based on the Mayak autopsy data.

6 **DR. ZIEMER:** So in principle, the third  
7 compartment was there -- and I understand these  
8 are model -- these aren't physical entities,  
9 they are mathematical compartments, but in --  
10 in the other cases you could always describe  
11 the clearance with the first two compartments,  
12 the lung and --

13 **DR. LIPSZTEIN:** Exactly.

14 **DR. ZIEMER:** -- and the shorter half-time.

15 **DR. LIPSZTEIN:** Exactly, because when the lung  
16 model was derived there was not so many data on  
17 all the nuclides. Now the ICRP approach is  
18 going to be that for many compounds they are  
19 going to have specific parameters different  
20 from just type S and -- and S, so each compound  
21 will have a speci-- for each compound that we  
22 have enough information to derive those data --

23 **DR. ZIEMER:** And then --

24 **DR. LIPSZTEIN:** -- and the plutonium oxide is  
25 one of the --

1           **DR. ZIEMER:** And then one final question, and  
2           just asking for a sort of ball park answer, in  
3           terms of what we know in a preliminary way on  
4           the super S, and maybe based on the Transuranic  
5           Registry material, is it -- do we have some  
6           feeling for what percent of an intake of super  
7           S would remain in that longest-term compartment  
8           during our lifetime? Is that a major portion  
9           of the --

10          **DR. LIPSZTEIN:** No, it's a small portion, but  
11          it may -- because of the infinite half-time,  
12          then it remains for a long time. That's --

13          **DR. ZIEMER:** And delivers lung dose.

14          **DR. LIPSZTEIN:** And --

15          **DR. ZIEMER:** A small percentage, okay.

16          **DR. LIPSZTEIN:** Is a small percentage, yes, but  
17          it remains for a long time so it makes a --

18          **DR. ZIEMER:** Right.

19          **DR. LIPSZTEIN:** -- a difference, and I have  
20          also compared the NIOSH approach with some  
21          draft things from ICRP, and NIOSH is always  
22          claimant favorable, so --

23          **DR. ZIEMER:** Okay, and that was sort of my  
24          final question, are there some drafts that you  
25          know about -- 'cause I know you work with the

1 ICRP so even though they haven't published, you  
2 sort of know where they're going on this.

3 Okay. Thank you.

4 I guess Dr. Roessler has a question.

5 **DR. ROESSLER:** I think you answered one of  
6 them. I just wanted to verify what you said,  
7 Joyce, about the -- your evaluation, knowing  
8 what's happening with the ICRP models, that the  
9 NIOSH models are claimant friendly -- or  
10 favorable.

11 But I have one specific question. Just to  
12 repeat, when you talked about the Transuranic  
13 Registry, what I understood you to say is that  
14 the one thing you got answered was the dose to  
15 bone from that. And from those results, again,  
16 you have concluded that the NIOSH approach is  
17 claimant favorable. Is -- is that what you  
18 said?

19 **DR. LIPSZTEIN:** The content in bone. There are  
20 two cases that were published from Rocky Flats.  
21 One of them, even if you used type S, you are  
22 okay with bone and --

23 **DR. ROESSLER:** Okay.

24 **DR. LIPSZTEIN:** -- the other case, if you used  
25 the multiplication by 4 for the intake, then

1           you are -- you are super-estimating what was  
2           found in -- in bone.

3           **DR. ROESSLER:** So there actually were two cases  
4           from Rocky Flats.

5           **DR. LIPSZTEIN:** Yes, but --

6           **DR. ROESSLER:** Okay.

7           **DR. LIPSZTEIN:** -- NIOSH -- in their document  
8           they examined seven cases from Rocky Flat. I  
9           don't have the data for those cases, and they  
10          claim that they were all super-estimating, the  
11          liver content and the lung content.

12          **DR. ROESSLER:** Okay, thank you.

13          **MR. GRIFFON:** We have the data for those cases.  
14          Right? We have the data for those cases. Jim  
15          -- Jim -- he's going to...

16          **DR. NETON:** Yeah, this is Jim Neton. Yeah,  
17          those -- those data are on the O drive.

18          **MR. GRIFFON:** Right.

19          **DR. NETON:** They might be difficult to find,  
20          but they are there.

21          **DR. ZIEMER:** Okay. Thank you very much for  
22          that clarification.

23          Okay. Thank you very much for that  
24          presentation. Now we return to Joe Fitzgerald.

25          **MR. FITZGERALD:** Okay, we have -- the next two

1 issues, one dealing with the measurement of  
2 americium-241 and how it relates to the ability  
3 to measure plutonium, and the next one on  
4 neutron measurements, are two that we've spent  
5 a great deal of time on and I think have  
6 achieved a lot of convergence. There's been a  
7 lot of give and take on it.

8 These are issues that came from the original  
9 site profile that we've carried forward into  
10 the SEC discussions. And on the americium-241  
11 it's just a question of whether DOE, and then  
12 secondarily NIOSH in its assessment, had a  
13 handle on what the americium assay would be in  
14 the plutonium handled at Rocky. And the  
15 implication there is the ability to measure  
16 plutonium because the americium, in terms of  
17 its gamma radiation, is what you actually peg  
18 to in terms of your in vivo counting. And I  
19 think -- this was a question of our seeing  
20 additional documentation than that which was  
21 provided as part of the original site profile  
22 that NIOSH produced. And what I just detailed  
23 there, for your information -- again, we can go  
24 into more detail, but -- additional  
25 documentation was given to us that -- that kind

1 of detailed the specifications which the  
2 Department of Energy used at the site;  
3 certainly indicated that there was blending  
4 going on to maintain the americium  
5 concentrations at a certain specification --  
6 that was important for the weapons program --  
7 and that there was a -- certainly a minimum  
8 content of americium at 100 parts per million,  
9 which in fact is the value that the TBD uses.  
10 So I think this was a useful process by which  
11 we were able to get additional information to  
12 confirm a concern that we originally had in our  
13 initial evaluation last year. So this is where  
14 I think the working group certainly served a  
15 good purpose, but I just wanted to report that  
16 since that was a key issue that came out of the  
17 site profile that we felt could have SEC  
18 implications. But I think we've gone a long  
19 ways -- we're not finished yet because we  
20 certainly have some questions about how one  
21 measures americium -- pure americium,  
22 particularly in the sludges and the process  
23 streams that existed at Rocky. So there's  
24 still one lingering issue, which I think we're  
25 pretty hopeful we'll get additional information

1 from NIOSH on.

2 The -- this next one here, this was a issue

3 that had so many facets, I think we spent a lot

4 of time just sort of getting the taxonomy right

5 in terms of the different elements and

6 different documentations that were being

7 produced. This was in fact a real-time or

8 just-in-time type evaluation where NIOSH was

9 completing some very critical guideline

10 documents. OTIB-50 is essentially how they

11 would apply the NDRP data and interpret neutron

12 dose estimates for Rocky. The NDRP database of

13 course is the database which was made available

14 for the first time and finalized sometime

15 middle of last year, and OTIB-58, which is up

16 there, is the -- in fact a NIOSH model for how

17 coworker doses are going to be handled for

18 external dosimetry. And again, that was the

19 last piece or the last foundation block that we

20 received, and we got that last week. So as

21 these pieces, these guidelines, have come

22 forward, we have reviewed them, have had I

23 think very fruitful evaluations with the NIOSH

24 team, and have come to a point where we do have

25 some remaining issues, but certainly not as

1           many as we had before. And what -- our major  
2           thrust, as indicated in the last bullet, is --  
3           we're doing two things, really. One is to now  
4           step back, now that we have all the essential I  
5           think implementation guidelines -- the OTIB-50,  
6           the NDRP database and now the coworker model --  
7           and trying to figure out more holistically does  
8           that work on the neutron dosimetry side, and  
9           external dosimetry side, and make sure that --  
10          I guess from our own standpoint to be able to  
11          inform the Board that, you know, nothing tends  
12          to fall in the cracks; there's no issue  
13          relative to the whole picture, because we have  
14          looked at this in pieces, and certainly the  
15          coworker model is one of particular concern  
16          because it deals with I guess an issue we heard  
17          last night, which is how do you deal with  
18          unmonitored workers working in environments  
19          where you do have neutron fields, which you  
20          would have had in Building 771 and some of  
21          these other facilities. So I think this is an  
22          important question and we're certainly going to  
23          have a detailed section in the review that  
24          we're going to produce in the next few weeks  
25          for the Board.

1           That's where we are right now on that  
2           particular question, but there's been I think a  
3           lot of progress in going through these  
4           different implementation guides and coming to a  
5           appreciation of the overall approach that NIOSH  
6           has taken on that issue.

7           I want to get to data reliability, and  
8           certainly that was a fairly strong subject from  
9           last night's public hearing. We share that  
10          concern. I mean I think in our original site  
11          profile review that we issued over the winter  
12          we did indicate in a section that we were  
13          concerned about the questions of -- of zero  
14          entries, of allegations of false entries, this  
15          -- this -- this terminology of no data  
16          available. And we certainly took those issues  
17          very seriously and we brought those forward  
18          into the SEC review. I think our initial  
19          impression was we had certain issues that,  
20          independent of the petitioners, we felt, based  
21          on our review, spoke to these questions of --  
22          of data reliability. And certainly the  
23          petitioners have advanced, in their petition,  
24          similar but maybe somewhat separate questions.  
25          The Chairman asked us to go ahead and

1            consolidate the issues that came out of our  
2            site -- our site profile review with some of  
3            the issues that figured in the petition that  
4            was submitted, and that's where we came up with  
5            I think our starting point of 17 issues that  
6            deal with some aspect of data reliability or  
7            integrity that we felt needed to be pursued and  
8            taken to ground. And as we worked through this  
9            with the working group and with NIOSH, I think  
10           it became very clear that, you know, part of  
11           the problem is being able to corroborate in  
12           some fashion what happened, why it happened and  
13           to establish whether it was systemic.  
14           Is this an isolated case? You know, maybe it  
15           just affected one worker. Or was this  
16           reflective of a pervasiveness or a systemic  
17           nature of a problem that figured at Rocky? We  
18           wanted to get to the root of that issue. Is  
19           this something that -- really typi-- is really  
20           typical of the site? And that I think required  
21           a degree of investigation that we didn't quite  
22           foresee, but we're certainly in the midst of it  
23           now.  
24           I think some of you -- I'm talking to the  
25           petitioners -- have met Katherine Robertson-

1 DeMers. She's working from our standpoint and  
2 interviewing petitioners, and actually trying  
3 to identify document sources that would help us  
4 establish the veracity of some of these  
5 allegations and corroborate some of the  
6 concerns over the reliability of the data. I  
7 just listed some of these, but certainly  
8 there's -- in the back there's a report that we  
9 issued on the 19th which is a status report on  
10 the specific issues that we felt strongly about  
11 in terms of pursuing to grounds as far as  
12 documents and interviews.

13 So -- and together with NIOSH, we have  
14 established a -- essentially a action list on  
15 behalf of the workgroup to pursue each and  
16 every of the 17 issues and establish a  
17 resolution of those issues in terms of the  
18 documents that we can find and what the  
19 interviews can take us to. And we're in the  
20 process of doing that right now. We are  
21 obtaining log books. We are obtaining further  
22 documents that would serve to corroborate the  
23 affidavits, serve to corroborate some of the  
24 concerns that have come out of this issue.  
25 It's not an easy process. It's a time-

1           consuming process because, again, we have to go  
2           to DOE, obtain the documents, bring them back,  
3           examine them, compare them and what-not. And  
4           what we have established is a process by which  
5           I think NIOSH is going to proceed to obtain a  
6           broad band of documentation and go through the  
7           analysis. We're going to do samplings of the  
8           same analysis and try to bring this thing to a  
9           point for the Board where we can establish  
10          here's the best we can do in the time that we  
11          have in terms of what the records and the  
12          interviews tell us about these issues. But  
13          again, I think that's pretty much where it  
14          stands.

15          This is happening in real time. We're  
16          collecting documents this week and we hope to  
17          have some assessment that would be available by  
18          the middle of -- certainly by early June and  
19          have a report by the middle of June.

20          I think the Board's been pretty informed on  
21          this thing as we've gone along. There's been a  
22          high level of activity. A number of documents  
23          have been submitted over this month, so I  
24          won't, you know, take any more time with them  
25          unless you have any questions on -- on the

1 process. I think all of us have been very  
2 devoted to this particular question and trying  
3 to figure out how to resolve it.

4 And again I'm not going to spend too much time  
5 on it, these are the three specific actions  
6 that have -- had come out of the April 19th  
7 review in terms of taking us forward for the  
8 next several weeks, and the process is ongoing  
9 as we speak in terms of obtaining documents and  
10 also looking at these documents from the  
11 standpoint of corroborating some of these  
12 issues. And we're hopeful that we're going to  
13 find some certainly information in these log  
14 books and accounts that will give us some  
15 indication of what really happened in these  
16 particular situations and whether you can  
17 establish whether the zeroes in fact were  
18 zeroes, or is there some evidence that perhaps,  
19 as we heard last night, that these were being  
20 driven by incentives or management decisions  
21 that had something -- nothing to do with the  
22 actual measurements.

23 This is a wrap-up. We are, as Joyce pointed  
24 out, spending considerable time focusing on I  
25 think bringing the super S analysis to a close.

1 We are going to have sort of a expert review  
2 with Dr. Bistline, Joyce and some other folks  
3 that we have to -- to really cross the T as far  
4 as this issue's concerned. This issue is a  
5 prototype issue. We're going to see this issue  
6 again and again at other sites, so I think it's  
7 well worth the time to get the science on the  
8 table and to be able to come to a conclusion on  
9 it because we're going to be using this  
10 information at other sites as we go. And I  
11 certainly can tell you for a fact -- I just got  
12 back from Mound and Los Alamos -- we do have  
13 this issue, and we have this issue for other  
14 nuclides.

15 The -- and we of course finished the series of  
16 reviews on the neutron dose assessment. We are  
17 doing the on-site interviews. Again, we're  
18 working on the data integrity and reliability  
19 question.

20 We just got the coworker models over the last  
21 week or so, and I think that's probably the  
22 last piece of information that we're now  
23 focusing on. We're reviewing it as we speak  
24 this week, both the external and internal  
25 coworker models, and that's going to have a big

1 bearing on of course the unmonitored worker  
2 issue.

3 And I think the rest of this is pretty obvious.  
4 Next step, we are in the process of working up  
5 the review of the NIOSH SEC evaluation. It's  
6 going to certainly have the same format and  
7 details that you saw in the Y-12 review, and we  
8 certainly are aiming toward having that in  
9 advance of the -- of the next meeting of the  
10 Advisory Board and hopefully with a couple of  
11 weeks of lead time so there'll be enough time  
12 for interchange and review.

13 That's -- that's pretty much it.

14 **DR. ZIEMER:** Okay, thank you, Joe. If you'd  
15 stay put for a minute, let's --

16 **MR. FITZGERALD:** Sure.

17 **DR. ZIEMER:** -- see if there are questions that  
18 Board members have regarding your presentation,  
19 the SC&A report so far. Any questions?

20 (No responses)

21 Okay. Thank you very much then.

22 **MR. FITZGERALD:** Uh-huh.

23 **DR. ZIEMER:** I've been told that Libby White  
24 from Department of Energy, who's had some  
25 involvement I guess in obtaining the data -- or

1 the records, may be on the line. Libby, are --  
2 are you on the line?

3 **MS. WHITE:** Hi, yes, I am on the line. Can you  
4 hear me?

5 **DR. ZIEMER:** Yes, we can hear you quite well.  
6 Libby, I'm told that you may have some comments  
7 relative to the Rocky Flats dose -- and other  
8 information. Is that correct?

9 **MS. WHITE:** You know, we have nothing other  
10 than a brief comment, which is just that DOE  
11 will be as responsive as we -- as we can in  
12 pulling the records and additional documents  
13 that the team needs to look at in -- in working  
14 through these issues. And -- and just as much  
15 lead time I guess as they can give us in  
16 advance, that will help us to have all the  
17 records ready for their review when -- when  
18 they get to the site.

19 **DR. ZIEMER:** Thank you very much, Libby, for  
20 that expression of cooperation. Certainly the  
21 issue of obtaining records in a timely fashion  
22 has -- has been important to this Board and to  
23 our contractor and to NIOSH, so we're pleased  
24 that -- that there is that willingness to be  
25 cooperative. I know you need more than a

1 minute or two of advance notice, and we're all  
2 working in real time here and we're all  
3 pressed, so we do thank you for that effort.

4 **MS. WHITE:** Certainly. Certainly.

5 **DR. ZIEMER:** And Libby, hang on just a minute.

6 **MS. WHITE:** Sure.

7 **DR. ZIEMER:** Dr. Wade has some --

8 **DR. WADE:** Libby, could --

9 **DR. ZIEMER:** -- comments.

10 **DR. WADE:** -- you just give us your name again  
11 and your position, your title?

12 **MS. WHITE:** Sure, it's Libby White, and I'm the  
13 director of the Office of Health Services with  
14 the Department of Energy.

15 **DR. WADE:** Thank you.

16 **DR. ZIEMER:** Okay. Thank you very much, Libby.

17 **MS. WHITE:** Thank you.

18 **DR. ZIEMER:** And Mike Gibson has a comment  
19 here. Mike?

20 **MR. GIBSON:** Libby, this is Mike Gibson. I  
21 just want to know, are all relevant -- are all  
22 documents available or have any been disposed  
23 of? With regard to Rocky Flats.

24 **DR. ZIEMER:** And Libby, are you still on the  
25 line?

1           **MS. WHITE:** I am on the line. I'm not sure  
2           that I'm capable of answering that question. I  
3           think we'd need the records people with Legacy  
4           Management to help -- to help with that. But  
5           anything that we have -- that we currently have  
6           certainly we'd be more than happy to make  
7           available, and we work with our records people  
8           out in Colorado to do that in our Legacy  
9           Management office.

10          **MR. GIBSON:** Could -- maybe we could get an  
11          answer from the Legacy Management people?

12          **DR. ZIEMER:** Maybe we could, or maybe -- I  
13          guess one part of this would be if NIOSH or if  
14          SC&A identifies in fact records that they need  
15          that they are not able to get, that would in  
16          part answer that -- or at least tell us. Have  
17          there been -- are we running into any records  
18          issues now where we're -- we're identifying  
19          records that are not being able to be located  
20          on this --

21          **MS. WHITE:** Not to my knowledge.

22          **DR. ZIEMER:** Joe or Larry, do you know? Any --  
23          any Rocky Flats records so far that you've  
24          requested that people don't know where they are  
25          or have not been found?

1           **MR. FITZGERALD:** No, I -- I think certainly  
2           given the pace that we're under, I think DOE's  
3           been very responsive. What's happened of  
4           course is, you know, there's a lead time to  
5           identify and to generate the records, and you  
6           know, we find ourselves moving in a time frame  
7           of days and weeks and I think DOE's been very  
8           responsive in terms of providing those  
9           documents. So I appreciate that support, as  
10          well. And no, I don't have anything to report  
11          as being a problem.

12          **PRESENTATION BY NIOSH, DR. BRANT ULSH**

13          **DR. ZIEMER:** Okay. Next we'll hear the formal  
14          presentation by NIOSH. Dr. Ulsh is going to do  
15          that presentation. This is the presentation on  
16          the NIOSH -- basically the NIOSH  
17          recommendation, their evaluation of the SEC  
18          petition.

19          **DR. ULSH:** Thank you, Dr. Ziemer. I'd like to  
20          thank the Board for giving me a chance to come  
21          back to Colorado. I did some of my graduate  
22          work right up the road in Fort Collins, so -- I  
23          was also relieved to see the weather break  
24          yesterday. I've been telling all my colleagues  
25          about how great the mountains are in Colorado,

1 and of course when we landed you couldn't see  
2 them. So as of yesterday when the clouds  
3 lifted, in fact yes, there are mountains in  
4 Colorado, so that was a relief.

5 I'd like to start by thanking a few people and  
6 me just explaining my role in this process.

7 I'm a research health scientist with NIOSH.

8 I've been there for about three years. And I  
9 am the -- I guess, for lack of a better word,  
10 project manager for NIOSH's evaluation of the  
11 Rocky Flats petition.

12 I'd also like to acknowledge a few other folks  
13 explicitly. Bob Meyer and his team from the  
14 TBD team. They've provided some very valuable  
15 technical input -- I'd say invaluable technical  
16 input to this process. And also Karin Jessen  
17 and her team for putting together the  
18 evaluation report. She had a huge part in  
19 putting that together, and without the help of  
20 those two people and their teams, I wouldn't be  
21 here prepared to talk to you about our  
22 evaluation today, so I just wanted to  
23 acknowledge them.

24 There are a couple of other people who I think  
25 deserve some thanks, and that is Tony DeMaiori

1           and Jennifer Thompson. I think the workers  
2           already know the debt that they owe those two  
3           people, and I would just like to take the  
4           opportunity to speak for NIOSH and to thank  
5           those two individuals in particular for putting  
6           together a very thorough, very good petition,  
7           and it really got us to take a good hard look  
8           at how we're doing dose reconstructions at  
9           Rocky Flats. It's been a grueling process, I  
10          can say that. I think SC&A would agree and the  
11          working group would certainly agree. But it's  
12          been a productive process, and I think that as  
13          a result of going through this process our  
14          efforts at Rocky Flats are stronger.  
15          And finally and most importantly, I'd like to  
16          thank the workers who came out last night and  
17          told us their concerns, and also expressed  
18          those concerns through the petition. This is  
19          the most valuable information that we can get.  
20          And the more specifics we have -- it's kind of  
21          like trying to put together a puzzle. The more  
22          pieces that you start with, the easier it is  
23          and the faster it is to get to the big picture.  
24          So I can't over-emphasize how important your  
25          input into this process is.

1 All right. So let's move right into the  
2 presentation then. First of all, for those  
3 members of the Board who may not be as familiar  
4 with Rocky Flats as most of the people in the  
5 audience probably are, let me just go through a  
6 nickel tour of what happened at Rocky Flats.  
7 The main mission of the Rocky Flats Plant was  
8 the production of plutonium triggers for  
9 nuclear weapons. And another important mission  
10 that was performed there is the processing of  
11 retired weapons for plutonium recovery.  
12 I hope y'all can hear me over the weed-eater.  
13 If not, give me the high sign and -- I don't  
14 know what I'll do; try to talk louder, I guess.  
15 In terms of the site history, ground-breaking  
16 actually began in 1951 and production  
17 activities commenced in 1952, and those  
18 continued through 1989 when the focus of the  
19 Rocky Flats Plant switched to decommissioning  
20 and decontamination. And that effort is far  
21 along now. If you go out to Rocky Flats, as  
22 most of the people here know, you won't see a  
23 whole lot. There's only a building or two  
24 left, so that's what's been happening since  
25 1989.

1 All right. In terms of the SEC petition  
2 qualification, the first step, once we receive  
3 a petition, is to evaluate that petition in  
4 terms of getting it into shape so that we can  
5 evaluate it. And we went through that process  
6 and the petition was formally qualified on June  
7 16th of 2005. And upon that qualification the  
8 petitioners were notified and a notice was  
9 published in the *Federal Register* in late June  
10 of last year.

11 The original proposed class in the petition was  
12 all United Steelworkers of America members  
13 employed between April of 1952 and February of  
14 2005. We fairly quickly determined that we  
15 couldn't really just limit this -- this class  
16 to just union members. It -- it wouldn't be  
17 feasible for us to do that, and non-union  
18 members, we determined, should also be  
19 considered in this petition because they also  
20 had potential for the kinds of exposure and the  
21 kinds of concerns expressed in the petition.

22 So we expanded that class to include all  
23 employees in that time frame.

24 Okay, I want to tell you about some of the  
25 petition-related activities that have occurred.

1           Some of these started even before the petition  
2           was submitted, and the first milestone I think  
3           that we came to was the issuance of our  
4           Technical Basis Documents. There are six  
5           Technical Basis Documents that make up our  
6           Rocky Flats site profile, and those six TBDs,  
7           Technical Basis Documents, were issued between  
8           January and June of 2004.

9           NIOSH and SC&A held a series of conference  
10          calls to discuss each TBD after SC&A was tasked  
11          with a review of the Rocky Flats TBD, and those  
12          conference calls occurred in early September of  
13          2005. SC&A then issued their draft TBD review,  
14          and as -- as Joe described earlier, we quickly  
15          moved into a very focused review to support the  
16          evaluation of the SEC petition. And their  
17          draft report was issued December 8th, and I  
18          think, Joe, you said it was shortly after New  
19          Year that you issued the issue matrix. This is  
20          also the second Advisory -- the second meeting  
21          of the full Advisory Board to consider Rocky  
22          Flats TBD and SEC issues.

23          The real bulk of the evaluation -- the work  
24          that went into this evaluation was conducted  
25          during five working group meetings. And I can

1           only describe that process as grueling. I saw  
2           Arjun out in the hall a couple of days ago and  
3           we just kind of looked at each other we were so  
4           tired. This has been a very exhausting process  
5           but, as I said, it's been a very productive  
6           process. And there's just been enormous  
7           amounts of work put in by -- certainly by  
8           NIOSH, also by the Board working group members  
9           and by SC&A.

10          Okay, some of the communications that we've had  
11          with the petitioner. The first submission was  
12          received on February 15th of 2005, and we  
13          received a supplemental submission on May 24th  
14          of 2005. The first submission I think was  
15          approximately 500, give or take, pages -- so  
16          very extensive, very thorough. Then the second  
17          -- the supplemental submission I think was  
18          around 700 pages, so there's an enormous amount  
19          of documentation that went into this on the  
20          part of the petitioners and also on the part of  
21          we who are evaluating the petition.

22          In addition, the petitioner submitted 13  
23          questions to NIOSH. These -- this was a result  
24          of the petitioners' participation in our  
25          working group meetings, and that was very

1 helpful. So they -- after one of those  
2 meetings, they had some questions that were  
3 related to that and they submitted those to us,  
4 and we responded to those questions in March of  
5 2006.

6 We also requested some -- some further  
7 information specific to the data integrity  
8 concerns raised in the petition. I sent a  
9 letter to the petitioners on March 16th of this  
10 year, and we received a response on March 28th.  
11 And then I conducted a further -- a follow-up  
12 telephone conversation with -- with Tony. And  
13 what we were looking for here is some specific  
14 examples of concerns that he had with -- with  
15 data integrity that we could then go run down  
16 and -- and see if we could figure out what was  
17 going on. So those were very helpful.

18 And we also have now, especially after last  
19 night -- we heard a number of concerns, some of  
20 which were pretty specific, so our -- our  
21 research in this area continues, and I'll get  
22 more into that a little bit later.

23 Okay, the available information that we had to  
24 inform this evaluation of our -- of this SEC  
25 petition included dosimetry records. And these

1           are contained in a number of electronic  
2           databases -- I've got them a little out of  
3           order here. I think the first electronic  
4           database was the HSDS, which I believe stands  
5           for Health Science Data System. That was  
6           preceded of course by handwritten records since  
7           this was prior to the computer era, and that  
8           was up through about 1969. With the  
9           implementation of the HSDS, those records were  
10          migrated into that -- that database. And then  
11          there were a number of subsequent databases  
12          where the records were migrated to follow-up  
13          databases. So we started with handwritten  
14          records. We went to HSDS. Later was the RHRS,  
15          now let me see if I can remember that one --  
16          Radiological Health Research System, I believe.  
17          Don't quote -- don't quote me on all these  
18          acronyms. I can't be certain that I'm getting  
19          all the acronyms correct. And then finally,  
20          just very recently, HIS20. This is the most  
21          recent of the electronic databases that contain  
22          dosimetry records.

23          We also had access to CEDR database which  
24          contained internal and external data. That was  
25          useful to us in coming up -- especially with

1           the internal coworker model that we put  
2           together.

3           We also accessed the ORAU Site Research  
4           database, which is a compendium of documents  
5           and information about not only Rocky Flats but  
6           sites all across the complex. Of course we  
7           focused on Rocky Flats for this particular  
8           effort.

9           We also had documentation provided by the  
10          petitioners in the petition, and by site  
11          experts that we consulted with. And again, as  
12          I said before, a really valuable source of  
13          information was information from you, the  
14          workers. Keep in mind, I didn't work at Rocky  
15          Flats. I'm coming at this from the outside.  
16          So you folks are my window into what happened  
17          at the Rocky Flats site, so anything that you  
18          can tell us, that -- that is absolutely  
19          critical. It's very valuable to us.

20          So SC&A issued a report on April 19th that Joe  
21          mentioned suggesting additional documents for  
22          review. And at the time that the report came  
23          out, we weren't sure whether we would be able  
24          to locate these documents. We were going to  
25          investigate the feasibility of it. We've

1           actually had some conversations with the DOE  
2 records folks, and we're encouraged. They seem  
3 optimistic that we can get -- I don't want to  
4 say 100 percent, but certainly a large part of  
5 the documents that SC&A has suggested, so we're  
6 very encouraged by that and our research on  
7 those documents of course is going to continue.  
8 Okay, in terms of the availability of  
9 dosimetry, these are numbers that I pulled out  
10 of our tracking system, NOCTS -- which is the  
11 NIOSH/OCAS Claims Tracking System -- as of late  
12 last week. If you go on there today, the  
13 numbers might be a little bit different because  
14 they're continually being updated, but this is  
15 an approximate picture.

16 The cases that meet the class definition -- now  
17 remember, the class definition is all workers  
18 at Rocky Flats, so this number tells you the  
19 number of claims that have been referred to  
20 NIOSH by the Department of Labor for dose  
21 reconstruction. It's approximately 1,100.

22 In turn, we have completed dose reconstructions  
23 for almost 700 people -- I think the number's  
24 actually over 700 now, as of early this week --  
25 so that represents about two-thirds of the

1 cases that were referred to us we had actually  
2 completed the dose reconstructions for those  
3 cases.

4 Now I've actually got the -- these last two  
5 numbers reversed. One of the people on my  
6 support team kindly pointed that out, but I  
7 couldn't correct it in the write-up in time, so  
8 those two numbers should be reversed.

9 In terms of cases with internal monitoring  
10 records, there are approximately 1,000 -- about  
11 1,015 -- so that's a great many of these cases  
12 have internal monitoring records.

13 The same with external monitoring records, that  
14 number's actually about 1,056, so we've got  
15 pretty extensive dosimetry records here for  
16 Rocky Flats. And that's in contrast to some of  
17 the -- in particular the AWE sites, maybe some  
18 of the other DOE sites. We've got a large body  
19 of -- of dosimetry records here, and this is  
20 the primary information that we use for dose  
21 reconstruction.

22 Okay, now let's get to the petition. There  
23 were seven bases -- seven main bases that  
24 formed the basis of the SEC petition, and I'll  
25 just walk through these briefly and then

1 consider some of them in detail.

2 The first was exposure to highly insoluble  
3 plutonium oxides, and you heard SC&A -- Joyce  
4 talk about some of the issues that we've looked  
5 at related to this particular basis. Just to  
6 avoid confusion, let me repeat that when we're  
7 talking about highly insoluble plutonium, some  
8 other terms that you might hear to refer to the  
9 same thing are super S or super Y. That all  
10 refers to this -- this issue, this form of  
11 plutonium that's very insoluble.

12 The next basis for the petition was the  
13 inability to link exposures to specific  
14 incidents. That was a great concern in -- in  
15 the petition.

16 And the next one was periods of inadequate  
17 monitoring. Again, I'm going to go into some  
18 of these in more detail.

19 Those first four petition bases were the ones  
20 that qualified the petition. They -- they  
21 directly speak to NIOSH's ability or inability  
22 to conduct dose reconstructions with sufficient  
23 accuracy, so we focused most of our efforts on  
24 -- on those four.

25 The last three, the first of which is negative

1 effects of site closure, the -- the concern  
2 here was that since the site is now in a  
3 closure phase that the subject matter experts  
4 that have insights into what happened at Rocky  
5 Flats and -- and the details of the dosimetry  
6 would not be available to us. We didn't find  
7 that to be the case. The DOE Legacy Management  
8 office maintains archives of the files that  
9 were generated during the history of Rocky  
10 Flats, and we've had very good success working  
11 with those folks to get access to the records  
12 that we need, and we've found them to be very  
13 responsive and very timely. We also have had  
14 access to subject matter experts to inform our  
15 -- our evaluation. That -- that really hasn't  
16 posed too much of a challenge for us.  
17 The next issue was the cessation of worker  
18 recall monitoring programs. And while this is  
19 a very important concern, it -- it really  
20 doesn't impact our ability to conduct dose  
21 reconstructions because we rely on biodosimetry  
22 -- I'm sorry, we rely on dosimetry that was  
23 collected during a worker's time at -- when  
24 they were actually employed.  
25 Now don't get me wrong. If we have results

1           that are available after employment was  
2           terminated, we will use them. They -- they can  
3           be helpful. But the absence of -- of that kind  
4           of information really doesn't prevent us from  
5           doing dose reconstructions of sufficient  
6           accuracy. So while this is a very important  
7           issue, maybe not in the -- in the framework and  
8           the context of an SEC petition.  
9           And the final basis of the petition was the  
10          link between plutonium exposure and cancer.  
11          It's well understood that there is a link  
12          between ionizing radiation exposure and several  
13          types of cancer. And plutonium, as a  
14          radionuclide, emits ionizing radiation. So you  
15          could, by analogy, link plutonium to cancer.  
16          And in fact that's -- that's the whole reason  
17          why we're here talking about this, because  
18          ionizing radiation is a potential carcinogen  
19          and that's why we do dose reconstructions. So  
20          we didn't really see that that prevented us  
21          from doing dose reconstructions of sufficient  
22          accuracy.  
23          So we -- again, we focused mainly on the first  
24          four bases of the petition, so let me walk  
25          through some of these.

1           The first is super S, and we are very  
2           encouraged by the preliminary results of SC&A's  
3           analysis and we look forward to discussing that  
4           with them once that's finalized, but we're very  
5           encouraged that it at least appears right now  
6           that we're being claimant favorable with the  
7           way that we're going to approach this.

8           The particular concerns that were expressed in  
9           the -- in the petition related to super S were  
10          three, primarily, the first of which is self-  
11          shielding. The idea here is that super S  
12          particles are ceramicized, and so the concern  
13          expressed by the petitioner was that this would  
14          prevent the ability to detect this type of  
15          plutonium in the lungs through lung counting.  
16          The second concern related to super S was  
17          particle size. The petitioner was concerned  
18          that we were using in -- in our bioassay models  
19          that the particle size that we were using was  
20          inappropriate.

21          And the final concern was the detection of --  
22          of super S through bioassay. And I think the  
23          concern here is that since this form of  
24          plutonium is so highly insoluble, that  
25          urinalysis results are going to relative

1 insensitive to detecting this. So I'd like to  
2 go through and tell you about our evaluation of  
3 each of these concerns.

4 First -- the first thing that we determined was  
5 that yes, in fact there is evidence of super S  
6 material -- super S plutonium at Rocky Flats.  
7 And Joyce mentioned a couple of the sources of  
8 data that we used to make that determination,  
9 primarily the results of autopsy cases that we  
10 obtained from the U.S. Transuranium Registry.  
11 And in fact they do show evidence of plutonium  
12 that is more insoluble than type S. So that's  
13 the first thing. It does appear that there is  
14 super S at Rocky Flats.

15 Now in terms of the specific concerns that the  
16 -- that were in the petition, the self-  
17 shielding -- this was kind of a head-scratcher  
18 for me because when we do lung counts to try to  
19 detect plutonium, what we're using to measure  
20 that is the gamma radiation that comes off of  
21 the daughter of plutonium, americium-241. And  
22 I'm just not aware of any physical mechanism  
23 that would shield that radiation inside the  
24 particle. I went back to first principles and  
25 looked at a particle of the appropriate size.

1           If you just consider a plutonium atom encased  
2           in a particle made of lead, which is a very  
3           effective gamma shield, the attenuation or the  
4           shielding is just -- it's negligible. So we're  
5           -- we're just not aware of any plausible  
6           mechanism of self-shielding. And in fact the  
7           Transuranium data that we looked at supported  
8           the ability to detect plutonium, in whatever  
9           form, through lung counting.

10          The next concern was the particle size, and  
11          Joyce mentioned our approach that we have put  
12          out to handle super S plutonium, and smaller  
13          particle sizes that might result from fires at  
14          the site are explicitly considered in that --  
15          in that approach.

16          We also took a look at what this means in terms  
17          of bioassay results. And it is certainly true  
18          that if the plutonium is very insoluble and  
19          sits in the lungs, then it doesn't get out into  
20          the rest of the body as readily as some of the  
21          more soluble forms and therefore it doesn't  
22          show up in the urine. The concentrations in  
23          the urine are less than you would expect to see  
24          from more soluble forms of plutonium.

25          However, it's not infinite. The solubility of

1           -- of this type of plutonium leads to bioassay  
2 detection limits that are high, but they are  
3 finite. There is a number. And so what we  
4 determined is that the intakes that we  
5 calculate with our bounding approach for super  
6 S, those intakes, when you back them off from  
7 bioassay results, result in claimant-favorable  
8 estimates of intake. So while this is  
9 certainly an important issue and it will affect  
10 the way we do dose reconstructions, it doesn't  
11 prevent us from doing dose reconstructions of  
12 sufficient accuracy.

13           The next basis in the petition was that there  
14 are instances when it is not possible to link  
15 intakes to specific incidents. And the concern  
16 here -- if I can just present a hypothetical  
17 situation to you. A worker's going along on a  
18 routine biomonitor-- bioassay program, let's  
19 say for plutonium. He gets a plutonium  
20 bioassay; it's negative. Gets another one a  
21 few months later; negative. Gets another one a  
22 few months later; positive. Well, then the  
23 question is where did that intake come from?  
24 Without having special bioassay results -- if  
25 an incident is recognized at the time that it

1 happens, for instance a glovebox fire, what  
2 will typically occur is that special bioassay  
3 would be requested. But in the absence of that  
4 -- I mean there -- there are exposure scenarios  
5 where the worker wouldn't even know that he had  
6 been exposed. That has certainly -- that  
7 certainly occurred at Rocky Flats, and other  
8 places throughout the complex.  
9 And so in some situations we als-- we agree  
10 with the petitioner that it's not always  
11 possible to link intakes that you observe in  
12 bioassay results back to specific incidents.  
13 It's helpful when we can do it, that is true.  
14 But this is an issue that is -- has been widely  
15 recognized in the science of dose  
16 reconstruction. In fact, the International  
17 Commission on Radiological Protection has  
18 weighed in on this issue, and I've listed the  
19 citation there, and they've recommended methods  
20 for obtaining unbiased estimates of intake when  
21 you can't pin it to a specific incident.  
22 And so Rocky -- Rocky Flats is certainly not  
23 the first time that we have encountered this  
24 issue. I mean we -- we -- it happens all the  
25 time in -- in dose reconstruction, and we have

1 developed methods to arrive at claimant-  
2 favorable estimates of organ doses when this  
3 occurs, usually -- I don't want to get too much  
4 into the details of those, but we assume a  
5 chronic intake scenario that analyses have  
6 shown is bounding. It gives a claimant-  
7 favorable estimate.

8 So while it is certainly true that these  
9 incidents occur and we can't always tie an  
10 intake to an incident, again, that doesn't  
11 prevent us from doing dose reconstructions of  
12 sufficient accuracy.

13 Okay, the next basis was the periods of  
14 inadequate monitoring, and the concern here --  
15 again, there were -- there were three sub-  
16 concerns that fall under this umbrella. The  
17 examples presented in the petition included no  
18 routine lung counting until the late 1960s. In  
19 fact the lung counter at Rocky Flats came on  
20 line in 1964. Prior to that there was no lung  
21 counting at Rocky Flats.

22 The next two deal with neutrons. In the  
23 petition the concern was expressed that there  
24 was no neutron monitoring prior to the late  
25 1950s. The specific year is actually about

1           1957. That's when they came on line with  
2           routine neutron monitoring.  
3           And furthermore, there was a concern expressed  
4           about erroneous neutron measurements prior to  
5           1970. This is the neutron film badge area --  
6           film badge era, from about 1957 up through  
7           1970. That's when neutron dosimetry  
8           transitioned to thermoluminescent dosimeters.  
9           The concern is for that film period.  
10          So in our evaluation of these concerns we  
11          concluded that, again, while lung counts are  
12          helpful when they're present -- when we have  
13          them, you know, we use them -- but the primary  
14          data that we use to conduct internal dose  
15          reconstructions is bioassay data, urinalysis.  
16          And those types of data -- those types of  
17          results are available for the entire time span  
18          that the plant operated. That is our first and  
19          our preferred data that we use. So we didn't  
20          see that the existence of the period before the  
21          lung counter came on line as preventing us from  
22          doing sufficiently accurate dose  
23          reconstructions.  
24          Now the next two deal with neutrons. In terms  
25          of the periods when Rocky Flats employees may

1           have been exposed to neutrons but were not  
2           monitored for that, and also the concern that  
3           once they were monitored that there were  
4           problems, there were issues with the NTA film  
5           that was used to do that monitoring, these  
6           problems were recognized. They were the  
7           genesis of the Neutron Dose Reconstruction  
8           Project, and that project was intended to  
9           address these issues. We have access to the  
10          Neutron Dose Reconstruction Project results.  
11          We are using them in dose reconstructions. So  
12          again, we don't see that this prevents us from  
13          doing dose reconstruction with sufficient  
14          accuracy.

15          Now I should mention that that Neutron Dose  
16          Reconstruction Project also was overseen by an  
17          advisory board similar to this one, which  
18          contained -- which included individuals both  
19          from the site and from outside the site,  
20          experts in neutron dosimetry from outside of  
21          Rocky Flats. So we are using -- we are  
22          accessing that. We are using it in dose  
23          reconstruction.

24          Okay, the next basis for the petition was  
25          unmonitored exposures, and the examples that

1           were provided included super S plutonium.  
2           We've already talked about that one. It also  
3           included a concern that there were certain  
4           areas where there was no monitoring, or there  
5           was monitoring but dosimetry chips were lost or  
6           destroyed, and this would have applied to the  
7           era when they were using TLDs for dosimetry, so  
8           we're talking post-1970. And finally there was  
9           a concern about lack of accurate work location  
10          records, so let me walk through the evaluation  
11          of these concerns.  
12          First of all, in terms of unmonitored exposures  
13          -- we've talked about how to handle -- how we  
14          propose to handle super S. But if we're  
15          talking about other issues, other --  
16          unmonitored exposures that might have occurred  
17          either from intake of radioactive material or  
18          to external sources, we have coworker data that  
19          we can use for unmonitored workers. But I have  
20          to tell you that the need for this at Rocky  
21          Flats is pretty minimal, in contrast to other  
22          sites. Of the approximately 700 cases that  
23          we've completed, we're aware -- currently aware  
24          of two cases that are on hold for coworker  
25          data. So it's not zero, but it's pretty small

1           in comparison to what we see at other sites.  
2           And I think I'd like to take the opportunity  
3           just to explain a little bit about how we apply  
4           coworker data when we do it. There seems to be  
5           a pretty large misconception that we take -- if  
6           -- if John has a gap in his dosimetry, we give  
7           him Joe's dose when Joe stood beside him.  
8           That's not the way that we do coworker data.  
9           Instead, what we look at for an individual who  
10          has a gap in their monitoring history, we look  
11          at the entire population of monitored workers  
12          at the particular site for the time period in  
13          question, and we look at the distribution of  
14          that data, the population of that data. And we  
15          pick a percentile value, usually if -- if the  
16          worker had a significant potential for  
17          radiation exposure, that usually is the 95th  
18          percentile that we pick and assign for that gap  
19          in monitoring.  
20          Now what that means is that for that time  
21          period that worker is assigned a dose that  
22          exceeds the dose that 95 percent of the people  
23          on site received. We think that that's pretty  
24          claimant-favorable and so that -- that's why we  
25          have used this approach.

1 We also have other techniques to deal with gaps  
2 in dosimetry. If a worker was going along, he  
3 was monitored and there was a break in his  
4 dosimetry, and he was working along again and  
5 there's dosimetry results, we can use what's  
6 called the nearby technique -- assuming of  
7 course -- this technique would only be  
8 applicable in situations where we're confident  
9 that the worker was doing the same job through  
10 the whole time period, there were no conditions  
11 that could have led to differences in exposure,  
12 so we can use his own dosimetry results to fill  
13 in gaps in some situations.

14 Okay, the absence of work location information.  
15 We do have actually quite a lot of work  
16 location information, but I won't tell you that  
17 it's 100 percent complete. I can't tell you  
18 where every worker worked every minute of the  
19 time he was employed at Rocky Flats. That is  
20 true. But this is more of a concern when we're  
21 doing dose reconstructions through a source  
22 term approach, in situations where the workers  
23 aren't wearing -- don't have dosimetry results  
24 and we have to estimate doses based on the  
25 material that we know was there that he was

1           working with. This has -- this has happened at  
2           other sites. But at Rocky Flats, again, we  
3           have extensive, actual personal dosimetry  
4           information. So that information about work  
5           location, while it is important and it is  
6           helpful to us in dose reconstruction, it's not  
7           as critical as it might be at some other site  
8           where we don't have the types of dosimetry  
9           information that we have here.

10          Okay, the -- I think everyone would agree that  
11          the primary issues that are still on the table  
12          here for Rocky Flats, the outstanding remaining  
13          issues, revolve around data integrity,  
14          questions about data integrity. And we heard a  
15          lot about that last night. I'll get into that  
16          a little bit more in just a minute, but the  
17          Advisory Board established a working group to  
18          deal with this issue, how do we demonstrate  
19          data reliability. And one of the -- one of the  
20          things that we -- the Board wanted us to  
21          address was the internal consistency of the  
22          data. So for instance, we've got -- for  
23          external dosimetry, for instance, we've got  
24          beta/gamma worksheets. These are the  
25          handwritten records from the earlier period in

1 Rocky Flats. And then we've got a series of  
2 electronic databases as those records were  
3 migrated over the years.

4 So what -- what you want to do is look and see  
5 if we've got internal consistency. Do we see  
6 agreement between the handwritten records from  
7 the early period and the databases that they  
8 were migrated into. And what we have found,  
9 first starting with external dosimetry, is that  
10 we do have pretty good agreement between these  
11 two repositories, two sources of external  
12 dosimetry data.

13 We did a comparison of approximately 120 worker  
14 quarters, so 120 quarters of data for workers,  
15 and we compared the results from the original  
16 beta/gamma worksheets -- so this was prior to  
17 1969, when they were doing handwritten records  
18 -- compared those to the latest database,  
19 HIS20. And what we found was that 73 percent  
20 of all those quarterly data were found, and the  
21 total annual dose was in complete agreement  
22 with HIS20. So that was a pretty good number.  
23 We also found in 17 percent of the cases there  
24 was one quarter missing from our handwritten  
25 data, but the annual total for that year agreed

1 with HIS20. So what that told us was that we  
2 weren't successful in locating all of the  
3 beta/gamma worksheets that would have applied  
4 to that individual, but the annual totals were  
5 in complete agreement.

6 So that's where I got that 90 percent number,  
7 the 73 plus 17 percent. And we felt that that  
8 was -- that gives us some degree of confidence  
9 that the external data is internally  
10 consistent.

11 Now I also want to take this opportunity to  
12 tell you that we don't rely on only HIS20 data,  
13 and we don't rely on only the handwritten  
14 records. We take all of the data that we have  
15 available to look at for dose reconstruction so  
16 that we have the most complete dataset to  
17 inform that dose reconstruction.

18 Okay, next internal data integrity. We also  
19 did some statistical comparisons to look at  
20 this, and what we found was that we again had  
21 pretty good agreement. We compared  
22 approximately 306 worker samples -- so what  
23 that means is an individual sample on an  
24 individual worker -- and we looked for  
25 agreement or disagreement between the

1           handwritten records, bioassay cards, when that  
2           was the method of recording the data, and later  
3           HSDS printouts -- we compared those to what we  
4           saw in the latest database, HIS20.

5           And so we -- for workers for which both  
6           bioassay cards and HIS20 data were available,  
7           that was approximately 215 cases -- 208 of 215  
8           cases of the records were in complete  
9           agreement. And all 34 comparisons of the  
10          printed data from HSDS were in complete  
11          agreement with HIS20. So if you total those  
12          two you get that 97.1 actually percent  
13          agreement.

14          In only seven of those cases -- seven of the  
15          215, that's about three percent, was there an  
16          imperfect match between the data found on the  
17          bioassay cards and HIS20 data.

18          So that -- that could raise a flag for you.  
19          You could say well, do we see any evidence of  
20          systematic censoring of high data. In other  
21          words, when these data were migrated into the  
22          electronic database, did they censor out high  
23          data. That's what we took a look to see if  
24          there was any evidence of that. And what we  
25          found was that in the instances of the seven

1           where we didn't have -- where we had bioassay  
2           data and we didn't find it in HIS20, six of  
3           those were in fact non-de-- let me get this  
4           right. In six of those we found that the value  
5           in HIS20 database were larger than the card  
6           data, so it doesn't, in our mind, indicate that  
7           there was systematic censoring of high data.  
8           Now as expected with record systems this large,  
9           there were some discrepancies. There were  
10          about 41 individual records from three workers  
11          for which there was bioassay card data, but we  
12          couldn't locate them in HIS20. So again, you  
13          would naturally ask the question, is there any  
14          evidence of systematic sampling -- systematic  
15          censoring of high values. And we continued to  
16          investigate this, but what we have found is  
17          that in 40 of these 41 cases, 41 individual  
18          comparisons, they were non-detects. They were  
19          below the detection limit. In only one was  
20          there a positive value, and that was just  
21          slightly above the detection limit. So this  
22          doesn't really indicate a censoring of high  
23          data, because this is the low data.  
24          So in summary, there's pretty substantial  
25          agreement on both the external and internal

1 site between these various repositories of  
2 data, and that demonstrates that there is  
3 pretty good internal consistency.

4 But this is not the end of the story on data  
5 integrity. This is only one piece that was  
6 raised in the working group's report. The  
7 other concerns that were included in the  
8 petition are, first of all, workers don't trust  
9 the dosimetry results. And I'll go into this  
10 in detail.

11 We also heard -- I don't know if this was  
12 actually in the petition or if it was just  
13 expressed during the working group meetings by  
14 the petitioners. We heard that workers  
15 sometimes manipulated their own badges, and I'm  
16 going to talk about both of these concerns.  
17 So first of all let's talk about the issues  
18 that lead workers to mistrust their dosimetry  
19 results. There were several examples provided  
20 in the petition and, to the extent that we  
21 could locate specific information or the  
22 specific information was provided, we have  
23 investigated that as far as we could, and I'll  
24 talk about some specific examples.

25 But the concerns that kept coming up repeatedly

1 included a concern that when the badge results  
2 were too high they just assigned zero. That  
3 was a concern that we heard expressed  
4 repeatedly. And you have to separate out the  
5 time periods here in terms of film badges and  
6 the TLD era.

7 For film badges, one of the concerns was that  
8 when the film badges were blackened, they would  
9 just assign a zero dose. So I -- what we have  
10 here is a situation where some workers are  
11 saying -- you know, the workers who were  
12 wearing the dosimetry are saying that other  
13 workers, those who worked in the dosimetry  
14 department, falsified data. And so we're  
15 coming at this from the outside and we have to  
16 evalu-- as best we can, we have to objectively  
17 evaluate what the data tell us about these  
18 situations.

19 And in terms of film badge blackening -- I want  
20 to take an opportunity to communicate some of  
21 the known limitations of film badge dosimetry,  
22 and blackening is one of them. As with any  
23 photographic film, if it's exposed to light, it  
24 turns black. And these film badges were  
25 contained in foil packs to prevent light from

1 reaching the film badges. But as with any  
2 other human device, these are not perfect  
3 devices. Sometimes that foil pack could be  
4 damaged and it could lead to light  
5 contamination. Now that's usually pretty  
6 easily to dis-- easy to distinguish because it  
7 doesn't -- typically it doesn't blacken the  
8 whole badge, and you can go to another area on  
9 the badge and read it. But that could lead to  
10 film blackening. We also know that film badges  
11 are subject to environmental conditions such as  
12 high temperatures, humidity conditions, can  
13 lead to film blackening.

14 Of course another thing that can lead to film  
15 blackening is high exposure. That is certainly  
16 the case.

17 So we looked at the specific examples that were  
18 provided of film blackening, and we simply  
19 didn't see any evidence that -- that this  
20 constituted deliberate manipulation or  
21 deliberate falsification of data. We just  
22 don't have the evidence for that yet. We  
23 continue to investigate. We continue to  
24 accumulate your concerns, some of which were  
25 expressed last night, and we're going to

1 continue to look. But to date, we haven't  
2 located a particular example that makes us  
3 think that these results were -- were  
4 falsified.

5 Now the TLD era. The concern here is that when  
6 a TLD chip read high they would just assign a  
7 zero dose. Well, similarly to the film badges,  
8 we know that TLDs have certain limitations.  
9 Contaminants on the badge -- for instance, hair  
10 or body oil or detergent -- can lead to  
11 anomalously high film ba-- TLD results. It's  
12 also a limitation of TLDs that the crystals can  
13 sometimes be dropped. They can sometimes be  
14 missing. If the badge is damaged the crystal  
15 can be lost. That -- that is one of the  
16 limitations of TLDs.

17 At Rocky Flats the design of the TLD badge  
18 contained multiple crystals, and so when one or  
19 more crystals were lost, most often they could  
20 recon-- they could estimate the dose from the  
21 remaining crystals in the badge. So again, we  
22 -- we arrived at the same -- in the same place.  
23 We don't yet have an example that demonstrates,  
24 in our mind, conditions that are outside of  
25 what you would expect in a dosimetry program

1           like -- like was in existence at Rocky Flats  
2           and at other DOE sites. But we continue to  
3           look. I mean this is obviously still a concern  
4           to the workers and we are going to continue to  
5           look. We took notes last night. We're going  
6           to try to track down some of the specific  
7           examples that were presented then.

8           Okay, the -- in a situation where we have a  
9           suspect badge result, we do have the same  
10          techniques that I described for dealing with  
11          gaps, those same techniques can be applied here  
12          to deal with suspect badge results. So it's  
13          not -- it's not like we're out in the cold if  
14          we don't have, you know, 100 percent complete  
15          dosimetry record, or a period where we have a  
16          suspect dosimetry record. We do have methods  
17          to handle those types of situations.

18          Okay, now the next concern, that workers  
19          manipulated their own badges, this is -- this  
20          is a sticky one. I mean there are some ethical  
21          implications here that I'm going to leave to  
22          the Board to consider in their deliberations.  
23          I'm only going to speak to the scientific,  
24          quantitative aspects of -- of this particular  
25          concern.

1           Okay. The situation here -- first of all, let  
2           me describe the system -- the radiation control  
3           system at Rocky Flats. It is certainly a fact  
4           that there was a radiation control system at  
5           Rocky Flats, and workers were encouraged to  
6           keep their doses as low as reasonably  
7           achievable. That's -- that's a standard  
8           feature of radiation control programs and it's  
9           a standard feature at Rocky Flats.

10          It is also true that workers could be  
11          restricted from certain jobs if their radiation  
12          -- recorded radiation doses approached limits.  
13          That's -- that is true. The goal there is to  
14          make sure that the workers are not getting  
15          doses that exceed the regulatory limits.

16          So the motivation that was expressed by the  
17          petitioner during the working group meetings  
18          for this kind of situation where workers would  
19          be motivated to manipulate their own badges  
20          were so that they could remain eligible for  
21          premium work, for overtime work, and not be  
22          restricted from -- from that kind of work. Now  
23          this going to be a tough issue to deal with  
24          quantitatively, because as you can imagine,  
25          workers may have some reluctance to discuss

1           doing this. I mean that -- that's certainly  
2           the case.

3           So what I'd like to do is talk more  
4           qualitatively to you about how pervasive a  
5           problem this could be. Let's try to establish  
6           some perspective on how big an issue that we're  
7           talking about here. And it occurs to me that a  
8           chain of events has to occur for this to  
9           present a problem in our dose reconstruction  
10          program. 'Cause as a first link in this chain  
11          is that a worker has to be motivated to do  
12          this, and we've talked about the motivations  
13          that were advanced for this. And presumably  
14          the motivation to do this would be strongest  
15          when a worker actually approached a limit, an  
16          administrative limit or a regulatory limit.  
17          Now that may not be the only time, but that --  
18          that is when the motivation might be strongest.  
19          Again, I'm going to walk through a series of  
20          steps here, and none of these steps  
21          individually is impossible, none of them. They  
22          are all possible to some degree or other. I  
23          think that some of them are fairly unlikely,  
24          but absolutely not impossible.  
25          And the motivation in terms of a worker

1           approaching a limit certainly existed. There  
2           were some workers at Rocky Flats who approached  
3           regulatory limits, but not -- a great majority  
4           of the population at Rocky Flats did not  
5           approach the limits, but there were some. So  
6           again, not impossible that a worker could be  
7           motivated to engage in -- in this.  
8           Secondly, that same worker would have to be  
9           willing to do it. And I spent some time at a  
10          nuclear facility and -- just qualitatively  
11          speaking now, I think most workers would not be  
12          willing to engage in this, but some would.  
13          And if they were motivated and they were  
14          willing, then they would have to leave their  
15          badges in their locker or stick them in their  
16          back pocket, and they would have to not get  
17          caught while doing it. Again, not impossible.  
18          The petitioner described some situations and  
19          the statement that really stuck with me is  
20          these people were not stupid. If they wanted  
21          to do this, they could come up with a way to do  
22          it. And I can per-- I can easily accept that.  
23          But I don't want to also represent this as  
24          being an easy thing to do, especially during  
25          the period when the badge was combined. The

1 site access -- the security badge was combined  
2 with the dosimetry results from 1964 up into  
3 the 1990s. So a worker would have to be not  
4 wearing a security badge or a dosimetry badge.  
5 Again, not impossible, but maybe not as easy as  
6 -- as -- as you would think.  
7 So if a worker was motivated and willing to do  
8 this, and was able to do it without getting  
9 caught, that same worker -- in order to prevent  
10 a problem in our program, that same worker  
11 would have to get cancer and file a claim in  
12 our program. Now I don't know the total  
13 figures of the number of workers that worked at  
14 the Rocky Flats Plant over the entire operating  
15 history, but I know that it's at least in the  
16 tens of thousands, if not more. We have 1,000  
17 claims from Rocky Flats. Is it impossible that  
18 one of those workers who was motivated and  
19 willing to do this and able to do it without  
20 getting caught could get cancer and file a  
21 claim in our program? Absolutely not, it is  
22 possible. But look at the odds here. There's  
23 not going to be a pervasive number of people  
24 doing this.  
25 Next, that same worker who filed a claim in our

1 program would have to have a probability of  
2 causation less than 50 percent. Again, that  
3 can happen. If it's over 50 percent, it's not  
4 going to be as big an issue in that dose  
5 reconstruction because that individual's most  
6 likely going to be compensated. But if the  
7 probability of causation is less than 50  
8 percent, we may have an issue.

9 So let's consider that situation a little  
10 closer. It's not all cases that are less than  
11 50 percent, it's those cases that have a  
12 probability of causation close enough to 50  
13 where the dose that would be missed or would  
14 not be recorded on this badge could have an  
15 impact on the compensation decision.

16 Now I don't have a quantitative number for  
17 this, but I think it's going to be probably our  
18 best-estimate cases, those where the PCs are in  
19 the 40s, maybe. So again, that's a pretty  
20 small number. In fact, at Rocky Flats -- now  
21 since we're talking about external dosimetry, I  
22 took a look at our claim population at Rocky  
23 Flats of the 700 or so that we have completed.  
24 Our best estimates are where we did a full-  
25 blown external dose reconstruction. Out of the

1           700 that we've completed, nine were best  
2           estimates for external dose. Nine.  
3           Is it possible that one of these workers is in  
4           that nine? Yes, it is. Absolutely it is. But  
5           is it likely? I don't know. I'll let you draw  
6           your own conclusions there.  
7           And finally, the last step in the chain is that  
8           we would have to not know about this instance.  
9           Now I think that -- that is probably more  
10          likely than the other steps, because as I said,  
11          workers are understandably reluctant to talk  
12          about doing this, and in some cases we're  
13          dealing with survivors so they may not even  
14          know that the employees might have -- might  
15          have done this. So it's certainly not  
16          inconceivable that we wouldn't know about it.  
17          Now in some cases we have methods for detecting  
18          this kind of thing. If we're looking at a  
19          best-estimate case and we see a tail-off, which  
20          could indicate that the worker was pulled out  
21          of the area, restricted from work, or it could  
22          indicate that his badge was pulled out of the  
23          area, left in his locker. But I don't want to  
24          represent to you that that is a foolproof  
25          method. It's certainly conceivable that we

1           would not know about this if it happened, and  
2           that's just -- that's just a limitation that we  
3           have to deal with and the Board has to  
4           deliberate about.

5           So what we have here is a string of events,  
6           none of which are impossible. Not one of them  
7           is impossible. But I think, to varying  
8           degrees, they're unlikely. And when you string  
9           those unlikely events together you arrive at a  
10          pretty unlikely scenario that would present a  
11          problem for our dose reconstruction prog-- a  
12          widespread problem for our dose reconstruction  
13          program.

14          Okay, let's talk about our evaluation report.  
15          I've given the regulatory citation here that  
16          governs -- governs our evaluation report. And  
17          that report was issued -- it was completed and  
18          issued on April 7th, and the Board has access  
19          to that.

20          And the evaluation process that that report  
21          covers -- the Board members have seen this.  
22          This is familiar to them, but for the members  
23          of the audience it may not be as familiar. Our  
24          regulations established a two-pronged test for  
25          evaluation of an SEC petition, and I've again

1 given the regulatory citation there.  
2 The first prong of that test is this question:  
3 Is it feasible to estimate the level of  
4 radiation doses to individual members of the  
5 class with sufficient accuracy? If the answer  
6 to that first question, that first prong of the  
7 test, is no, then we are obligated to go to the  
8 second prong of the test. And that question  
9 says, given that you can't reconstruct doses  
10 with sufficient accuracy, is there a reasonable  
11 likelihood that radiation doses experienced by  
12 this class could have endangered the health of  
13 -- of the members of the class. But you only  
14 go to that second step if the answer to the  
15 first one is no, it's not feasible.  
16 So our conclusion from this report, based on  
17 the evidence that we have so far -- and I want  
18 to emphasize that we are continuing to  
19 investigate. We are working with our  
20 colleagues at SC&A. We are working with the  
21 working group and the full Board to continue to  
22 investigate the concerns. Our conclusion is  
23 that the monitoring records, process  
24 descriptions, source term data that we have are  
25 sufficient to estimate radiation doses with

1 sufficient accuracy for this class of  
2 employees.  
3 Again, we are continuing to investigate your  
4 concerns. And to the extent that you can help  
5 us, give us examples -- as specific as you can  
6 -- that will help us. Now I'm not saying that  
7 the burden is on you to reach back 40 years and  
8 tell me the specifics of where you were on a  
9 given day. But as complete a picture as you  
10 can give us, that will help us to zero in, help  
11 us to go get the records and -- and determine  
12 what -- what happened in these situations.  
13 So in summary, the class was 1952 to present.  
14 We determined the first prong of the test, that  
15 it is feasible, based on the evidence that we  
16 have on hand now, that we can feasibly  
17 reconstruct doses. So we didn't go on to the  
18 second prong of that test. If we had, I think  
19 the answer would certainly have been yes. I  
20 mean there were condition-- potentially  
21 hazardous conditions at Rocky Flats that could  
22 have endangered the health of the workers. But  
23 again, that -- we only satisfied the first  
24 prong of the test which asked if it was  
25 feasible.

1           Okay, that concludes my slides.

2           **DR. ZIEMER:** Thank you very much. Let's open  
3 this up now for questions or discussion. Mark?

4           **MR. GRIFFON:** I think a couple things that you  
5 mentioned, especially on the coworkers, the --  
6 the coworker models and how limited that would  
7 be to -- I think you said two cases that remain  
8 for coworker type dose reconstruction.

9           **DR. ULSH:** Right.

10          **MR. GRIFFON:** I'm trying to understand, and  
11 we've talked about this a little bit and  
12 started to bring it up in the workgroup, but  
13 I'm trying to understand if any of the -- does  
14 that mean they -- they -- when you said certain  
15 number of workers had -- one of your early  
16 slides said how many records -- how many --

17          **DR. ULSH:** Right, about 1,000.

18          **MR. GRIFFON:** -- claimants had internal  
19 records, how many claimants had external. Does  
20 that mean they had a full set, enough to do  
21 dose reconstruction --

22          **DR. ULSH:** No, that doesn't imply that there  
23 aren't gaps in some of those 1,000. What it  
24 says is that for -- of the 1,100 cases there is  
25 at least some external data and there is at

1           least some internal data.

2           **MR. GRIFFON:** I just wanted to be clear with  
3           that on the record, yeah.

4           **DR. ULSH:** I appreciate that clarification. As  
5           I -- all I can say is that of the 700 cases  
6           that we've done so far, we only have identified  
7           two. I know, Mark, you'd expressed a concern  
8           about neutrons -- neutron and does that  
9           constitute coworker data, so let me ju-- shall  
10          I answer that question or --

11          **MR. GRIFFON:** (inaudible)

12          **DR. ULSH:** Okay. And I talked about the early  
13          time period when we -- when there was no  
14          neutron monitoring and we apply a neutron to  
15          gamma ratio. And it is true that that neutron  
16          to gamma ratio is a measured value, and in some  
17          cases it could be based on other workers. So  
18          in the strictest sense, that could constitute  
19          coworker data. But I'm referring to it in the  
20          sense that we normally refer to it at other  
21          sites where we have no dosimetry for this  
22          person and we assign doses from coworkers. In  
23          this case that we're talking about here,  
24          applying a neutron to gamma ratio, we start  
25          with that individual's gamma reading. So we

1           have gamma dosimetry for that person. And then  
2           we apply the neutron to gamma ratio to  
3           calculate the neutron dose. So in the  
4           strictest sense, that might constitute coworker  
5           data, but I was referring to it in the more  
6           limited context.

7           **MR. GRIFFON:** And -- and the -- the only other  
8           question was, you mentioned a -- a nearby  
9           technique --

10          **DR. ULSH:** Yes.

11          **MR. GRIFFON:** -- which we understand how that  
12          works. Has that been applied to any of the  
13          cases, to your knowledge, that you've done?

14          **DR. ULSH:** Oh, gee, Mark --

15          **MR. GRIFFON:** 'Cause I don't know that you --  
16          you normally -- or -- or often use that.

17          **DR. ULSH:** We don't often use it.

18          **MR. GRIFFON:** Right.

19          **DR. ULSH:** I can't say whether there are any  
20          cases at Rocky Flats where we have used it.  
21          It's pretty uncommon.

22          **MR. GRIFFON:** I guess some concern that we've  
23          heard expressed from the petitioners and from  
24          some people last night is that, you know, if  
25          there was -- if they have records for a couple

1 of quarters, then missing records, then records  
2 for a couple more quarters, the records that  
3 were missing might in fact have been because  
4 they were in those high exposed areas. So --

5 **DR. ULSH:** Yeah --

6 **MR. GRIFFON:** -- I think caution would --  
7 should be applied to that --

8 **DR. ULSH:** I completely agree.

9 **MR. GRIFFON:** -- nearby technique.

10 **DR. ULSH:** The appropriateness of the nearby  
11 technique is predicated on the fact that  
12 exposure conditions are constant. If we can't  
13 demonstra-- if we can't validate that that is  
14 the situation, then the nearby technique would  
15 not be appropriate.

16 **DR. ZIEMER:** Further comments, questions?

17 (No responses)

18 Okay, thank you very much.

19 **DR. ULSH:** Thank you.

20 **DR. ZIEMER:** I think it would be appropriate if  
21 we had a comfort break for the assembly for  
22 about 15 minutes, and then we'll resume and  
23 hear from the petitioners.

24 **MR. PRESLEY:** Paul?

25 (Whereupon, a recess was taken from 10:15 a.m.)

1 to 10:40 a.m.)

2 **PRESENTATION BY PETITIONERS**

3 **DR. ZIEMER:** We're ready to reconvene the  
4 assembly. Next in connection with the Rocky  
5 Flats SEC we will hear directly from the  
6 petitioners, and Tony DeMaiori -- am I  
7 pronouncing it correctly?

8 **MR. DEMAIORI:** Absolutely.

9 **DR. ZIEMER:** Close enough. I'm good on the  
10 Tony part. Tony, welcome back to the -- the  
11 podium, and please -- and others who may be  
12 with you, we're pleased to hear from you at  
13 this time.

14 **MR. DEMAIORI:** Good morning, Dr. Ziemer,  
15 members of the Board. As -- My name's Tony  
16 DeMaiori. I'm the former president of the  
17 United Steelworkers Local 8031. We represented  
18 the Rocky Flats facility. During the height of  
19 the D and D we had 1,600 members active that we  
20 petitioned on behalf of. As -- we'd like to  
21 open up our presentation with a video to give  
22 everybody an idea of the type of work that we  
23 did at Rocky Flats, and the people that were  
24 there, as we think we need a little bit of the  
25 human aspect here. So as -- if it would please

1 the Board as -- we'd like to show this video.

2 **DR. ZIEMER:** Thank you. Please proceed. The  
3 court reporter is trying to figure out how to  
4 record this now, just --

5 **UNIDENTIFIED:** Well, we can give you a copy  
6 'cause I --

7 **DR. ZIEMER:** No, we understand. We like to kid  
8 him now and then.

9 (Whereupon, a videotape was played for the  
10 Board and the public.)

11 **UNIDENTIFIED:** Excuse me, ladies and  
12 gentlemen, this is why I'm here, because ten  
13 years down the road, the gestation period for  
14 radiation inhalation, a lot of these people are  
15 going to be sick. This is why I'm here. I  
16 care about these people 'cause these people are  
17 my people and I can't let them go through what  
18 we did. This -- this can't -- this can't  
19 happen. We've got to figure out what to do  
20 because it's not going to go away. It's here.  
21 And a lot of this stuff these people worked  
22 with are (inaudible). That means 24,000 years  
23 to that (inaudible) so we've got to remember  
24 this. Ten years down the road we're going to  
25 be buried with people getting sick, wondering

1           why. This is reality. Thank you.

2           **DR. ZIEMER:** Thank you. Go ahead, please.

3           **MR. DEMAIORI:** Thank you. And I'd like to  
4           thank everybody for giving us the opportunity  
5           to recognize the workers and to get -- get an  
6           idea of the type of work that we did at Rocky  
7           Flats all those years as this video was  
8           dedicated to all the people who had dedicated  
9           their lives to the production and the  
10          protection of special nuclear weapons, and the  
11          ultimately the cleanup of the Rocky Flats  
12          facility. As make no mistake, members of the  
13          Board, as Chairman Ziemer, that in fact the  
14          workers at Rocky Flats were true patriots as we  
15          worked a lot of hours, we worked a lot of  
16          hardships. Rocky Flats was a 7-day shift.  
17          That is, it never closed. We worked 24 hours a  
18          day, seven days a week.  
19          Our working conditions were abnormal, to say  
20          the least. There are several incidents that I  
21          can cite that weren't day-to-day operations,  
22          you know, with myself personally as I laid in a  
23          supplied breathing air suit for nine hours  
24          below tanks that contained resins. We were  
25          trying to separate the plutonium, but we just

1 started the facility, 371, and we had to flush  
2 the facility with water, H2O, because the  
3 piping was so massive during construction, it  
4 filled up with dirt, dust. So we did, we  
5 flushed it with water, and then we couldn't get  
6 the DOWEX resins to extract the plutonium, to  
7 grab it -- that's in the ion exchange. So I  
8 laid there for nine hours with my dosimeter in  
9 my front pocket, taped, shielded by my torso,  
10 with my head at the bottom of the ion tanks.  
11 And every 15 minutes my boss would say hey,  
12 Tone, take another sample, and I'd take another  
13 sample. Every two hours he'd say give me the  
14 bag of samples. We'd slide it back under the  
15 door. But these are the types of things.  
16 Now when we go into dose reconstruction they're  
17 going to say well, Tone, during 1982 you were  
18 caustic treatment. You were treating caustic  
19 from the SOE operation, and that's a low-dose  
20 job. Absolutely the truth. But I also did the  
21 job up on the ion exchange, the sampling. I  
22 was a young man. The money was really good,  
23 time and a half. That's -- it helped feed my  
24 family, buy houses, clothing, that's -- I have  
25 to tell you, no regrets. It was a wonderful

1           job that I had out at Rocky Flats, and I think  
2           most people would tell you that. But we're  
3           here today to discuss the adverse effects, the  
4           health effects due to ionizing radiation and  
5           the -- the exposures, the chemical cocktails.  
6           Let us not forget the chemical cocktails, the  
7           plutonium nitrates that we worked with at Rocky  
8           Flats. That's...

9           So anyway, at this point in time I'm gong to  
10          refer to Jennifer Thompson and she's going to  
11          start the presentation. Thank you.

12         **MS. THOMPSON:** Good morning. Can you hear me?  
13          I wanted to thank you for giving us the  
14          opportunity to present to the Board. We  
15          greatly appreciate the role that you play in  
16          bringing a pure scientific, objective and fair  
17          treatment to our petition for Special Exposure  
18          Cohort.

19          My role in this process has been as a former  
20          Rocky Flats employee, worker and a volunteer.  
21          I've worked long hours, evenings and weekends,  
22          to help the steelworkers prepare their  
23          petition. I do this as an individual and  
24          former worker.

25          I also want to appreciate all of the workers

1           who have contributed to the petition, all of  
2           the hourly workers, and thank Kaiser Hill\* and  
3           the Department of Energy at Rocky Flats for  
4           being supportive of our efforts back in the --  
5           December of 2004 and January of 2005 time frame  
6           when we were actually preparing this petition.  
7           At this point I wanted to make a couple of  
8           clarifications based on the earlier  
9           presentation by NIOSH. As you could see by the  
10          video, Rocky Flats is gone. There are not a  
11          few facilities left standing. The project is  
12          completely over. In October of 2005 they hung  
13          the lock on the gate out at Rocky Flats,  
14          signifying completion.  
15          I also wanted to clarify that the class of the  
16          petition that we submitted -- that the  
17          Steelworkers submitted on behalf of its  
18          membership was a much smaller class than what  
19          you see today. And the class that was  
20          submitted was submitted based on the legal  
21          right of representation of the Steelworkers for  
22          its membership, and that was the limitation.  
23          In addition to that, we limited our class as --  
24          as we thought was instructed through the  
25          legislation to clearly define a class of people

1           that had -- either wore dosimetry or worked in  
2           areas that had been sense proven to require  
3           dosimetry, rather than addressing a broad  
4           population of -- of 10,000 people, which is  
5           what the case is now.

6           I also wanted to clarify the issue with  
7           closure. I'm sure -- and I'm grateful for DOE  
8           that NIOSH has had great access now in  
9           obtaining records, but what about five years  
10          from now? And in addition, the workers who are  
11          involved in their own individual dose  
12          reconstructions are required to remember back  
13          that many years, so closure is a factor. When  
14          the facilities are not there, it is a factor.  
15          Another clarification is that plutonium  
16          actually emits alpha. It's not ionizing. The  
17          daughter product of plutonium is where the  
18          ionizing radiation comes from.

19          The other clarification is that it was listed  
20          that the preferred data analysis to be used is  
21          urinalysis, and I understand that. But that  
22          does not account for, as -- as recognized, that  
23          does not account accurately for high-fired  
24          oxides, so the preferred method of analysis  
25          that NIOSH employs does not account for high-

1 fired oxides.

2 Another clarification or -- or point from that  
3 presentation is it showed a 73 percent  
4 correlation of data, and that may be acceptable  
5 to some people, but I don't think if you have  
6 cancer that 73 percent is acceptable to you.  
7 Another issue I'd like to clarify is an issue  
8 on limits. The presentation earlier said that  
9 not very many Rocky Flats people approached the  
10 legal regulatory limit. Well, that may be  
11 true. What the presenter failed to recognize  
12 is that at Rocky Flats we had an  
13 administrative control level of 500 millirem,  
14 so people actually were -- were relocated from  
15 job positions when they approached a 500  
16 millirem level, not the regulatory legal limit,  
17 so that is a -- is a -- is a big difference  
18 there.

19 Okay. I've never used one of these before so  
20 I'll probably mess up, but -- one other thing I  
21 wanted to say is -- is that the gentleman early  
22 talked about a picture and a puzzle. And if  
23 you don't know what the picture is that you're  
24 trying to build, how do you know you have  
25 missing pieces from the puzzle? You don't know

1 the pieces even exist.

2 Okay. The basis for our petition has already  
3 been presented by others at this point so I'm  
4 going to skip -- skip that.

5 What I'd like to talk about first is the  
6 petition time line. The law requires NIOSH to  
7 make a recommendation to you folks, the  
8 Advisory Board, 180 days from receipt. Health  
9 and Human Services has decided in its own rules  
10 that 180 days from receipt actually meant 180  
11 days from the point that NIOSH certified the  
12 petition. Today if 440 days later, and now it  
13 appears that NIOSH is pressuring the Board for  
14 a quick decision. This delay has cost the  
15 petitioner a lot, a lot in terms of the fact  
16 that all of our workers are now laid off; a lot  
17 in terms of the fact that Rocky Flats is now  
18 gone; a lot in terms of the fact the Rocky  
19 Flats Union is gone; a lot in terms of the fact  
20 that site experts are gone. We have lost our  
21 ability as petitioners to access records  
22 because now Privacy Act limitations prevent us.  
23 We have no official capacity. We have been  
24 crippled by this delay in terms of our ability  
25 to respond --

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(Pause)

There we go. I know this is hard to read. I apologize for the small type, but basically this is a detail of the time line. In 2000 the EEOICPA was passed by Congress. It took NIOSH four years to publish the rules, and then in October of 2004 it was amended, and it was amended to put in the requirement for 180-day turnaround after receipt. Congress noted the importance of a timely review and a timely response.

On February 15th of 2005 the Steelworkers submitted their petition. That's day zero. That's when the clock started ticking. On day 61 Health and Human Services issued a letter to the petitioner asking for additional information and gave us a 30-day turnaround, which we met, 26 days later submitting 500 additional pages of documentation in 28 days. On day 113 our petition was certified, June 16th, 2005. On September 13th of 2005, many months after our petition was submitted, Health and Human Service amended its rules to accommodate the 180-day requirement and determined that what Congress really meant was

1 certification and not receipt, as the law  
2 states.

3 In December of 2008 (sic) S. Cohen & Associates  
4 submitted a site profile review, and we believe  
5 that that review, which was done with great  
6 detail and high quality, supported the premises  
7 of our petition in very, very many ways, and  
8 we're grateful for the work of S. Cohen &  
9 Associates in putting that together.

10 On day 303, 179 days after the petition was  
11 certified -- and there's no coincidence there -  
12 - Health and Human Services Director Larry  
13 Elliott issued a letter saying that their  
14 recommendation was to delay the recommendation  
15 of the petition.

16 Day 440 after receipt of petition, 315 days  
17 after certification, we believe that today was  
18 the formal recommendation but I'm not certain.  
19 This other issue is a sensitive one, and I have  
20 to preface it with -- with that sensitivity.  
21 The Steelworkers would love for everybody at  
22 Rocky Flats who gets cancer to be covered under  
23 this legislation and under this -- this cohort  
24 status. However, the law was quite clear when  
25 we submitted the petition. That was that we

1 had to submit only on behalf of those folks  
2 that were legally represented by the union. In  
3 fact, we had to provide copies of all the union  
4 agreements, proving that we had legal right of  
5 representation for those people. So by law we  
6 could not have petitioned on behalf of other  
7 folks. As such we did not gather affidavits  
8 from salaried workers. We did not ask for  
9 their input into this petition. They have dose  
10 reconstruction challenges and examples of  
11 failures -- systematic failures that were not  
12 included in our petition because this petition  
13 was never intended to represent the total  
14 universe of people at Rocky Flats.  
15 Now NIOSH has decided to expand the class --  
16 covered class under this SEC petition. This  
17 dilutes the class, creates too large of a group  
18 to ever get funded. You all know the politics  
19 involved in Special Exposure Cohort. It's a  
20 sad thing, but it is reality. It took our  
21 group's size from less than 1,500 people to  
22 nearly 10,000 people. If Congress has a  
23 problem funding Special Exposure Cohorts, do  
24 you really think that a 10,000-person class is  
25 a realistic way to go about doing a Special

1 Exposure Cohort petition or class of people?  
2 The most sad part of this is that this denies  
3 people who are not involved in preparing the  
4 petition, and who are not represented by the  
5 petition, but yet denies them Special Exposure  
6 Cohort status. We -- we take issue with that,  
7 obviously.

8 Uh-oh...

9 (Pause)

10 **DR. ZIEMER:** This one's still working. That  
11 one must have gone into a sleep mode or...

12 **MS. THOMPSON:** Okay. Can the AV person maybe -  
13 - I'll continue, but can somebody try to get  
14 the other screen up?

15 **DR. ZIEMER:** Go ahead.

16 **MS. THOMPSON:** Okay. My next premise is -- is  
17 best described using a visual description, and  
18 -- and we feel like that the Rocky Flats  
19 petition and the situation of dose  
20 reconstruction at Rocky Flats is like a dam  
21 that's failing. And a hole breaks in one point  
22 and NIOSH just puts its hand over that hole,  
23 and that's a new Technical Information Basis  
24 Document (sic). And then a hole comes over  
25 here and they put their foot over that one, and

1           that's another Technical Information Basis  
2           Document (sic). And then there's another hole,  
3           and we've got an assumption for that. And then  
4           there's another issue, and we've got an excuse  
5           for that. But all the while they're putting  
6           their hands over the holes and blocking the  
7           water, they're failing to see that the dam is  
8           failing. They fail to look at the systematic,  
9           systemic failures of dose reconstruction.  
10          Yes, you can come up with an assumption, an  
11          excuse, to explain nearly every thing. And I'm  
12          sure if we brought 100 more issues, there would  
13          be 100 more assumptions and 100 more excuses.  
14          These are band-aids. They're not fixing the  
15          problem.  
16          The new -- the new TIB for high-fired oxides,  
17          great, should have been put in place years ago,  
18          it's not even final yet, but that's one of the  
19          band-aids. The changes for co-located worker,  
20          the new TIB -- another one, great. Adjustments  
21          for lead aprons, you have factors you can use,  
22          you have assumptions you can make. The zero  
23          versus missing data assumptions. What we have  
24          here is degrees of separation. Each time you  
25          make an assumption, each time you use

1 reconstructed dose from another source, you're  
2 getting further and further away from reality,  
3 further and further away from your ability to  
4 accurately construct dose.

5 The question is not can someday we accurately  
6 reconstruct doses. The question is as of  
7 February 15th, 2005 when this position (sic)  
8 was submitted, could dose be accurately  
9 reconstructed. And we believe the answer is  
10 no. Dose reconstruction is flawed, no matter  
11 how many band-aids NIOSH is willing to put in  
12 place.

13 The site profile does not even still  
14 acknowledge the D and D operations at the site.  
15 Post-1995, none of the incidents, none of the  
16 operations, none of that is taken into account  
17 by the site profile. And I believe there's no  
18 intentions to modify that. You saw the video.  
19 That's the type of work these people were  
20 involved in the last ten years, not production  
21 operations.

22 The band-aids put in place are not -- not going  
23 to heal the problem with dose reconstruction.  
24 High-fired oxides and their effect on the human  
25 body and how the body processes them is not

1           sufficiently studied to produce an accurate  
2           TIB. Okay? And the TIB is not even approved  
3           yet. This is a new phenomena (sic). In 2003  
4           people said wow, we've got this new thing and  
5           we're not really even sure what it is. It's  
6           only three years later, and now we're going to  
7           say we can accurately put together something  
8           that's going to allow us to reconstruct dose?  
9           The lead apron adjustment only works if the  
10          worker knows that they had that issue and  
11          reports it during their dose reconstruction.  
12          Many people might not even think to mention it.  
13          And also, this assumption that -- that lead  
14          apron use was not very prevalent at Rocky Flats  
15          is not true. During the clean-up operations  
16          lead aprons were used in D and D residue  
17          operations, thermostabilization and plutonium  
18          packaging. But again, the site profile does  
19          not account for any of those.  
20          This issue of the zeroes on your dose records,  
21          and I'm going to speak to this personally in a  
22          little bit, are inconsistently used. And you  
23          can cite that there's a procedure in place at  
24          the site that says you're supposed to do it  
25          this way, but practice and procedure are not

1 always the same thing. There's too many varied  
2 situations in which a zero is entered onto a  
3 person's dose record.

4 And -- and finally, the six cases that are  
5 cited in the NIOSH evaluation report -- they  
6 used six cases and then applied it to 9,537  
7 people. I'm not a statistics person, but that  
8 doesn't seem like a very good population to be  
9 basing assumptions from.

10 Okay. So now the other is that -- is that --  
11 as I mentioned, it's every time an issue comes  
12 up, there's an answer. But there's lots of  
13 other issues that haven't even come up yet.  
14 Our -- our NDA folks carried cans of plutonium  
15 --

16 (Pause)

17 The NDA folks carried cans of plutonium under  
18 their arms, under the armpit. The dosimeter's  
19 on the front of their body. Okay? They're  
20 getting exposure under their arm that's not  
21 being measured by their dosimeter.

22 Workers working in lead-shielded gloveboxes,  
23 their dosimeter is against the lead shielding.  
24 Their face is against the plexiglass. The  
25 plutonium is in front of their face.

1           And there's many others that haven't been  
2           brought up.  And the incentives for workers to  
3           mask dose in order to remain in the areas of  
4           job preference or higher earning potential,  
5           NIOSH spent a lot of time on that, and this is  
6           not an issue that we -- we want to say is an  
7           issue of credibility for our work force.  It's  
8           a -- it's a reality when you have work that  
9           requires you to wear a dosimeter and you're  
10          approaching your level and you might get  
11          relocated, that could become a factor in the  
12          decisions you make on a day to day basis.  
13          The third thing we want to bring up is the bias  
14          of the data credibility of information  
15          presented to the Board.  There's a letter by  
16          Congressman Hostettler regarding a -- a -- I  
17          don't even know what it is.  At Rocky Flats, he  
18          says, a manager of health physics programs  
19          prepared NIOSH's site profiles, TIBs, is  
20          actively involved in the evaluation of an SEC  
21          petition -- and that's our petition -- which  
22          includes validation of the results used in his  
23          previous work.  We believe that that is a  
24          conflict of interest.  Individuals who have  
25          testified against workers in Worker

1 Compensation hearings are serving key roles in  
2 the NIOSH process, and we believe that is a  
3 conflict of interest. This results in  
4 information that skewed the in-- has skewed the  
5 interpretation of reality.

6 The government's own General Accounting Office  
7 has identified conflict of interest as an  
8 issue.

9 This gets to -- to my individual case, and I  
10 want to clarify something. I, in my job at  
11 Rocky Flats, probably did not have the  
12 potential to get enough exposure that I would  
13 ever file a claim, so this is not driven by my  
14 personal desire to get compensated. This is  
15 just to give an example, and the reason this  
16 example is so good is because my dosimetry file  
17 is probably like that thick. I only maybe have  
18 three in there, incidents over time. I brought  
19 up an issue where a dose reconstruction had to  
20 be done because my dosimeter showed an  
21 abnormally high reading, and the dosimetry  
22 department did an investigation, asked me to  
23 remember all the places I'd been for the  
24 previous six months and who I'd been with.  
25 But because of the nature of my job, I had been

1           into nearly every plutonium facility at Rocky  
2           Flats during that six-month time period. It  
3           was impossible to ascertain the cause of that  
4           exposure. And at the time I understood that.  
5           And at the end of the -- of the evaluation and  
6           the investigation and construction, they  
7           entered a zero on my dose record. And when I  
8           got my report in the mail it showed zero.  
9           Instead of recording the dose that my dosimeter  
10          said, because we couldn't find the source of it  
11          and they didn't believe the credibility of the  
12          -- of the dosimetry reading, I got a zero.  
13          This incident was brought to the attention on  
14          one of the working group meetings and NIOSH  
15          went off and pulled my records, and then later  
16          reported to the Board on one of the only other  
17          of the three incidents that I had in my  
18          history, about the time that I left my  
19          dosimeter on my coveralls when I exited the  
20          area and it ended up in the laundry basket.  
21          Okay? That -- that is not the incident I was  
22          talking about. And then they said that the  
23          dose reconstruction was done based on that  
24          incident, which I find very hard to believe  
25          because I was never spoken to regarding that.

1           The dosimeter was left in the laundry basket on  
2           my way out of a radiation area. My dosimeter  
3           was with me the whole time I was in the  
4           radiation area, so I fail to see the need for  
5           the dose reconstruction in that incident.  
6           And I just give that as an example. It  
7           highlights a bigger issue than that.  
8           And the effects of closure, I kind of touched  
9           on this earlier that it's interesting to me at  
10          one hand that -- that we're hearing that all of  
11          the records are readily available and that  
12          there's no problem with the closure in terms of  
13          the ability to do dose reconstruction, but in  
14          the evaluation report NIOSH recommended that --  
15          that -- against the Special Exposure Cohort  
16          status, but then stated that it would take two  
17          to four months to get the dose investigation  
18          report that the petitioner suggested might be  
19          helpful for this -- this petition. So on the  
20          one hand they say they can get everything, and  
21          on the other hand they say it will take too  
22          long.

23          As -- I alluded earlier to the politics that  
24          come into play, and I'm sure the Board is  
25          feeling some of the pressures of -- of the

1 political situation. An OMB past back member  
2 to the -- memo to the Department of Labor  
3 outlines a plan to contain growth in benefits  
4 from new Special Exposure Cohorts by requiring  
5 administrative clearance before the Health and  
6 Human Services Secretary can make a decision,  
7 and calls for a White House-led inter-Agency  
8 task force to address any imbalance in the  
9 Advisory Board's membership. In this context,  
10 this appears to intend to tilt the Advisory  
11 Board's composition against approval of Special  
12 Exposure Cohorts.

13 Now I -- I want to talk about what we thought  
14 the law was asking us to do. We thought that  
15 the law was asking us to prove that there was a  
16 class of Rocky Flats workers that existed for  
17 whom it was not feasible to accurately estimate  
18 the radiation dose they received, and then to  
19 show that they had had their health endangered  
20 by their exposure to radiation. Number two it  
21 appears everybody is in agreement with. Number  
22 one is what -- what we're having issues with  
23 here.

24 In terms of proof about it not being feasible  
25 to accurately estimate dose, S. Cohen &

1 Associates' December 8th report says that the  
2 Rocky Flats site profile falls short in fully  
3 characterizing underlying issues that are  
4 fundamental to the-- guiding dose  
5 reconstruction. In terms of proof, the report  
6 also says a number of historical issues and  
7 discrepancies cast doubt on the validity of  
8 dose records being relied on for dose  
9 reconstruction. The precise nature of super  
10 class Y material is not known. Upper bound  
11 doses from external gamma, neutron and beta  
12 exposure are often underestimated, sometimes  
13 considerably, particularly when doses are  
14 reconstructed.

15 We believe just the fact alone that now these  
16 new TIBs are being put in place that the site  
17 profile's changing and not -- acknowledges the  
18 fact that at the time we submitted the petition  
19 dose could not be accurately reconstructed.  
20 And we believe the situation will exist even  
21 after those band-aids are put in place for the  
22 reasons I mention -- mentioned before.

23 (Pause)

24 Members of our Colorado Congressional  
25 delegation asked NIOSH not once, not twice, but

1 three times to grant our petition a fair and  
2 timely review. U.S. Congress required NIOSH to  
3 make a timely recommendation. NIOSH has not  
4 complied on either account. It is obvious we  
5 can no longer get a timely review. Now we are  
6 asking the Board to ensure that we get a fair  
7 one. Thank you.

8 **DR. ZIEMER:** Thank you very much. Tony, do you  
9 have additional individuals to present? Thank  
10 you.

11 **MR. DEMAIORI:** Thank you, Jennifer. Thank you,  
12 members of the Board. The next person I'd like  
13 to introduce is Charlie Wolfe. Charlie.

14 **MR. WOLFE:** Can you hear me? Does it work? My  
15 name is Charlie Wolfe. I was the project  
16 manager from 1995 to 2000 at Rocky Flats in the  
17 771 facility, and also I was a deputy project  
18 manager when we tore down the first facility on  
19 779. Previous to that I am a -- you got to  
20 excuse me, sometimes I forget things. 1991 I  
21 graduated with a chemical engineering degree  
22 from Ohio State and an MBA. When I left school  
23 I went to -- to Savannah River and worked  
24 there. I worked in two of their plutonium  
25 facilities, Pu-239 and Pu-238 facilities, for

1 the Cassini, so I've got -- been in the  
2 facilities a lot.

3 One of the things that I did, and I'm sure the  
4 Steelworkers will admit it, at every one of the  
5 facilities I went to, I dressed out every day.  
6 Okay? I put my masks on and I went out with  
7 the people to see what they were doing. One of  
8 the things I don't agree with right here is how  
9 many of you people dressed out over the time  
10 period and went through the facilities to see  
11 what the workers actually did instead of doing  
12 a paper analysis of what they did. That would  
13 give you a lot of your answers, to see what  
14 issues many of these people are talking about.  
15 I've -- I was out there a few times. The  
16 Steelworkers did a great job of helping people,  
17 but there were a lot of cases where you took  
18 off your -- yes, protective equipment and put  
19 it out where somebody could see it, but you  
20 never had an analysis of it. There were a lot  
21 of times where you didn't have your badges in  
22 the correct place where you could get it.  
23 We found out -- I had my office in there, and  
24 they found out after we were there, I don't  
25 know, five years, six years, there was

1 radiation exposure in that facility and in the  
2 office areas. I never had my TLDs on when I  
3 was in those areas. I was in the office. My  
4 TLDs were on when I walked through the facility  
5 with the -- with the work force.  
6 They -- at least as likely as not was what they  
7 put on my record in donation -- in -- what do  
8 you call it, dosimetry and stuff. Okay? Well,  
9 geez, I got a big hole in my head and I don't  
10 see it as likely as not -- okay? -- from that  
11 standpoint. And I sent several things back to  
12 NIOSH, DOE and everybody else that it wasn't  
13 just radiation that was put in there, but there  
14 was uptakes of plutonium and toxicity of that  
15 radiation is different. Plutonium has a  
16 different radionucleide (sic) than just looking  
17 at radiation. Okay? And people don't take  
18 that into account, as well.  
19 One of the things that the gentleman that was  
20 speaking earlier said, well, yes, he was  
21 talking -- said that radiation is one of the  
22 reasons that people get cancer. Okay. I've  
23 talked to a lot of doctors. It doesn't take  
24 much. It doesn't take much. And you know,  
25 that's one of the problems that I have.

1           They talk about NIOSH or -- records. One of  
2           the records -- it took me over three months to  
3           get this fixed because they had trouble finding  
4           my job requirements for Rogers Iron Company. I  
5           don't even know who Rogers Iron Company is.  
6           Okay? And that's one of the records that they  
7           kept sending back to me over and over again for  
8           that company. I had no idea. So I don't know  
9           how I can even trust, you know, some of the  
10          other evaluations because of that.  
11          I received -- I have at home, I couldn't carry  
12          it. I got documents that are this high. They  
13          sent information on where you were, what  
14          radionucleide (sic) were you associated with --  
15          I mean it must have been 15 pages long. Like I  
16          said, I'm a chemical engineer, but I was a  
17          little bit -- had a hard time deciphering that  
18          because of my injury. My wife is a chemical  
19          engineer. Trying to go through that and find  
20          out the information they were asking, it was  
21          almost impossible for us to do it, so I don't  
22          know what other people had to do in terms of  
23          the Steelworkers and everything to do it.  
24          My picture is up at the top there. The reason  
25          is, like I said, I went through the facility

1 every day with my steelworkers. I went through  
2 the facility when I was at Savannah River every  
3 day. I know what they did. I know where they  
4 were at. I know the issues that they had to --  
5 to fight. And it's not fair. I mean the  
6 paperwork is incorrect on terms of where some  
7 of these people got their exposure, what types  
8 of exposure, there are different areas in the  
9 facility when you walk through that you can get  
10 a higher level exposure.

11 When you got an inhalant -- I was in several  
12 rooms that the alarms go off. Okay? So you're  
13 inhaling something, potentially. And you get  
14 outside of the room, if they find something you  
15 take your anti-Cs off. But you don't go right  
16 to the -- what do they call the -- the medical  
17 to check to see if there's anything that you  
18 inhaled or anything that could infect the top  
19 of your head.

20 And I don't understand, you know, just sitting  
21 there looking at pieces of paper and -- you  
22 know, I know they're very intelligent people.  
23 I have no problem with that. But understanding  
24 what these guys went through, what people did,  
25 what they were exposed to is unavailable if you

1           haven't walked through the facilities.  
2           And I -- and I'll ask one -- one last question  
3           because I can't remember half of what I wanted  
4           to say, sorry. But the one thing is how many  
5           of you in here -- it's -- it's too late now,  
6           Rocky Flats is gone -- not just taken a tour --  
7           okay? -- you know, there's the tours where they  
8           dress you up and everybody feels real cool, you  
9           know, walking through, but it's an area that  
10          has been inspected, checked out and make sure  
11          there -- there's absolutely no problems through  
12          there. But how many of you put a mask on and  
13          watched -- sat in the room and watched the  
14          workers in terms of taking care of pulling down  
15          the facilities and what they had to do and what  
16          was in those areas? You know, unless you've  
17          done that, you don't understand it. And I  
18          don't think there's a lot of you that would  
19          feel very comfortable, from this point on, if  
20          you went and had to put a mask on and go in and  
21          watch that.  
22          That's about all I had to say. I think I had -  
23          - I can't write very straight anymore. I think  
24          that's about -- most of the items.  
25          Can you look real quick, Jennifer, and make



1 Jerry's past president of the United  
2 Steelworkers three times, as Jerry'll take us  
3 back, radiologically, into the Stone Age.

4 **DR. ZIEMER:** I get a lot of that, too, Jerry,  
5 so --

6 **MR. HARDIN:** It matches the appearance.

7 **DR. ZIEMER:** -- don't feel bad.

8 **MR. DEMAIORI:** Before I turn the mike over,  
9 Jennifer has reminded me that, for a point of  
10 record, Charlie has been denied on his third  
11 claim.

12 **DR. ZIEMER:** Thank you.

13 **MR. HARDIN:** Good morning. My name is Jerry  
14 Hardin, as Tony's already mentioned, and I hope  
15 you won't hold the other information against  
16 me. I worked at Rocky Flats for over 37 years.  
17 Part of the time was as union president,  
18 majority was as a radiation protection  
19 technologist.

20 The thing that I'd like to do today is to poke  
21 a few holes in some of the things that I've  
22 overheard, you know, through the course of this  
23 presentation this morning.

24 First off, I think you need to partition time  
25 periods off in -- in regard to talking about

1 anything with Rocky Flats. Some things -- you  
2 know, as this thing evolved -- got better, but  
3 not everything.

4 Back when I first hired on, for instance, there  
5 was virtually no gamma shielding on most of the  
6 dry boxes. That came about in 1968.

7 Ironically, some of that same shielding  
8 contributed to the cataclysm of 1969, which  
9 we're about to celebrate the 37th anniversary  
10 of, the worst industrial fire in U.S. history,  
11 dollar-wise, to that point.

12 Now the reason I'm going to make some of these  
13 statements is to merely emphasize that I don't  
14 understand why Rocky Flats would be a problem  
15 to you people at all.

16 The other thing that I wanted you to know, and  
17 I don't know how familiar you are with the  
18 floor plan of building 771, but I heard stories  
19 about dose reconstruction today. But I want to  
20 tell you, in room 114, in a distance of about  
21 100 feet, you could go from extreme neutron  
22 field to an extreme gamma field, the gamma  
23 field being Line 1, which was the americium box  
24 where the product was eventually bagged out and  
25 sold. The neutron field was the labyrinth

1 shield for the hydrofluorination and the pink  
2 cake. And I don't know how familiar you are  
3 with pink cake, but according to the  
4 instruments that I carried, neutrons flew all  
5 over the place. So what I'm telling you is in  
6 a distance of 100 feet or so you could have a  
7 totally different picture of radiation dosage,  
8 and I don't know how you could ever extrapolate  
9 a worker's possible exposure based on -- on  
10 that difficulty alone.

11 The other thing I would tell you is I carry a  
12 36-rem body burden that I suspect is a product  
13 of high-fired oxide. The reason that I have  
14 that suspicion is because it didn't show on my  
15 -- on urinalysis results for quite a while.

16 Those of you that are familiar with Langham's  
17 Curve know that the excretion usually is very  
18 significant at first and then it tapers off to  
19 near nothing. The point that I'm trying to  
20 make is that they never attributed my exposure  
21 to anything particular, and all of a sudden I  
22 showed up in 1988 and I lit up the clock. And  
23 the reason that that's of concern to me is  
24 because the evolution of the technology as well  
25 as, you know, the way that they defend it.

1           The other thing I would tell you is that this  
2           has been a -- a ongoing series of deceit and --  
3           and denial dating way back to my first  
4           employment. We had a thing after the fire in  
5           1969 where they denied the presence of tritium  
6           anywhere on site. Then all of a sudden some  
7           fine fella decided that he would run a test and  
8           they discovered tritium in Great Western  
9           Reservoir that sits west of -- of Broomfield.  
10          The irony of that is, management denied the  
11          presence of tritium anywhere on the plant site  
12          until finally someone said hey, it was a site  
13          return. We were -- we were ambushed.  
14          The reason that that's important to you is  
15          because this is going to be a sequence of  
16          denial and betrayal, in my opinion, of good  
17          science as well as some of the information.  
18          The thing that I would also try to point out to  
19          you is dosimetry was sorely lacking. As it's  
20          already been mentioned, neutron dosimetry was  
21          virtually non-existent and there were  
22          occurrences of black badges, certainly back in  
23          the film days. June Malsik\* was their -- was  
24          their sole technician to count the tracks, and  
25          I think she's probably on to the big dry box in

1 the sky by now, but the point being is it was  
2 primitive and everyone knew it.

3 The emphasis at that time was on KG of fissile  
4 material out the door. It wasn't on good  
5 health and good housekeeping practices. As a  
6 rad tech, we tried to keep the walkways less  
7 than about 1,500 counts per minute alpha. You  
8 go any distance either side in building 71 and  
9 you could find most any number that you chose  
10 to -- to recognize.

11 Technology has improved over years and some of  
12 it I think has been very useful to the workers.  
13 Other things I think have been more useful to  
14 the lawyers.

15 And the problem that I've got is access to the  
16 records. The thing that you need to know is  
17 that this management and this government agency  
18 has not been very cooperative to anyone. And I  
19 would wave this headline to everyone's  
20 attention. This is a result of the infamous  
21 Cook case, and these were landowners adjacent  
22 to Rocky Flats. And initially the workers were  
23 attempting to file a case that was somewhat  
24 similar at the same time and our case was ruled  
25 invalid due to the Workmen's Comp law that

1 exists in this state.

2 The federal judge came, had to threaten to cite  
3 the contractor and DOE for contempt because  
4 they didn't provide the records in a meaningful  
5 and time-- timely manner. And the reason that  
6 I bring this to your attention is how do you  
7 think that a worker, especially now that the  
8 plant is closed, is going to have access to  
9 things that he thinks is necessary to support  
10 his claim? And I suspect that it's going to be  
11 extremely difficult.

12 In fact, just yesterday I talked to an attorney  
13 named Bruce Duboski\*. This name may not mean  
14 anything to you, but Bruce was the successful  
15 attorney on the four provable radiation death  
16 cases that I'm aware of, that being Cromback\*,  
17 Gable, Shamper\* and Downing. And Bruce told me  
18 yesterday by telephone that he would be willing  
19 to submit a statement to you people about the  
20 difficulties he had in getting data to prove  
21 these cases.

22 My purpose today is not to do anything other  
23 than stimulate a little cross-talk and maybe a  
24 cross-pollination of ideas. You've heard the  
25 intellects, and I don't pretend to be one. But

1 I've certainly been involved in this process  
2 for -- for the many years.  
3 And now I'm going to have to throw a few  
4 stones. This is -- you know, onions and  
5 orchids. I have been through I don't know how  
6 many of these hearings over the years. We had  
7 the Ahern Committee, we had the Defense Board,  
8 the tiger teams, and it goes on and on and on,  
9 and yet the conclusions always seem to be about  
10 the same from the workers' perspective, and  
11 that's nowhere. And the thing I would ask you  
12 to do is to -- to look at some of these  
13 findings from these other groups. Most all of  
14 them have detected problems. The GAO report  
15 back many years ago on 371 building said hey,  
16 that building's got big problems, and no one  
17 did anything about it. And so the workers  
18 continued to be assigned to those jobs. And  
19 some of the problems were corrected, but not  
20 all of them.

21 So you need to know that these things are a  
22 matter of record. Seems like every time a new  
23 group of you come to town we start with a clean  
24 sheet of paper where we're forced to field our  
25 complaints and whatever information we might

1           have, you know, to try to persuade you.  
2           If you read today's newspaper, you people have  
3           already pretty much made up your minds that  
4           you're going to deny Rocky Flats the cohort  
5           status. And that may not be your assessment of  
6           it, but I'm telling you -- just being on the  
7           outside looking in -- that was mine after  
8           reading that article. I hope that that doesn't  
9           prove to be the case.

10          Now in regard to some of the other health  
11          issues, I don't know if you're familiar with  
12          the brain cancer report from about 20 years ago  
13          by Greg Wilkinson\* who worked on George  
14          Boltz\*'s staff out of Los Alamos. And the  
15          state health department also conducted a study  
16          at the same time, and they concluded that there  
17          was a higher incidence of brain tumors and  
18          brain cancers in Rocky Flats workers, but  
19          nothing ever came out of it that I was aware of  
20          as far as a remedy. The problem that we have  
21          are all these loose ends.

22          In regard to the documentation, I don't know if  
23          you people remember Hazel O'Leary, but she was  
24          the Secretary of Energy. And when she made the  
25          public disclosure of how much plutonium the

1 U.S. had, she said there was approximately 100  
2 tons. And she also made a comment that there  
3 could have been three tons in residence at  
4 Rocky Flats that didn't show on the inventory  
5 or on any floor plan. Now think about that.  
6 That's a strategic material of unknown value  
7 that no one knew the whereabouts of. Now we're  
8 talking potentially, for health effects -- oh,  
9 I don't know what magnitude down from that, but  
10 a very small amount, so if you've got three  
11 tons that you don't know about, it isn't  
12 unreasonable to say some of these workers  
13 probably got some of that, too. And as I  
14 already confessed to you, I carry some of it in  
15 my body, and it isn't for sale -- at least at  
16 the moment, but -- subject to negotiation,  
17 though.

18 So you know, my purpose is not necessarily to  
19 amuse you, but to -- to again stimulate a  
20 thought process that seems to be sorely  
21 lacking.

22 I was a local union president back in 1985, and  
23 that was where the first case of berylliosis  
24 was detected. And prior to that we had nothing  
25 but denials and -- and, you know,

1           incriminations about beryllium. The records  
2           were very poor. All of a sudden beryllium  
3           turned into be an emotional thing, you know,  
4           worthy of the National Enquirer, which it still  
5           is -- and I'm not trying to belittle it, I'm  
6           merely trying to put perspective to it. We  
7           were a plutonium laundering facility.  
8           Beryllium was merely a sideline.  
9           The other thing that I was disturbed about in  
10          the course of this thing is virtually no  
11          mention of the solvents and other chemicals.  
12          We were the biggest users of carbon  
13          tetrachloride in the entire country. We had  
14          over 20,000 gallons of it in residence in  
15          tankage. And I don't know your recollection of  
16          carbon tet exposures, but it isn't a good  
17          thing. Private industry got out of that  
18          business years ago. We had it at Rocky Flats  
19          until the day they finally said hey, the W-88's  
20          dead; we're not going to do these things  
21          anymore. So you need to be aware that the list  
22          of potential contaminants and exposures is  
23          long.  
24          The other thing I wanted you aware of, and I  
25          don't know the records because I was a worker.

1 I wasn't up in the Mahogany Row. I don't know  
2 the records. Building 771 was closed down in  
3 the springtime of 1968 due to a project that we  
4 were involved in with the United Kingdom called  
5 Zipper. Zipper burned all of us out. They  
6 closed the building down.

7 Ironically, they moved me to area 903, the  
8 barrel pad. Again, management and DOE didn't  
9 answer to anyone because we were under the  
10 Atomic Energy Act of 19-- whatever it was, '42  
11 or whatever, and so they had barrels of  
12 plutonium-contaminated lathe coolant there, and  
13 this was out in the open. The barrels were  
14 stacked, you know, all over that parcel of  
15 land.

16 And the reason that that's important is because  
17 it reinforces what I've asked you to do  
18 earlier, and that is partition time -- time off  
19 in -- in the 50-some-year history of Rocky  
20 Flats. We didn't always do the same things  
21 over that period of time. Some things  
22 improved, but not everything. The only thing  
23 that has been consistent is the denial and the  
24 ordeal, especially as individuals trying to  
25 prove a claim. And that's why I would again

1           make the offer -- in fact, I would virtually  
2           insist that you allow me to get Duboski to give  
3           you this statement about his difficulties in  
4           gathering information to pursue these cases  
5           through the compensation process.

6           The important thing is not necessarily listen  
7           to my war stories, but to try to flesh out some  
8           of the things that you may have already heard.

9           I'm very concerned about the workers. I've  
10          seen the contractor get an alleged bonus of  
11          \$450 million net. I have yet to see a group of  
12          workers come anywhere close. These landowners  
13          possibly, if they go into the year 3000, might  
14          get some part of that. If you remember -- like  
15          for now, their settlement was \$75 million and  
16          the attorneys took a third of it, so the reason  
17          I'm telling you this is because it seems like  
18          we're more inclined to litigate things until  
19          the complainants die than we are in trying to  
20          satisfy legitimate claims.

21          I would ask your indulgence, and I don't know  
22          your time line, but the stories go on and on.  
23          But the thing that I would tell you is the  
24          record-keeping has been very poor, very spotty.  
25          I would use my personal example of my lung

1           burden that I've already confessed to you. And  
2           it depended on which body -- or lung burden --  
3           hello -- lung count cell that they counted me  
4           in as to what the numbers were. I made an  
5           offer one day that they would just count me  
6           back to back in different cells and see how  
7           those results correlated. They refused. It  
8           was always a puzzle to me how my numbers were  
9           quite a bit different from one to the other,  
10          and I realize the randomness of radiation  
11          decay. But I also understand that it's very  
12          important for a worker to have reasonably  
13          accurate records. There were times in my  
14          career when they gave me credit for -- like a  
15          ring dosimeter or something that I didn't even  
16          have access to, much less any need for. I was  
17          not a hands-on worker most of the time. I  
18          carried the radiation instruments.  
19          So the point being is some of the data is  
20          erroneous. I don't know how you would ever  
21          extrapolate a person's dose. As I've already  
22          mentioned, just a matter of a few feet could  
23          make a world of difference as to -- to the  
24          nuclides as well as the forms of emission that  
25          were generated.

1           Again, always keep in mind that the contractor  
2           got a bonus for KGs of material out the door --  
3           or units or pits or whatever you choose to --  
4           to use today. The emphasis was moving the  
5           merchandise. The workers were merely an  
6           implement to do that.

7           So I think I've probably bored you to death at  
8           this point, and I hope you don't wait till our  
9           deaths before you satisfy some of our concerns.  
10          So thank you, and I appreciate the opportunity  
11          to vent my -- my anger. Yes, thank you.

12          **DR. ZIEMER:** Yes, thank you, Jerry. We'll go  
13          back to Tony now.

14          **MR. DEMAIORI:** Great. Thank you, Jerry. For  
15          my final speaker I'd like Don Sabec. Don.  
16          To give you a little history, Don Sabec was a  
17          Steelworker that's very fond to us all as when  
18          Don retired he was number one on the seniority  
19          list at Rocky Flats. Don has over 42 years out  
20          of the 50 years of Rocky Flats. Don.

21          **MR. SABEC:** Hi. Is this thing working? Okay.  
22          I've just got about three things I'd like to  
23          discuss. I'm not going to try and outdo Jerry  
24          Hardin 'cause he's got a very good memory for a  
25          lot of this stuff. Him and I worked together

1           for quite a few years.

2           I'd like to emphasize on Charlie's statement of  
3           entering the area. I personally walked with  
4           him several times taking visitors through the  
5           771 complex, and he did every day come back in  
6           the area, not unless he was required to be in a  
7           meeting -- and I don't remember too many of  
8           those -- but he did come back in the area. And  
9           if we were in there working, doing break-outs,  
10          whatever we were doing, he'd be back there  
11          asking us, you know, is there anything I can do  
12          to help, do you need anything. And most of the  
13          time we -- you know, just say no, thanks,  
14          appreciate it.

15          But anyway, one of my concerns is the -- the  
16          record-keeping. I worked in progression  
17          committee for about a year, and we were in a  
18          trailer up by the union office. And one day we  
19          come to work Monday morning and our trailer had  
20          -- had -- our -- our equipment had been moved  
21          to one half of the trailer, our computers and  
22          desks and what-have-you. And the other half of  
23          the trailer, which there was a door between the  
24          two, it was a two-room trailer, had boxes and  
25          boxes and boxes piled up in it. And of course

1           being as the curious nature that RCTs are  
2           supposed to be, we started looking into these  
3           boxes. They weren't sealed or anything. And  
4           they were original records from the buildings  
5           that they -- they kept in the buildings, and  
6           they were put in these boxes. And we got to  
7           looking through them, some of them were  
8           personal records of exposures, others were  
9           surveys of radiation for areas, contamination.  
10          Mainly that's what they were was -- was  
11          records, but they had never made it up to the  
12          hist-- program part where they would put it  
13          into the computer. And this was during a GAO  
14          audit that these records were put in there.  
15          Those auditors had never come into our -- our  
16          trailer to look at these -- these surveys and  
17          documents. They were there for approximately  
18          three to four weeks.  
19          After the audit was over with we come back to  
20          work again one Monday morning and the -- and  
21          the boxes were gone. Three or four days later,  
22          as the truck driver was delivering water --  
23          'cause we had bottled water in the trailer -- I  
24          was talking to him about all these records. I  
25          said do you -- do you guys know what happened

1 to these records? He says oh, yeah, we were  
2 called in Sunday to put them in trucks and we  
3 took them up and they were deemed no longer  
4 necessary and we dumped them in the landfill.  
5 That was one of the reasons at the Broomfield  
6 meetings I asked that they go back to those  
7 landfills and look for records and  
8 contamination 'cause I'm sure -- I know there  
9 was in all probability some contamination put  
10 in our landfill.

11 Enough said about that. The second issue is --  
12 is that -- is the lead aprons. When we first  
13 started this lead apron for mainly bag-outs at  
14 the radiation areas where you're going to have  
15 the frontal assault, we had to wear our badges  
16 on the insides. Some period down the road they  
17 decided that wasn't right, we needed to put  
18 them on the outside for the lens of the eye,  
19 and they would calculate the body exposure by a  
20 formula they'd come up with. And I went to my  
21 rad engineer and I asked him, I says why aren't  
22 we using the -- we had the TLDs then -- or the  
23 TLD on the inside to confirm that your -- your  
24 methods are right and the badge on the outside  
25 -- I know there's other facilities that have

1 done this. I've talked to the facilities that  
2 wore badges inside and out.

3 I'm trying to think of what my third issue was.  
4 Again, giving you an -- can't remember.

5 (Pause)

6 Anyway, my -- well, my dose records -- that was  
7 it, the -- I -- I have personally got a dose of  
8 113 rem for my lifetime exposure. Nothing is  
9 wrong with me yet that I know of -- I mean  
10 other than the fact that I'm not the overly-  
11 intelligent individual, but I -- I myself -- I  
12 talked to the individual that talked up here  
13 about the dose reconstruction and I -- I cannot  
14 believe that you people can accurately get a  
15 dose reconstruction done, as what Jerry Hardin  
16 was talking about. I worked in Building 771  
17 the majority of the time I was out there, and  
18 you can go from one job to the next to the next  
19 job and in three days you could have ten  
20 different jobs from high -- high photons to  
21 neutrons. I was there before they even had the  
22 gamma or the neutron shielding and they -- my  
23 dose reconstruction, after I'd been out there  
24 about 30 years or so, they did a dose  
25 reconstruction. They added 35 rem to my

1 exposure at the time and I'd already received a  
2 50 rem lung exposure, and they don't know -- I  
3 assume it was the high-fired oxide because we  
4 have no idea where I got it from. They asked  
5 me where I'd been and I told them look, I --  
6 and then we're only doing the yearly body  
7 counts, and that's when they found my lung  
8 exposure and it -- it -- it's there, there's no  
9 doubt about that.

10 But about eight years before I retired I  
11 requested a copy of all my radiation exposure  
12 records, and I ended up getting my medical  
13 records. There's no radiation records in--  
14 whatsoever involved. When I retired in 2004,  
15 June -- end of June, I did a formal request of  
16 my radiation records to be sent to me. And by  
17 the end of this coming June it'll be two years  
18 and I haven't received anything yet on my  
19 radiation records, and I'm just wondering if  
20 I'm going to have to start doing out-of-pocket  
21 money to pay \$40 an hour and ten cents a copy  
22 for something that I requested two different  
23 times that legally is -- should be mine for no  
24 charge whatsoever, and I should have them now  
25 but I don't.

1           What I don't understand is how you people can  
2           get to my records 'cause the individual talked  
3           about it remembers doing my dose  
4           recalculations. Obviously he has all of my --  
5           my radiation records, but I can't get them.  
6           Now why is that? Can -- can you tell me why  
7           you people, when I signed the petition that you  
8           could get to my records but Rocky -- Rocky  
9           Flats cannot give me my own records. There's  
10          something wrong with this picture.  
11          So with that, I appreciate your indulgence, and  
12          I hope you can really see the true picture  
13          that's happening out at Rocky Flats and help  
14          these people that really need it. Thank you.  
15          **DR. ZIEMER:** Thank you.  
16          **MR. DEMAIORI:** Thank you, Don. Thank you, Dr.  
17          Wade, Dr. Ziemer, members of the Board. As to  
18          wrap this up for the United Steelworkers Local  
19          8031, the petitioners, I'd like to say a couple  
20          of things. As one, due to the delays from  
21          NIOSH, United Steelworkers no longer have the  
22          ability to defend this petition as we don't  
23          have the right to represent, the workers are  
24          gone. They're no longer dues-paying members.  
25          We don't have the ability to pull records.

1 Under our collective bargaining agreement, we  
2 have 14 days guaranteed by our employer to get  
3 any records -- dosimetry, medical, whatever.  
4 Now it's a minimum of six months per person, if  
5 you can get the records at all. What we're  
6 experiencing from the Department of Energy  
7 pulling records is please be more specific. We  
8 get that from NIOSH, please be more specific.  
9 As we've been severely handicapped in our  
10 ability due to the timeliness of this  
11 partition; as we no longer have the financial  
12 funding, we don't have the ability to pull the  
13 records -- in fact, we can't even find half of  
14 our people as we've been dispersed all across  
15 the country; as three people are on this  
16 petition, two of them are not present here  
17 today, one's working in New York, the other  
18 one's working in Denver trying to feed his  
19 family. I almost wasn't here myself. I almost  
20 got a job last week, so -- so you know,  
21 seriously, what I'm telling you is I'm happy to  
22 hear that NIOSH and DOE doesn't have any post-  
23 closure problems. But the United Steelworkers,  
24 we do, as we have a lot of post-closure  
25 problems, and we can't adequately do this. So

1 we have to rely on Sanford Cohen & Associates  
2 to pick up the ball for us. We -- we don't  
3 have any other choice as -- and so at this  
4 point in time I would please ask the Board to  
5 consider delaying this petition until SCA has  
6 the opportunity to make a complete evaluation  
7 on our behalf because we no longer have the  
8 ability to do that as -- I have reduced that to  
9 writing and I will provide it to all the Board  
10 members. Thank you very much.

11 **DR. ZIEMER:** Thank you very much. Now let me  
12 sketch out a little bit here, we -- we have yet  
13 to hear from our own workgroup that's been  
14 working with NIOSH and working with our own  
15 contractor, SC&A. And we also need some  
16 additional time for Board discussion. It now  
17 is past the noon hour. And Mark, I think --  
18 Mark headed up the workgroup. I think probably  
19 it would be -- well, let me ask it this way  
20 'cause I know many of the Rocky -- Rocky Fork -  
21 - Rocky -- I say Rocky Fork because my wife and  
22 I vacation in a place called Rocky Fork -- but  
23 Rocky Flats -- Rocky Flats people here may not  
24 wish to hang around too long. So Mark, how  
25 long would the workgroup report require?

1           **MR. GRIFFON:** I mean I -- I can probably  
2 summarize in 15 minutes or so. I think we do  
3 want to make --

4           **DR. ZIEMER:** But then we still need some --

5           **MR. GRIFFON:** -- to continue work.

6           **DR. ZIEMER:** We also need time for discussion,  
7 too. Right. Maybe you can give us a quick  
8 bottom line of what the workgroup's -- what you  
9 think the recommendation is going to be and  
10 then we'll hear the full report. That might be  
11 helpful.

12           **WORK GROUP REPORT, MR. MARK GRIFFON, CHAIR**

13           **MR. GRIFFON:** Yeah, I -- I think the  
14 recommendation for -- for Rocky Flats -- SC&A  
15 hasn't even completed, as they said in their  
16 presentation, a review of the petition, so at  
17 this point we're recommending to continue the  
18 workgroup process and work on these issues. I  
19 think the understanding is that the data  
20 integrity and reliability is -- is the most  
21 outstanding issue that we have to try to  
22 investigate further. I think Brant also  
23 acknowledged that. So I think everybody's sort  
24 of in agreement on that, but I think that's our  
25 -- our recommendation from the workgroup.

1           **DR. ZIEMER:** So this is at this point given as  
2 a report rather than a formal motion, but what  
3 it would say is that the Board would anticipate  
4 receiving from the workgroup a formal motion to  
5 postpone action on the petition until the work  
6 of our contractor can be completed. And that -  
7 - that recommendation probably is -- seems to  
8 me is in alignment with the request of the  
9 petitioner, also. So -- and -- and let me  
10 suggest then that we take our lunch break. We  
11 will reconvene as close as we can to 1:00  
12 o'clock, receive the full workgroup report,  
13 have an opportunity for the formal motion at  
14 that time and opportunity for additional Board  
15 discussion.

16           So without objection, let us recess for lunch  
17 for --

18           **MR. PRESLEY:** Hey, Paul --

19           **DR. ZIEMER:** -- about an hour and see if we can  
20 conclude. Hang on just a moment. Bob Presley  
21 on the phone.

22           **MR. PRESLEY:** Hey, Paul?

23           **DR. ZIEMER:** Yes, Bob.

24           **MR. PRESLEY:** Can you call me here at home?

25           **DR. ZIEMER:** Okay. You mean before the

1 session?

2 **MR. PRESLEY:** Yes, if you don't mind. I need  
3 to talk to you before this next session --

4 **DR. ZIEMER:** Okay.

5 **MR. PRESLEY:** -- and I'll be here until 3:00  
6 o'clock my time, which will be 1:00 o'clock  
7 your all's time.

8 **DR. ZIEMER:** Okay. Thank you very much. He's  
9 probably going to tell us a vote.

10 Okay. Thank you. We're in recess till 1:00  
11 o'clock.

12 (Whereupon, a recess was taken from 12:05 p.m.  
13 to 1:15 p.m.)

14 **DR. ZIEMER:** We're ready to resume our  
15 afternoon session now, continuing the agenda  
16 item on the Special Exposure Cohort petition  
17 for the Rocky Flats site. And we now will hear  
18 officially from the leader of our workgroup,  
19 Mark Griffon.

20 **MR. GRIFFON:** And I'm -- I'm going to keep this  
21 fairly brief 'cause I think a lot of the points  
22 have -- have been touched on in the earlier  
23 presentations, but I do want to kind of say  
24 where the workgroup is and -- and what our next  
25 steps are. As you remember, before lunch we

1 already sort of gave our recommendation that  
2 we're planning on continuing our workgroup  
3 work, that we're not prepared to make a  
4 recommendation today on -- on voting on the SEC  
5 evaluation report, so we would put off any vote  
6 on the -- we will recommend putting off any  
7 vote on the SEC evaluation report before us,  
8 but that we're going to continue to work on the  
9 -- on the outstanding issues that we've been  
10 working on on the workgroup. And I just wanted  
11 to summarize, from the workgroup's perspective,  
12 sort of where we are.

13 I did want to point out the time line, and it's  
14 much the same as I said yesterday in the Y-12  
15 report, for those of you who were here. The  
16 time line on this thing -- we -- we -- to  
17 condense down the time line, it started much  
18 earlier, but from April 7th on is kind of where  
19 we -- we first received the SEC evaluation  
20 report, and given the timing here, SC&A working  
21 with the Board, we made a decision on the  
22 workgroup to prioritize Y-12 at the time and --  
23 and have SC&A complete their review report,  
24 given that -- that we had about a week, we said  
25 focus your efforts on Y-12; there's no way you

1 can do two of these reports in one week or so.  
2 Focus on Y-12 and -- and we'll hold off on  
3 Rocky Flats. And part of the reason we did  
4 that, part of the rationale, was we felt there  
5 were more outstanding items for Rocky anyway  
6 and we didn't think we were going to be able to  
7 come to -- to close on those. So we -- you  
8 know, as -- as Joe Fitzgerald from SC&A  
9 acknowledged earlier, SC&A has not yet done a  
10 review report of NIOSH's proposed SEC  
11 evaluation report --

12 **MR. PRESLEY:** Paul --

13 **MR. GRIFFON:** -- so we're -- that -- that will  
14 be the next step for SC&A is to take on that  
15 review of that evaluation report and -- and  
16 move forward that way.

17 In the workgroup discussions we did -- you  
18 know, the -- the priority things that were --  
19 that were remaining on our list -- we started  
20 as a site profile review. We narrowed our  
21 focus to what we thought were SEC, Special  
22 Exposure Cohort, issues. And we ended up with  
23 sort of -- some internal is-- dose issues, some  
24 external dose issues and a lot of discussion on  
25 data validation and data integrity. And I'll

1           just summarize some of those points.  
2           For the internal dose issues, you heard earlier  
3           some discussion on this super S issues. I  
4           think where we're at on that is we have a  
5           Technical Information Bulletin from NIOSH.  
6           SC&A has certainly done preliminary review on  
7           that. I think it -- it's -- it -- from -- from  
8           the current analysis, it looks as though the  
9           model is claimant-favorable. I think there's a  
10          few things to further button up on that  
11          analysis. I think both NIOSH and SC&A agree  
12          with that. The systemic organ mod-- approach  
13          still needs to be reviewed further.  
14          The second thing -- the other thing I will add  
15          on that is that I think that we just received  
16          some of the specific case data to support the  
17          TIB, and I think that SC&A's analysis thus far  
18          has focused on the data in the TIB going  
19          forward. And I would ask that -- that they  
20          consider the specific case data used in the TIB  
21          and just do -- at least do a review of that  
22          data to -- to make sure that it has been  
23          independently looked at. And part of the  
24          rationale for this is that much of this  
25          analysis was done by the contractor coming

1 forward, and that -- that came up pretty  
2 clearly in the Board meetings, so I think to  
3 the extent we can take an independent look at  
4 that, it -- it is worthwhile.  
5 But super S I -- I believe is -- is -- we're --  
6 we're fairly far along on that question.  
7 The americium -- I think the remaining -- the --  
8 - the primary remaining issue on the americium  
9 is in -- during our discussions americium  
10 separation was identified as a separate  
11 operation, and although I think we've heard  
12 responses from NIOSH and it sounds like they  
13 have, at least from what we've heard on the  
14 workgroup calls, a claimant-favorable approach  
15 which basically would be during certain years  
16 of operation they would only have gross alpha  
17 counting data and they've indicated that in  
18 those cases they would just basically assume  
19 the worst case radionuclide, whether it be  
20 americium or plutonium, and assume the worst  
21 case in either scenario and move the claim that  
22 way, so -- but we haven't specifically seen  
23 that sort of protocol laid out, so that -- but  
24 again, I think that's close to resolved, but we  
25 want to cross the Ts, so to speak.

1 For the internal dose coworker model -- and  
2 this is OTIB-38, if you're following all these  
3 Technical Information Bulletins -- again, on --  
4 on this I think NIOSH indicated that very few  
5 individuals within the number of claimants will  
6 -- will be -- will require coworker type  
7 analysis. I think we still wanted to just take  
8 one final look at the way that TIB is used.  
9 One question in -- in the TIB they talk about  
10 monitored -- they talk about unmonitored, and  
11 if -- and if they determine that individual's  
12 unmonitored, they may assign environmental air  
13 sam-- may assign their dose based on  
14 environmental air sampling, depending on the  
15 job title. And then they have another category  
16 where -- where they determine unmonitored but  
17 should have been monitored, based on job  
18 assignments. And I guess that -- that needs  
19 maybe a little more investigation on SC&A and -  
20 - and the workgroup's part. It just -- just as  
21 -- as to how they determine -- how they're  
22 going to make those determinations. But again,  
23 I -- I think -- you know, and part of -- part  
24 of my sort of wanting to take that a little  
25 further is just to make -- make clear in my

1 mind that the coworker model is going to be of  
2 very limited use, as well. So I think we want  
3 to explore both factors further. I think  
4 Brant's pretty confident with the -- the  
5 minimal use on the coworker model. Brant from  
6 -- Brant Ulsh from NIOSH is. So if that's the  
7 case, it -- it may be a smaller issue, but I  
8 think we want to take it to the end.  
9 On the external dose side, as NIOSH mentioned  
10 earlier and -- and addressed some of my  
11 questions, but the neutron dose assignment has  
12 been a -- a lot of the dialogue on the  
13 workgroup, and I guess part of the -- in -- in  
14 preparing for this meeting, I had to step back  
15 for a second 'cause on the workgroup we ended  
16 up getting into very specific time-specific  
17 issues, and the responses by NIOSH were related  
18 to that particular issue. And when I stepped  
19 back, it was clear that in -- and this is in  
20 OTIB-50 -- it's clear that they -- for  
21 different periods of time, there's -- there's  
22 different sort of approaches that are being  
23 used, and I -- I -- it was in-- instructive,  
24 for me at least, to step back and see how this  
25 worked. One -- so there's still some remaining

1           questions on the coworker model and exactly how  
2           -- or -- or whether -- I don't think NIOSH  
3           would characterize it necessarily as a coworker  
4           model, but it's clear that on certain time  
5           periods -- for instance, '70 to '76 appears to  
6           be a time period where the data available to  
7           NIOSH have penetrating data rolled all into one  
8           field and -- and for purposes of doing -- doing  
9           their assessment, NIOSH needs to separate out  
10          neutron and gamma. And to separate that out  
11          they've -- they've -- they've calculated  
12          neutron to photon ratios from the period of '77  
13          to '88 and -- and sort of back-calculated or  
14          deconvoluted the numbers to get the neutron  
15          dose and the photon dose separated. So you can  
16          see there's -- there's different time periods  
17          where they're doing different things, and I  
18          think we would -- we just want to make sure  
19          that we've looked -- looked one final time at  
20          this coworker model and make sure it makes  
21          sense and -- and make -- and -- and -- you  
22          know, they -- I guess there's only one other  
23          issue that I should bring on the table with the  
24          -- the earlier period data relies on the NDRP  
25          report data, and this is the Neutron Dose

1 Reconstruction Project data, and that project  
2 was done by the contractor at DOE at the time.  
3 And so -- so that's the other reason we want to  
4 make sure we explore this neutron data  
5 thoroughly and make sure it's valid and verify  
6 it. And that's why we're going through this  
7 process is because an independent review is  
8 essential here, we think. But also the NDRP  
9 data -- and the petitioner brought this up in  
10 their petition and we've -- we've looked into  
11 this a little bit, but the -- the data was --  
12 was -- or that report acknowledged that during  
13 the NTA film period when they were monitoring  
14 neutrons with NTA film, they were -- the  
15 protocol indicated that they were monitoring  
16 the most highly exposed workers. The NDA --  
17 NDRP report acknowledged that in fact they --  
18 they didn't monitor many of the workers in 771,  
19 which had one of the highest potentials for  
20 neutron exposures. So I think that's another  
21 issue we want to look into is that those 771  
22 workers I think were assigned neutron dose  
23 data, and yet in another way I think they were  
24 assigned based on their photon dose reading,  
25 corrected with a neutron to photon ratio

1 specific to 771 building. So I know that it's  
2 after lunch and this is probably making a lot  
3 of people gloss over, but these -- these  
4 details and the different time periods we want  
5 to really understand and make sure that it all  
6 fits together and it's a correct and fair way  
7 to do this. So we need to spend a little more  
8 time on OTIB-50 is the bottom line on -- on the  
9 neutron dose data.

10 And the -- the only other -- there's one other  
11 external coworker model, which we haven't  
12 discussed a great deal on -- on the workgroup,  
13 but OTIB-58 now, I think it's a draft OTIB-58,  
14 and -- and I guess the same question arises  
15 there on the -- I think there's three  
16 categories again, and the -- for the  
17 unmonitored they make a distinction of -- of  
18 assigning environmental doses to certain  
19 workers based on job assignments, and then  
20 assigning sort of a mean of the -- or a median  
21 of the distribution for workers that were  
22 unmonitored but should have been monitored  
23 based on their job titles. And again, I think  
24 we -- we just want to understand exactly how  
25 are you going to -- how is this defined, how is

1           this determined. And part of the rea-- I -- I  
2           think -- you know, part of the reason for  
3           exploring that a little further is, quite  
4           frankly, some of the comments made last night  
5           that, you know, some of the administrative  
6           people even were indicating that they were on  
7           and off badges, at least from -- from what I  
8           gathered in -- in public comment last night,  
9           that they were taken off the badge program and  
10          then they realized that from changes in storage  
11          situations of drums, all of a sudden a couple  
12          of cycles later they were asked to wear a badge  
13          and -- you know, so some of these questions  
14          come up that normally you'd probably say, you  
15          know, well, the person worked as a secretary  
16          for the ten years in the '90s, you know, we  
17          would consider just applying environmental  
18          dose, but may-- you know, maybe there's a  
19          qualifier there. Maybe there's a -- you know,  
20          a further consideration there that needs to be  
21          given, so we want to at least walk that -- walk  
22          that through and make sure that's a -- a fair  
23          way to model it.  
24          And then the last and -- and primary issue, I  
25          guess, is the data validation and -- and data

1 integrity. We -- we did -- NIOSH did look into  
2 the reliability of the database question on  
3 both sides, the internal dose and the external  
4 dose data. And NIOSH presented some of their  
5 statistics earlier. I -- I do -- and we did  
6 get these reports and -- and I think they're  
7 included in the evaluation report, but this has  
8 all come to SC&A and the workgroup at a -- at a  
9 -- you know, and I know it's no fault of  
10 NIOSH's 'cause everybody's on the -- the crunch  
11 here to get these things produced, but we got  
12 this very -- very recently, so I don't think  
13 SC&A has fully considered this, and neither has  
14 the workgroup.

15 The -- the one thing that I would say on the --  
16 on the external side is that -- or -- or  
17 actually -- actually for both. I'm -- I'm not  
18 even sure on the -- how these databases  
19 separate out, but when -- part of the reason we  
20 want to look into this further is that it --  
21 it's unclear to me -- it's probably much more --  
22 -- clearer to NIOSH. It's unclear to me when  
23 they compared raw data out of the claim files  
24 with the database versus when they had database  
25 printout data within a claimant's file and

1 compared that. And I know Brant did break that  
2 down, but we really haven't -- as a workgroup  
3 or SC&A hasn't really teased that apart and  
4 looked into that. I think we're much more  
5 interested in how the raw data compares with  
6 the electronic database than -- you know,  
7 printout data from the database we would expect  
8 has a pretty good match to the database itself.  
9 It's -- or else there's a -- there's some real  
10 problems. Now I know there were different  
11 databases so that -- you know, still might want  
12 to look into that, but the main concern here I  
13 think is comparing raw data, as best we can  
14 find it and locate it, with the electronic data  
15 records. And it's -- in this case, I think  
16 it's -- in some of the workgroup discussions I  
17 think the -- this -- this issue has been a  
18 little bit sidelined, in my opinion, because of  
19 the fact -- at least the stated fact by NIOSH  
20 that there's limited reliance on a coworker  
21 model. But I've -- I've stated in the  
22 workgroup and I'll state here that, you know, I  
23 think it's important, for those other reasons  
24 I've stated is that in the claimant's files  
25 oftentimes you see database data, not raw data.

1           So when they say they're relying on the  
2           claimant's file and they have data in the  
3           claimant's files, I don't think it's always the  
4           raw -- like the card data or the -- the  
5           original record. It's actually a printout from  
6           a database, so we still want to validate that  
7           database that's, you know -- so I think there's  
8           -- there's -- you know, the reason for doing  
9           that is not only to validate the coworker  
10          models but also to validate that the data in  
11          the claimant's files matches any raw -- any --  
12          the original raw records.

13          And then the last part of the data valid-- is  
14          actually the data integrity, and I think NIOSH  
15          in their presentation acknowledged -- and I  
16          didn't do a count on this, but it's some 17 or  
17          so issues in our matrix that we have developed  
18          that -- that are around that issue of data  
19          integrity. And we think that we -- we need to  
20          track them back to ground, to the -- and as I  
21          said, I think yesterday -- to the extent we  
22          can, and we on the workgroup understand that --  
23          that sometimes this may lead to inconclusive  
24          sort of finding and my examp-- I don't if  
25          everybody was here yesterday, but the example I

1           used is that some people indicated -- or at  
2           least one of the cases indicated that they had  
3           certain quarters where they knew they were in a  
4           high area and their dose of record was zero or  
5           -- or said no data available. And -- and they  
6           gave specific dates and everything, so we said  
7           well, let's -- let's track this back and see  
8           what we get. Well, when you track back, the  
9           individual did have dose records, but they had  
10          zeroes for those quarters of concern. Now you  
11          could -- you know, so you wonder well, can we  
12          track back anything else to that, and that's  
13          where SC&A has indicated there might be -- and  
14          I think interviewing some of the petitioners,  
15          they've indicated there may be some logbooks  
16          and other things that have some more data,  
17          possibly including secondary dosimetry like  
18          photo-ionization detectors that they would  
19          wear, but not turn in -- it's not your badge,  
20          it's a -- it's a direct reading of what you  
21          were exposed that day or -- or -- and you often  
22          turn it in daily, and those logs might have  
23          that information. Or they might have survey  
24          data or, you know, other information.  
25          In the case where it -- they track back and

1           they find survey data, it may still be a little  
2           inconclusive, so what we're saying, to the  
3           extent we can, we want to take this to ground,  
4           but we're going to try to find some of these  
5           logbooks and other things and -- and resolve  
6           this. And I think that's two -- for two  
7           concerns. One is the specific allegation at  
8           hand, and then the other issue on data  
9           integrity is the broader question of -- of are  
10          there systemic problems here. And I think  
11          NIOSH has offered some preliminary analysis,  
12          and they've also pointed out the limitations of  
13          that analysis. I think we want to -- we need  
14          to further check that and -- and possibly --  
15          there might be different ways and we can work  
16          with SC&A and NIOSH on maybe different ways of  
17          looking at this question of systemic problems  
18          with data integrity, possibly not looking at  
19          the overall population, but a lot of these  
20          allegations are made with higher areas and the  
21          workers that were in the higher areas, so there  
22          may be some ways to look at a subset of the --  
23          of the dosimetry data to do some sort of  
24          analysis on that and see if there's any  
25          systemic problems.

1           The other thing that comes out on the question  
2           of sort of systemic problems is, as we've heard  
3           from -- from petitioners on the workgroup calls  
4           and we've also heard last night, a lot of the  
5           specific testimony that we're hearing is from  
6           the D and D portion of Rocky Flats operations.  
7           And I think that that's one thing -- I think  
8           this is a -- maybe -- maybe force of habit, but  
9           you know, we tend to look at the oldest parts  
10          of the operations, especially with regard to  
11          highest exposures and potential concerns about  
12          records not being available or et cetera. But  
13          I think we -- we might want to als-- we -- we  
14          have to make sure, I think, that we address  
15          this D and D portion of the operations and the  
16          D and D workers, and especially where the --  
17          the petition goes through the current time  
18          period, so it would cover all those D and D  
19          workers. And you know, one concern there I  
20          guess that -- that we've heard from last night  
21          was that a lot of the urinalysis programs were  
22          -- were modified significantly and they went --  
23          they've relied more on -- on -- on breathing  
24          zone air sampling, DAC -- sort of DAC hour  
25          analysis rather than relying on urinalysis

1 programs, so it might be a -- you know, we  
2 might want to consider how exactly they're  
3 being treated. And -- and their data integrity  
4 questions that arise under that separate sort  
5 of population of workers, the D and D workers,  
6 so --

7 Finally I think -- I -- I might get the number  
8 wrong, Brant, if I'm wrong -- I think there  
9 were six example DRs provided.

10 **DR. ULSH:** Yeah, that's right.

11 **MR. GRIFFON:** Is that right? So we have six --  
12 six examples that were provided, and -- and I  
13 think on one of our last workgroup calls Brant  
14 briefly introduced them, but certainly the  
15 workgroup and SC&A has not really gotten into  
16 those examples. And as I said with Y-12, I  
17 think that's -- part of the reason we asked for  
18 these example DRs is to look at proof of  
19 principle. How -- you know, if NIOSH has the  
20 data there, show us how you're actually going  
21 to use that data to do an individual case. And  
22 -- and we need to thoroughly review those and -  
23 - and discuss those on the workgroup, and we  
24 haven't -- just haven't had a chance to do that  
25 at this point so we need to proceed with that,

1 as well.

2 And I think that's sort of a summary.

3 **DR. ZIEMER:** Let me ask, Board members, do you  
4 have questions for Mark before I call on him to  
5 propose a motion?

6 (No responses)

7 Other -- other workgroup members wish to add  
8 anything?

9 (No responses)

10 Apparently not. Mark, then I'll entertain a  
11 motion from you on behalf of the workgroup.

12 **MR. GRIFFON:** Well, I -- I guess I would make a  
13 motion on behalf of the workgroup that we  
14 continue our work with the workgroup, including  
15 NIOSH and SC&A and the petitioners -- continue  
16 our work and to not -- at this point we're not  
17 prepared to make any motion regarding the  
18 petition in front of us, the evaluation report  
19 in front of us.

20 **DR. ZIEMER:** That motion doesn't require a  
21 second since it comes from our workgroup. It  
22 is on the floor for discussion, and recognize  
23 that if you vote in favor of the motion -- this  
24 motion has the effect of postponing action on  
25 the petition until -- I'm assuming, Mark,



1 (Affirmative responses)

2 Any opposed?

3 (No responses)

4 Any abstaining?

5 (No responses)

6 The motion carries. Thank you very much.

7 **MS. MUNN:** On the phone.

8 **DR. ZIEMER:** Jim Lockey, are you on the phone?

9 (No responses)

10 Robert Presley informed me during the lunch  
11 hour that he did have to leave for his doctor's  
12 appointment. He also -- he also informed me  
13 that he favored the motion that he knew the  
14 workgroup was making 'cause Mark had identified  
15 it before this session.

16 It is so ordered. Thank you very much.

17 **BOARD DISCUSSION**

18 **DR. MELIUS:** Just a couple of brief comments.

19 **DR. ZIEMER:** Dr. Melius.

20 **DR. MELIUS:** Yeah, just -- these remarks aren't  
21 relevant to the vote we just took, but two  
22 comments. One is I do think we need to examine  
23 some of the issues related to representation of  
24 petitioners and so forth. I've been personally  
25 disturbed by some of the requirements put on

1 the petitioners. I think the petitioners here,  
2 Tony and others, really made a good case of how  
3 difficult it can be for petitioners,  
4 particularly some of the practices that NIOSH  
5 has of expanding out the petitions -- which  
6 have good points in that we're trying to get as  
7 many people included in decisions as possible  
8 or it's feasible. But I think we also have to  
9 recognize that puts an increased burden on the  
10 petitioners and we sort of have -- in some ways  
11 have a different situation with Y-12 where we  
12 have petitioners who are not -- don't -- aren't  
13 very involved in the meetings and the  
14 representational part. So I think we need to  
15 rethink how we're doing that to make sure we're  
16 getting good representation and that the  
17 petitioners have the means to -- to adequately  
18 represent the -- the class that's being --  
19 being discussed.

20 Also, how do we deal with a situation like this  
21 where, because of the closures, the petitioners  
22 -- in this case the union -- have lost the --  
23 the -- some of the rights to access records in  
24 a timely fashion and so forth. And I -- I  
25 think we need to -- to talk about that and sort

1 of figure out how we can better -- better  
2 handle that situation.  
3 Secondly, partially because of that and I think  
4 also because some of the time it's going to  
5 take to obtain records to address some of the  
6 concerns raised by the petitioners, I would  
7 hope we wouldn't rush into trying to meet an  
8 artificial deadline of next meeting or  
9 something to try to close out this petition. I  
10 think as soon as possible, yes. But let's make  
11 sure we have complete information. Some of the  
12 information requests have really just gone in  
13 and -- and I think we need to make sure that we  
14 do address all of the concerns and have  
15 adequate information to be able to do that.  
16 And if that means, you know -- which can often  
17 happen -- making more information requests  
18 after further review, that I think we need --  
19 we need to do that. It's very important. This  
20 is a big site. It's a complicated site. As  
21 Mark has pointed out, there's sort of different  
22 operations at different time periods, and I  
23 think we need to make sure we've covered the  
24 whole time period adequately and different  
25 operations within the facility adequately

1 before we make a decision.

2 **DR. ZIEMER:** Thank you very much, and it looks  
3 like Larry may have some related comments. Is  
4 that correct?

5 **MR. ELLIOTT:** Yes, it is, Dr. Ziemer. Thank  
6 you.

7 I want to congratulate Tony and the other  
8 petitioners, a very well-delivered and reasoned  
9 set of presentations. And I took special note  
10 and took to heart the predicament that they, as  
11 petitioners, are in with the closure of the  
12 site and the D and D being finished, and their  
13 not having the ability to access records. And  
14 I want to assure you that we stand at the  
15 ready. If there are any records that the  
16 petitioners want us to pursue for them on their  
17 behalf, we will. Any records that we collect,  
18 SC&A collects, we will make sure that they are  
19 delivered in copy in full to the petitioners.  
20 I've talked to Tony about this and just want to  
21 stand there to support them as best we can and  
22 use the MOU that we have with DOE to make sure  
23 that there is adequate and a timely response to  
24 their request for information. And that's my  
25 commitment to you. I understand that the

1 dilemma that has been presented by our  
2 expansion of this definition of the -- of the  
3 class, so I would include that -- that that  
4 goes to anybody that stands outside the  
5 Steelworkers, the hourly folks who also want to  
6 get copies of records, just let us know at  
7 NIOSH. Talk to me or you can call Brant Ulsh  
8 or get ahold of us in any way you can and we'll  
9 work with you to get the record that you want.

10 **BOARD WORKING TIME**

11 **DR. ZIEMER:** Thank you very much. Okay. Then  
12 the Chair would recognize Dr. Melius for the  
13 purpose of presenting a motion that we -- now -  
14 - yes, we'll bring Mr. Clawson back to the  
15 table.

16 **DR. WADE:** This time behave.

17 **MR. CLAWSON:** You know me.

18 **DR. MELIUS:** I have two motions here related to  
19 -- I guess we'll start with Pacific Proving  
20 Grounds and then there's a -- quite a -- a  
21 similar motion related to the Nevada Test Site.  
22 I think LaShawn has extra copies, Larry, that  
23 can be distributed for -- or someone can let  
24 her know -- of this -- I think all the Board  
25 members should have, and actually I e-mailed

1           these to Jim Lockey and Bob Presley a couple of  
2           hours ago.

3           Let me read into the record the first motion.  
4           Much --

5           **DR. ZIEMER:** Okay.

6           **DR. MELIUS:** Much of this is very familiar.

7           **DR. ZIEMER:** Just for purposes of record, this  
8           was -- this was a motion that was introduced by  
9           Bob Presley at our meeting on Tuesday -- I  
10          believe it was Tuesday.

11          **MS. MUNN:** The first one was.

12          **DR. MELIUS:** No, no, not the first one was.  
13          The first one -- his was the Nevada Test site.

14          **DR. ZIEMER:** Oh, we're on the Pacific Proving  
15          Ground, okay. I'll hold those remarks. Go  
16          ahead.

17          **DR. MELIUS:** Okay. The -- and I -- as I'm  
18          reading, if the Board members want to make --  
19          pay particular attention to the second and  
20          third paragraphs from the bottom 'cause those I  
21          think are a little bit different than what  
22          we've put in some of our letters before.

23          (Reading) The Board recommends that the  
24          following letter be transmitted to the  
25          Secretary of Health and Human Services within

1           21 days. Should the Chair become aware of any  
2           issue that in his judgment would preclude the  
3           transmittal of this letter within that time  
4           period, the Board requests that he promptly  
5           informs the Board of the delay, the reasons for  
6           this delay, and that he immediately works with  
7           NIOSH to schedule an emergency meeting of the  
8           Board to discuss this issue.

9           The Advisory Board on Radiation and Worker  
10          Health (the Board) has evaluated SEC Petition  
11          00020 concerning workers at the Pacific Proving  
12          Grounds under the statutory requirements  
13          established by EEOICPA and incorporated into 42  
14          CFR Section 83.13(c)(1) and 42 CFR Section  
15          83.13(c)(3). The Board respectfully recommends  
16          a Special Exposure Cohort be accorded to all  
17          Department of Energy employees or its  
18          contractor or subcontractor employees who  
19          worked at the Pacific Proving Grounds (PPG)  
20          from 1946 through 1962 who were monitored or  
21          should have been monitored for exposure to  
22          ionizing radiation as a result of nuclear  
23          weapons testing at the PPG and whom were  
24          employed for a number of work days aggregating  
25          t least 250 work days, occurring under this

1           employment or in combination with work days of  
2           employment occurring within the parameters  
3           (excluding aggregate work day requirements)  
4           established for other classes of employees  
5           included in the SEC. This recommendation is  
6           based on the following factors:

7           One, these workers were employed during the  
8           above-ground testing of atomic weapons.

9           Number two, there are significant limitations  
10          to the available monitoring data collected at  
11          the Pacific Proving Grounds, particularly data  
12          needed for the accurate reconstruction of  
13          internal doses associated with the inhalation  
14          of radionuclides at the site. NIOSH concluded  
15          that the available information is not  
16          sufficient to document or estimate the  
17          potential maximum internal exposures to workers  
18          at the Pacific Proving Grounds under plausible  
19          circumstances during the period of AEC  
20          operations from 1946 to 1962. The Board  
21          concurs with this conclusion.

22          Three, the Board has reviewed information which  
23          confirms that radiation exposures at the  
24          Pacific Proving Grounds during the time period  
25          in question could have endangered the health of

1 members of this class.

2 The Board notes that many of the people who  
3 were employed at the Pacific Proving Ground  
4 during the time period in question lived on  
5 site during their work periods. This should be  
6 considered during the evaluation of their work  
7 duration.

8 The Board is still evaluating issues related to  
9 people who may have been exposed to radiation  
10 during discrete incidents that could have  
11 involved exceptionally high exposures to  
12 radiation while working at the Pacific Proving  
13 Grounds (example, those who were present during  
14 the actual atomic bomb testing) and who may not  
15 meet the 250 work day requirement described  
16 above. The Board will continue to review this  
17 matter and may make additional recommendations  
18 regarding this group at some point in the near  
19 future.

20 Enclosed is supporting documentation from the  
21 recent Advisory Board meetings held in Oak  
22 Ridge, Tennessee and Denver, Colorado where  
23 this Special Exposure Cohort petition was  
24 discussed. Documentation includes transcripts  
25 of public comments on the petition, copies of

1 the petition, the NIOSH review thereof, and  
2 related documents distributed by NIOSH and the  
3 petitioners. If any of these items are  
4 unavailable at this time, they will follow  
5 shortly.

6 **DR. ZIEMER:** Thank you very much. You've heard  
7 the motion. Is there a second?

8 **MR. GIBSON:** Second.

9 **DR. ZIEMER:** Discussion? Wanda.

10 **MS. MUNN:** A suggestion with respect to the  
11 last sentence in the second of those new  
12 paragraphs, the next to the last paragraph.

13 **DR. MELIUS:** Uh-huh.

14 **MS. MUNN:** There's maybe some reluctance to  
15 speaking to the near future, wouldn't want to  
16 raise the assumption that that data might not  
17 be developed at some considerably future date,  
18 would suggest the possibility of simply having  
19 that sentence read "The Board will continue to  
20 review this matter and may make future  
21 additional recommendations regarding this  
22 group," if that's acceptable.

23 **DR. MELIUS:** That's acceptable.

24 **DR. ZIEMER:** I'll interpret that as a friendly  
25 amendment as it appears the mover has agreed to



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(No responses)

The motion carries. Thank you very much.  
Then the Chair again recognizes Dr. Melius for purposes of providing the wording to Robert Presley's motion which came from the workgroup, and that motion was essentially to recommend approval of the Pacif-- of the Nevada Test Site petition.

Mark has to recuse himself, and I did want to double-check. I think we indicated to Sandi Schubert that if she wanted to be on the line -  
-

**MS. SCHUBERT:** I'm here.

**DR. ZIEMER:** Okay, Sandi, you are there. Thank you very much.

**MS. SCHUBERT:** Thank you.

**DR. ZIEMER:** So we now have the wording of the motion, which we will simply identify as a friendly amendment to the Presley motion of yesterday. We simply deferred action on the Presley motion so that we could put the wording into our sort of standard wording form. So here is now the wording of the proposed -- or of the NTS motion. Dr. Melius.

**DR. MELIUS:** And I will indicate ahead of time,

1 by reading Wanda's mind I am going to make a  
2 amendment on the fly to this -- slight  
3 modification to make it read somewhat similar  
4 to the previous motion.

5 (Reading) The Board recommends that the  
6 following letter be transmitted to the  
7 Secretary of Health and Human Services within  
8 21 days. Should the Chair become aware of any  
9 issue that in his judgment would preclude the  
10 transmittal of this letter within that time  
11 period, the Board requests that he promptly  
12 informs the Board of the delay and the reasons  
13 for this delay, and that he immediately works  
14 with NIOSH to schedule an emergency meeting of  
15 the Board to discuss this issue.

16 The Advisory Board on Radiation and Worker  
17 Health (the Board) has evaluated SEC Petition  
18 00055 concerning workers at the Nevada Test  
19 Site under the statutory requirements  
20 established by EEOICPA and incorporated into 42  
21 CFR Section 83.13(c)(1) and 42 CFR Section  
22 83.13(c)(3). The Board respectfully recommends  
23 a Special Exposure Cohort be accorded to all  
24 Department of Energy (DOE) employees or its  
25 contractor or subcontractor employees who

1 worked at the Nevada Test Site from January  
2 27th, 1951 through December 3rd, 1962 who were  
3 monitored or should have been monitored for  
4 exposure to ionizing radiation as a result of  
5 nuclear weapons testing at the Nevada Test Site  
6 and who were employed for a number of work days  
7 aggregating at least 250 work days, occurring  
8 under this employment or in combination with  
9 work days of employment occurring within the  
10 parameters (excluding aggregate work day  
11 requirements) established for other classes of  
12 employees included in the SEC. This  
13 recommendation is based on the following  
14 factors:

15 Number one, these workers were employed during  
16 the above-ground testing of atomic weapons.  
17 Two, they were -- there are significant  
18 limitations to the available monitoring data  
19 collected at the Nevada Test Site during this  
20 time period, particularly data needed for the  
21 accurate reconstruction of internal doses  
22 associated with the inhalation of radionuclides  
23 at the site. NIOSH concluded that the  
24 available monitoring data and source term  
25 information is not sufficient to document or

1 estimate the potential maximum internal  
2 exposures to workers at the Nevada Test Site  
3 under plausible circumstances during the time  
4 period from January 27th, 1951 to December 3rd,  
5 1952. The Board concurs with this conclusion.  
6 The Board has received information which  
7 confirms that radiation exposures at the Nevada  
8 Test Site during the time period in question  
9 could have endangered the health of members of  
10 this class.

11 The Board notes that some people who were  
12 employed at the Nevada Test Site during the  
13 time period in question lived on site during  
14 their work periods. This should be considered  
15 during the evaluation of their work duration.  
16 The Board is still evaluating issues related to  
17 people who may have been exposed to radiation  
18 during discrete incidents that could have  
19 involved exceptionally high exposures to  
20 radiation while working at the Nevada Test Site  
21 (example, those who were present during the  
22 actual atomic bomb testing) and who may not  
23 meet the 250-day work requirement described  
24 above. The Board will continue to review this  
25 matter and may make additional future

1 recommendations regarding this group.  
2 Enclosed is supporting documentation from the  
3 recent Advisory Board meeting held in Denver,  
4 Colorado where this Special Exposure Cohort  
5 petition was discussed. This documentation  
6 includes transcripts of the public comments on  
7 the petition, copies of the petition and the  
8 NIOSH review thereof, and related documents  
9 distributed by NIOSH and the petitioners. If  
10 any of these items are unavailable at this time  
11 they will follow shortly.

12 **DR. ZIEMER:** Thank you. That motion basically  
13 came from the workgroup. It does not require a  
14 second at this time. I'm going to ask for  
15 discussion or comments on this motion.

16 I actually have a question that perhaps might  
17 lead to a slight change. We refer in bullet  
18 one to workers were employed in above-ground  
19 testing. Actually were not some of the shots  
20 in Nevada underground?

21 **MS. MUNN:** Some were, yes.

22 **DR. MELIUS:** But during this time period?

23 **DR. ZIEMER:** Are we exclud--

24 **MR. ELLIOTT:** But during this period it was  
25 above-ground.

1           **DR. ZIEMER:** Only -- only -- that's what I  
2 wanted to clarify.

3           **MR. ELLIOTT:** And could I make a friendly --

4           **DR. ZIEMER:** Yes.

5           **MR. ELLIOTT:** -- a correction as a friendly  
6 correction?

7           **DR. MELIUS:** Uh-huh.

8           **MR. ELLIOTT:** It's an 83.14 case --

9           **DR. MELIUS:** Oh, okay.

10          **MR. ELLIOTT:** -- not 13. This is a -- this is  
11 a situation where, under 82.12, we've  
12 identified we can't do dose reconstruction. We  
13 worked with a claimant to file an 83.14.

14          **DR. ZIEMER:** So that correction should be in  
15 line three of paragraph two, I believe.

16          **DR. MELIUS:** Uh-huh.

17          **DR. ZIEMER:** Both of those items -- are they  
18 both changed to 83 --

19          **MS. MUNN:** I think so, but I don't know --

20          **DR. ZIEMER:** Larry, are both of those -- it  
21 mentions 83.13 twice. To be correct, do we  
22 need to have both of those --

23          **MR. ELLIOTT:** Yes, for -- for Nevada Test Site  
24 for this class, it's an 83.14, so where you  
25 have 83.13 it should say 83.14, yes.

1           **DR. MELIUS:** But does it paral-- do (c)(1) and  
2           (c)(3) parallel in 13 and 14? We have --

3           **DR. ZIEMER:** One of -- one of the problems will  
4           be that Jim is using the -- the other  
5           subparagraphs --

6           **DR. MELIUS:** Yeah.

7           **DR. ZIEMER:** -- and let us -- let us simply  
8           indicate we will get the correct reference here  
9           --

10          **DR. MELIUS:** Yeah.

11          **DR. ZIEMER:** -- if we don't have it right at  
12          the moment.

13          **MR. ELLIOTT:** I'd have to see the reg, and I'm  
14          not --

15          **DR. MELIUS:** Yeah, Lew has the --

16          **MR. ELLIOTT:** Okay.

17          **DR. MELIUS:** -- the regs, we'll work on it.

18          **DR. ZIEMER:** The understanding is that we will  
19          insert the correct paragraph references there.  
20          These are in there simply to tie the statement  
21          back to the --

22          **DR. MELIUS:** Yeah.

23          **DR. ZIEMER:** -- to the language of the  
24          regulation.

25          **MS. MUNN:** It's 14(b).

1           **DR. MELIUS:** Yeah.

2           **DR. ZIEMER:** Any other discussions?

3           **MR. GIBSON:** Yes.

4           **DR. ZIEMER:** Yes, Mike.

5           **MR. GIBSON:** If I could beat Wanda to the  
6 wordsmithing this time for a friendly  
7 amendment, the second paragraph, about four to  
8 five sentences up, it refers to testing at the  
9 PPG.

10          **DR. MELIUS:** Yeah, that --

11          **DR. ZIEMER:** He changed that as he read it --

12          **DR. MELIUS:** Read it, yeah.

13          **DR. ZIEMER:** -- on the fly. That should read  
14 Nevada Test Station (sic), yes. Our copies  
15 refer to the Pacific Proving Grounds, but he  
16 did correct that in his -- in his audible  
17 version.

18          **DR. MELIUS:** Dr. Ziemer, you were listening.  
19 I'm impressed.

20          **DR. ZIEMER:** I was listening. I do listen to  
21 you now and then.

22 Now before we vote, I'm going to ask a question  
23 because it relates in a -- it's the same kind  
24 of question, but I just realized on our  
25 previous motion, in terms of the Pacific

1 Proving Grounds, some of those shots were  
2 underwater. Do -- are we still restricting  
3 that one to above-ground?

4 Okay, in that case, I'm going to come back to  
5 that.

6 **DR. MELIUS:** Okay, yeah, let's --

7 **DR. ZIEMER:** I'm going to ask if there's a --  
8 if we may have to amend that, but let's go  
9 ahead on this.

10 **DR. MELIUS:** I actually lifted it from your  
11 document so we need to...

12 **DR. ZIEMER:** Okay.

13 **DR. MELIUS:** I think.

14 **DR. ZIEMER:** Are there any other changes,  
15 amendments, discussion on the motion on the  
16 Nevada Test Site?

17 (No responses)

18 If not, all in favor will say aye.

19 (Affirmative responses)

20 Any opposed?

21 (No responses)

22 Any abstentions?

23 (No responses)

24 And just for the record, we've lost Dr.

25 Roessler.

1           **DR. WADE:** But we have a fine quorum.

2           **DR. ZIEMER:** We still have a quorum and we have  
3 no nay votes, so the motion does carry. Thank  
4 you very much.

5           If I might return for a moment to the previous  
6 motion for Pacific Proving Grounds, we indicate  
7 that -- we -- we've not changed the description  
8 of the -- of the cohort. Our first bullet  
9 simply says that this recommendation is based  
10 on the fact that these workers were employed in  
11 above-the-ground test-- above-ground testing.  
12 And my point was, I know in the presentation we  
13 got from Dr. Neton there were at least some  
14 underwater shots.

15           **UNIDENTIFIED:** Surface and underwater.

16           **DR. MELIUS:** So yeah.

17           **DR. WADE:** Thank you. Surface and underwater.

18           **MS. MUNN:** Can't we simply remove "above-  
19 ground" --

20           **DR. MELIUS:** During the testing, yeah.

21           **MS. MUNN:** -- and just say during the -- during  
22 testing of atomic weapons?

23           **DR. ZIEMER:** I think that's a simple solution  
24 and --

25           **DR. MELIUS:** Yeah.

1           **DR. ZIEMER:** -- and can we take it by consent -  
2           - this is basically an editorial correction.  
3           The bullet would then say these workers were  
4           employed during the testing of atomic weapons.

5           **MS. SCHUBERT:** Can I -- this is Sandi, and I  
6           apologize, I don't have any of the paper in  
7           front of me so it's hard to sort of keep track  
8           of some of this.

9           **DR. ZIEMER:** Sandi, do we have a e-mail number  
10          or a FAX number where we can get --

11          **MS. SCHUBERT:** Jason's been e-mailing me, but I  
12          don't have any of the documents from the -- any  
13          of the motions, but I just want to clarify --  
14          sort of just make sure I understand. It sounds  
15          like it's the same discussion for the Proving  
16          Grounds and the NTS. What you guys are  
17          recommending that -- is that during the time  
18          period from like 1951 to 1962 and the  
19          respective time period for Pacific Proving  
20          Ground, people who worked there for -- and were  
21          or should have been monitored for 250 days get  
22          coverage. They don't have to be present during  
23          the tests for 250 days, and I don't know if I'm  
24          making myself clear --

25          **DR. ZIEMER:** They have to be present during

1           that time period.

2           **MS. SCHUBERT:** Okay. Okay, that's -- that was  
3 my understanding.

4           **DR. ZIEMER:** Yeah. Yeah.

5           **MS. SCHUBERT:** I just --

6           **DR. ZIEMER:** Any period during that opening and  
7 closing date.

8           **MS. SCHUBERT:** Okay, so it's irrelevant whether  
9 it was above-ground test or --

10          **DR. ZIEMER:** Right, we simply wanted the --

11          **MS. SCHUBERT:** -- research or --

12          **DR. ZIEMER:** We simply wanted the verbiage in  
13 the document to be correct, but it's not --  
14 we're not limiting this to individuals who were  
15 involved in the above-ground tests that --

16          **MS. SCHUBERT:** That was my understanding.  
17 Thank you. It's just hard when you guys are --

18          **DR. ZIEMER:** Actually I think Larry is telling  
19 us, though, that all those tests in that period  
20 were above ground.

21          **MS. SCHUBERT:** Yeah. I appreciate the  
22 clarification. Thank you.

23          **MR. ELLIOTT:** Yes, and I would add that you  
24 need -- just for the sake of clarity, you can  
25 aggregate days. This -- this class definition

1 will allow the aggregation of days from other  
2 classes. For an example, if a person spent  
3 time at both sites, Pacific Proving Ground and  
4 days at Nevada Test Site, and you could total  
5 those up to 250 days.

6 **MS. SCHUBERT:** Wonderful. Thank you so much.

7 **DR. ZIEMER:** Okay, thank you very much.

8 (Pause)

9 **DR. WADE:** Just want to as a mining engineer,  
10 I'll tell you that underwater is above ground.

11 **DR. ZIEMER:** I -- I think I understand that.  
12 That's -- that's quite right.

13 **MS. MUNN:** Sometimes.

14 **DR. ZIEMER:** It's not in here, though.

15 **MS. MUNN:** Others.

16 **DR. ZIEMER:** It's not atmospheric testing.

17 **DR. MELIUS:** So it's above ground, I -- thank  
18 you, Lew, I appreciate the... And Larry  
19 picking up 83.14, we've got sharp eyes here,  
20 that's...

21 **DR. ZIEMER:** We actually had scheduled for  
22 after lunch our program updates. I'm looking  
23 to see if there were any other items we needed  
24 to vote on.

25 Yeah, actually before we lose a quorum, we do

1 want to vote on the next 20 cases, so that will  
2 -- well, at least the next 20.

3 Board members, we have the report from the  
4 subcommittee, and it has the form of a list of  
5 proposed cases. On that list are 39 numbers,  
6 and what we agreed to was that we would have --  
7 you would have the opportunity to go back and  
8 check your list against the master list, which  
9 is under the tab -- it's basically the first  
10 tab after the agenda, the individual dose  
11 reconstruction tab -- and see if you wanted to  
12 add or delete any items from this list. This  
13 list comes --

14 **MR. GRIFFON:** Stu has.

15 **DR. ZIEMER:** Hang on just a minute and -- Stu -  
16 - and this list basically comes as a  
17 recommendation from the subcommittee so it has  
18 the -- has the status of being before us as a  
19 motion.

20 Okay. Stu, please.

21 **MR. HINNEFELD:** During Tuesday's discussion, as  
22 you'll recall, there was -- when we were going  
23 through the random -- randomized list and the  
24 selections from the randomized list, the  
25 question was raised are these really site-

1           specific dose reconstructions or were these  
2           done with generic, complex-wide approaches, and  
3           I have that information that I can share, you  
4           know, verbally with you if you'd like.

5           **DR. ZIEMER:** Yeah, you want to just go down the  
6           list then?

7           **MR. HINNEFELD:** Yes, yes. Selection number --  
8           selection number one was the first one  
9           selected. That is a Y-12-specific dose  
10          reconstruction for the external dose. The  
11          internal is the TIB-2 hypothetical intake, but  
12          you'll see a lot of those. In the early dose  
13          reconstructions it will be pretty uncommon to  
14          see a detailed internal dose reconstruction.  
15          So this is a -- I would -- I would consider it  
16          probably as a Y-12-specific dose  
17          reconstruction.

18          **DR. ZIEMER:** Okay.

19          **MR. HINNEFELD:** Okay? So selection number  
20          three, which is a Rocky Flats Plant, that is a  
21          site-specific dose reconstruction -- seems to  
22          be on both sides.

23          **DR. ZIEMER:** And that was Rocky?

24          **MR. HINNEFELD:** Yes.

25          **DR. ZIEMER:** Thank you.

1           **MR. HINNEFELD:** Selection number 28 uses a -- a  
2           TIB-2 hypothetical intake, but it also seems to  
3           use the site profile for the external dose, so  
4           that would be a relatively site-specific  
5           approach.

6           Selection number 41 uses all complex-wide  
7           approaches. It uses the TIB-2 hypothetical  
8           intake, uses the TIB-10 overestimating approach  
9           for film badges, and uses the TIB-6 complex-  
10          wide medical.

11          **DR. ZIEMER:** Okay.

12          **DR. WADE:** I would ask the Board to note that  
13          that's a Nevada Test Site case, and we'll make  
14          note of that and we'll discuss that as it  
15          relates to the discussion we had with SC&A in  
16          their report.

17          **DR. ZIEMER:** Okay. Thank you.

18          **MR. HINNEFELD:** Selection number 45 is not  
19          Sandia site-specific. It uses the TIB-2  
20          hypothetical intake. It looks like it used an  
21          ambient external approach because it was not --  
22          apparently this was not a monitored person and  
23          was judged to be properly not monitored.  
24          Selection 48 appears to be site-specific. It's  
25          a underestimate so it's in all likelihood a

1 partial dose reconstruction, but it does seem  
2 to be specific to the X-10 site.  
3 Selection number 52 uses all complex-wide  
4 approaches, generic approaches.  
5 Selection number 64 also uses all generic  
6 approaches.  
7 Selection number 95 uses -- I believe that will  
8 be a relative-- I believe that will be a site-  
9 specific. It's a little hard for me to  
10 interpret based on the notes I got, but I  
11 believe that will be a relatively site-specific  
12 approach. Again, it's an underestimate. It  
13 will probably be a partial.  
14 And selection 96, as well, appears it will be  
15 relatively site-specific, uses the TIB for  
16 interpreting shallow dose, so presumably these  
17 two cases have shallow-dose exposures in the  
18 individual's exposure record, and selection  
19 number 96 also uses the Paducah coworker  
20 approach. So there might -- there would be --  
21 might be some interest in that.  
22 The next selection I see is selection number  
23 144. That uses all -- that uses the generic  
24 AWE complex-wide approach.  
25 Selection 154, again, is an underestimate.

1           It's probably a partial. It uses the site-  
2           speci-- site-specific information I believe for  
3           more than one of the listed sites, actually,  
4           and how to interpret shallow dose TIB.

5           Selection number 169 seems to use all generic  
6           approaches, uses the TIB-10 ext--  
7           overestimating approach for using film, TIB-2  
8           hypothetical intake and the TIB-6 complex-wide  
9           medical approach.

10          Selection number 188 seems to use the site  
11          profile, site-specific information.

12          **DR. WADE:** It's also Nevada Test Site.

13          **MR. HINNEFELD:** I believe that's all the  
14          selected cases, isn't it?

15          **DR. WADE:** I've got 25 total.

16          **DR. ZIEMER:** Now in -- particularly on these  
17          complex-wide -- now let's see, we have -- I'm -  
18          - I think we show six complex-wide ones here.  
19          To the extent that any of these were chosen  
20          because of the site, you may wish to change  
21          some of them. In some cases you may have  
22          selected them for other reasons. Anyone --  
23          anyone -- well, let's hear if you want to pull  
24          certain ones from the list. Let's start out  
25          with 41, is that the first complex-wide?

1           **MS. MUNN:** (inaudible)

2           **DR. ZIEMER:** Yeah, Mark.

3           **MR. GRIFFON:** I mean I -- I think that out of  
4 all -- all that we saw at the subcommittee  
5 level, I -- when we went through this one by  
6 one I -- I felt like maybe a round of 20 or 25,  
7 if we really -- you know, I don't think we have  
8 to stick to batches of 20, but I don't -- I  
9 would -- I -- my overall sense is I don't think  
10 we need to try to get 40 out of here, and this  
11 is even more reason -- that Stu just gave,  
12 maybe not to do 40, but you know, I was  
13 thinking maybe to proportion it with more of  
14 the full estimates and less of the  
15 overestimates, so I just would hope people keep  
16 that in mind, you know.

17           **DR. ZIEMER:** Uh-huh, sure. The minimum  
18 probably that we want to have on deck is 20,  
19 and if we come up with 25 or 30 -- at some  
20 point we'll have to fill in additional because  
21 I -- I assume that, as a practical matter,  
22 working with our teams we would take a batch of  
23 20 for the next group for the contractor to  
24 work with. That works out well with our teams.  
25 And then at some later point, if you did not

1 wish to do it today, we can -- and there will  
2 be additional closed cases that will come on  
3 line, so --

4 **DR. WADE:** One -- if I might suggest, one  
5 construct is you have 25 full dose  
6 reconstructions that you've identified. That -  
7 - if you identified that as the target for the  
8 possible next 20 -- you know, we always worry  
9 about wanting to have a couple of extra in the  
10 hopper in case some are returned -- we could  
11 instruct the contractor to begin down that list  
12 of the first 25, selecting 20 from that.

13 **DR. ZIEMER:** Of the fulls, and just leave the  
14 random ones on the back burner?

15 **DR. WADE:** Well, then when -- in June we would  
16 select the next 20.

17 **DR. ZIEMER:** Yeah. That's --

18 **MR. GRIFFON:** Yeah. I mean I think we need to  
19 give a little more -- closer consideration to  
20 that full list 'cause I think when we were  
21 going through it, if you recall, we -- we --  
22 like at one point I crossed off 117, then I  
23 kind of put it back on, then 119 and 20 I  
24 remember some discussion of well, I want one of  
25 these steel mills, but probably not too many

1 steel mills. They might be very similar.

2 **DR. WADE:** Well, let's discuss it.

3 **MR. GRIFFON:** So I don't know if we want to,  
4 you know, take all -- yeah.

5 **DR. WADE:** Let's discuss the 25 and if --

6 **MR. GRIFFON:** Yeah.

7 **DR. WADE:** -- see where we get to, and if we  
8 need a couple then extra, we can pull from the  
9 random ones.

10 **DR. ZIEMER:** Is that agreeable?

11 **MR. GRIFFON:** That's fine.

12 **DR. ZIEMER:** Well, then move to the table --  
13 well, actually it's the first -- first table --

14 **DR. WADE:** Right.

15 **DR. ZIEMER:** -- which is the list of fulls, and  
16 we can -- let's just quickly go down the list.  
17 We can either reconfirm or -- or drop, and if  
18 there's others we can pick up -- 02? Or just --  
19 - I'll just call it 2. I'm going to just kind  
20 of move through these. If I don't hear any  
21 comments pro or con, I'm going to assume we're  
22 agreed to keep and we'll just go from there.  
23 Six?

24 **DR. DEHART:** We've got at least four, possibly  
25 more, Savannah Rivers, first 25.

1           **MS. MUNN:** Against --

2           **DR. ZIEMER:** From the first 25 that we've...

3           Oh, in the -- in this 25.

4           **MR. GRIFFON:** Yeah.

5           **DR. ZIEMER:** Okay. But are you simply pointing  
6           that out or are you objecting --

7           **DR. DEHART:** In case somebody feels -- I think  
8           that's too many from Savannah River.

9           **MS. MUNN:** We're going to need --

10          **MR. CLAWSON:** These are ones that just came  
11          into 50 percent.

12          **MR. GRIFFON:** Maybe keep that in mind as we go  
13          through that, you're --

14          **MS. MUNN:** You're looking at a total of 35  
15          needed from Savannah River and we only have 14  
16          so far of those completed.

17          **DR. ZIEMER:** Yeah, we're still okay. Roy --  
18          Roy's just pointing that out.

19          Okay, I'm going to proceed here -- 6? Eight?

20          **DR. DEHART:** Go back and select 6 out because  
21          it's a lung case. We've got already a lot of  
22          lung.

23          **MS. MUNN:** Yeah.

24          **DR. ZIEMER:** How about the rest of you?

25          **MS. MUNN:** I agree.

1           **MR. GRIFFON:** That's fine.

2           **DR. ZIEMER:** Okay, we're going to drop 6 -- 9?  
3           10? 20?

4           **MR. GRIFFON:** I think 10's a borderline one for  
5           me, but I guess we can keep it in there for  
6           now. We haven't done Portsmouth, so I can see  
7           the argument to -- you know.

8           **DR. ZIEMER:** Okay, 20? 43? 44? 49? I feel  
9           like I'm calling a bingo game here.

10          **MS. MUNN:** I'm ready to say we need --

11          **DR. WADE:** I need one more.

12          **MR. GRIFFON:** I need one more.

13          **DR. ZIEMER:** Is 50 on the list? I can't tell  
14          from my marks here.

15          **MR. GRIFFON:** No.

16          **DR. ZIEMER:** No? Okay.

17          **MS. MUNN:** We talked about 49, but not 50.

18          **DR. ZIEMER:** Yeah -- 68? 73? Mark, did you  
19          have a comment on 68?

20          **MR. GRIFFON:** No, I just was -- Keep in mind  
21          that's Superior Steel, though. I think we've  
22          got another one of those coming up, so...

23          **DR. ZIEMER:** Okay. Which one is that -- 73,  
24          Superior Steel. 78? 85? 101?

25          **DR. DEHART:** I would simply point out that

1 we're suddenly doing a lot of GIs. Here we  
2 have colon and this is like the third colon  
3 we've run through.

4 **MR. GRIFFON:** 101's esophagus.

5 **DR. ZIEMER:** 101's esophagus.

6 **DR. DEHART:** Yes.

7 **DR. ZIEMER:** Oh, G-- okay, GI, yeah, we're --  
8 we're thinking too low.

9 **DR. MELIUS:** But still above ground.

10 **DR. ZIEMER:** Thank you for that. When does  
11 your plane leave?

12 Okay, number 110? Number 115? Okay, 117 was  
13 on and off, I -- it's currently on the list.

14 Are we -- I had marked it back off, but is --

15 **MR. GRIFFON:** I thought at one point we saw a  
16 better Pantex one or something, didn't it --

17 **DR. WADE:** I thought it was further down the  
18 line.

19 **MS. MUNN:** Thought there was better.

20 **MR. GRIFFON:** Oh, yeah, maybe that was it.

21 **DR. ZIEMER:** Well, shall we leave it in for the  
22 moment?

23 **MR. GRIFFON:** I just think it's five years  
24 worked and I would vote for it going off,  
25 actually.

1           **DR. ZIEMER:** For 117?

2           **MR. GRIFFON:** Yeah.

3           **DR. ZIEMER:** Okay. 119? That's the other  
4 Superior Steel.

5           **MR. GRIFFON:** Right. And this is a bladder  
6 cancer and longer work period I think than the  
7 previous one is why we -- 73.

8           **DR. ZIEMER:** 73 is a 25-year.

9           **MR. GRIFFON:** Oh, they're both long periods of  
10 --

11          **DR. ZIEMER:** Both pretty long.

12          **MS. MUNN:** We were interested in the work  
13 decade in that one, I think. Wouldn't that  
14 have been one of the folks who would have  
15 worked prior to an older worker at the time of  
16 exposure.

17          **MR. GRIFFON:** I guess -- I guess my -- I would  
18 say either one, but probably not both is what  
19 my -- I would think.

20          **DR. ZIEMER:** 73 and 119, they're both very  
21 similar, I think. The -- why don't we just go  
22 with 119, if that's agreeable.

23          **MR. GRIFFON:** Yeah, that's fine with --

24          **DR. ZIEMER:** Drop 73, they're both quite  
25 similar. Now 120?

1           **MR. GRIFFON:** I vote to drop that one --  
2           another steel company. I'm not even sure --  
3           these are all full estimates, but Stu, if the -  
4           - some of these ones that are full estimates  
5           like for these steel companies, I'm not sure  
6           you're going to have -- it's not going to be  
7           specific bioassay. It likely is a model,  
8           right? To internal dose.

9           **MR. HINNEFELD:** Yeah, it's -- it's likely a  
10          model. Now there are a number of AWEs where we  
11          have external dosimetry records --

12          **MR. GRIFFON:** Right, but it's likely not --

13          **MR. HINNEFELD:** -- and I don't remember --

14          **MR. GRIFFON:** -- it's likely not a Superior  
15          Steel-specific model, is it, or could it be?

16          **MR. HINNEFELD:** I don't think it would be. It  
17          may be a -- the AWE complex-wide --

18          **MR. GRIFFON:** Model, right, right.

19          **MR. HINNEFELD:** And it may actually have -- I  
20          don't know -- I can't remember now if we had  
21          dosimetry data for Superior Steel or not.

22          There were a number of the AWEs where we --

23          **DR. ZIEMER:** What about U.S. Steel? This one  
24          is --

25          **MR. HINNEFELD:** It'd be the same.

1           **DR. ZIEMER:** -- U.S. Steel.

2           **MR. HINNEFELD:** U.S. Steel is -- I don't -- I  
3 don't know. I don't know.

4           **MR. GRIFFON:** Steel companies we might -- we  
5 want to look at some of them, but I think --

6           **DR. ZIEMER:** We have Superior, so let's -- we  
7 can drop 120. 154? 157? 181? 88 -- 188?  
8 199? And 211?

9           **DR. WADE:** That's 21.

10          **DR. ZIEMER:** Well, 21 gives us at least an  
11 extra. Let me just pause a minute and see if  
12 anyone has spotted other ones on the list in  
13 the meantime that they would like to add.

14          **MR. GRIFFON:** Well, I saw one from the partial  
15 list that might be -- or from the random list  
16 that might be interesting, but I don't know if  
17 you're looking at that --

18          **DR. ZIEMER:** We can do that.

19          **MR. GRIFFON:** And I got --

20          **DR. ZIEMER:** There's nothing --

21          **MR. GRIFFON:** Number three -- out of all those,  
22 I think the only one that was sort of  
23 compelling to me was number three, and that --  
24 it's Rocky Flats.

25          **DR. ZIEMER:** Number three is a Rocky Flats

1 site-specific --

2 **MR. GRIFFON:** Right.

3 **DR. ZIEMER:** Okay, let's add that one back in.

4 **MR. GRIFFON:** Then we're 22 --

5 **DR. ZIEMER:** That gives us --

6 **MR. GRIFFON:** -- right?

7 **DR. ZIEMER:** That gives us 20 plus two spares.

8 Okay, let me ask, is there any discussion on  
9 this? We'll vote officially to accept these as  
10 the next group from which our next cases will  
11 be audited. Ready to vote?

12 (No responses)

13 Okay, all in favor, aye?

14 (Affirmative responses)

15 Any opposed?

16 (No responses)

17 Abstentions?

18 (No responses)

19 So ordered.

20 **DR. WADE:** John Mauro, could you come to the  
21 microphone just briefly for a question? John?  
22 John, if now you get these 22, you wouldn't  
23 need the assignment to Board -- specific Board  
24 members before June, would you -- or would you?

25 **DR. MAURO:** No, but it's -- it's -- we'll

1 proceed with the -- our work. At some point  
2 the --

3 **DR. ZIEMER:** You can do the early stages of --  
4 of these --

5 **DR. MAURO:** Yeah, we -- yeah, we -- we don't --  
6 we don't need the assignments I would say for  
7 another month.

8 **DR. WADE:** Another month?

9 **DR. MAURO:** Yeah, in other --

10 **DR. ZIEMER:** You will be ready that soon for  
11 these?

12 **DR. MAURO:** If we -- we -- we're going to start  
13 work soon as we -- soon as we receive the set  
14 of disks. I would say we'll -- we're going to  
15 get started on them soon as we receive that.  
16 When we're through, we will send the drafts  
17 out. You know, it's going to take I would say  
18 at least six weeks to two months to get through  
19 the first set of drafts, and sometime in that  
20 time period, if we had the assignments, you --  
21 we --

22 **DR. ZIEMER:** If you guys are ready, actually  
23 the Chair can assign these. That's my --  
24 that's my prerogative and I can take the -- I  
25 can take the existing groups and, making sure



1 minutes, as corrected.

2 **MS. MUNN:** So moved.

3 **DR. ZIEMER:** Seconded?

4 **MR. CLAWSON:** Second.

5 **DR. ZIEMER:** All in favor of approval of the  
6 minutes, say aye.

7 (Affirmative responses)

8 Any opposed?

9 (No responses)

10 Motion carries. Thank you.

11 I'll now call on Dr. Melius to report for the  
12 workgroup on the Iowa SEC.

13 **DR. MELIUS:** Yeah, this is on the Ames --

14 **DR. ZIEMER:** Ames, Iowa.

15 **DR. MELIUS:** -- Ames, Iowa SEC, and -- had some  
16 internal discussions and in follow-up to the  
17 SC&A presentation from yesterday, I believe it  
18 was, and I think what we have decided -- be  
19 recommending is that we ask SC&A to -- to --  
20 three tasks. One is complete a short report  
21 basically following the outline of their --  
22 their presentation that was given today on sort  
23 of the work to date on reviewing the evaluation  
24 report and the background information that they  
25 had reviewed, discussions with the petitioners

1 and -- and so forth.

2 Number two, to -- I think there's like --  
3 essentially two issues that we'd like them to  
4 delve into a little bit further. One is the  
5 issue of the so-called explosions and other  
6 acute incidents like that at the -- at the  
7 facility. I think -- I think we're just  
8 looking for additional information. There's --  
9 the petitioners had raised some question as to  
10 whether those didn't qualify as discrete  
11 incidents.

12 And then this -- the other issue we'd like some  
13 input -- the petitioners in their original  
14 petition had extended the -- their request for  
15 coverage by one year I believe past what NIOSH  
16 had, and that -- that was based on their  
17 concern about any residual contamination or  
18 continued exposures, even though the facility  
19 was no longer operational as an AC facility,  
20 and I think we're just looking for a little bit  
21 more guidance on -- on that particular issue.  
22 And I think if you could complete a report and  
23 present that back to us, I think we -- that  
24 should suffice for us to be able to, you know,  
25 come to a conclusion on the Ames petition.

1           **DR. ZIEMER:** And this comes as a recommendation  
2           from the workgroup and therefore a motion  
3           before the Board. If we approve this, this  
4           would give direction to the contractor for  
5           preparing us for a final decision on this.  
6           I might add, on the third point it's my  
7           understanding that that extra year was intended  
8           to cover clean-up operations after the  
9           cessation of work. I'm wondering if either  
10          NIOSH or SC&A knows actually if there are -- do  
11          we know anything about the clean-up dates for  
12          Ames, and do we even know if that was done by  
13          Ames workers? I would guess it was more likely  
14          done by an outside contractor if it was done.

15          **MR. HINNEFELD:** I'm speaking second-hand here  
16          because I wasn't doing the research, but we --  
17          we do know -- we do have some information about  
18          -- like demolition dates of the buildings where  
19          some of this work was done, so --

20          **DR. ZIEMER:** And I think that's the information  
21          we're wanting to know whether the cohort should  
22          really include the clean-up period.

23          **MR. HINNEFELD:** I think that -- I believe our  
24          position is that there's -- there's really no  
25          material difference between cleaning up the

1 work and doing the work, in terms of the  
2 exposure conditions, and so the clean-up work  
3 would -- would be included. It's when -- how  
4 late did the clean-up work go on.

5 **DR. ZIEMER:** Well, the point I'm making is do  
6 we know that the clean-up was done by -- by  
7 Ames workers --

8 **MR. HINNEFELD:** I guess --

9 **DR. ZIEMER:** -- versus something like a FUSRAP  
10 --

11 **MR. HINNEFELD:** Yeah, standing here today --

12 **DR. ZIEMER:** -- where a complete outside group  
13 comes in.

14 **MR. HINNEFELD:** Right here today, I don't know.

15 **DR. MELIUS:** I don't think that's -- that's --  
16 that was clear and in the conference call we  
17 had we'd just received the evaluation report,  
18 and frankly we didn't talk about it very much.  
19 I -- I think was you, Larry, or who had  
20 explained how you came up with the date, but  
21 then we nev-- really sort of didn't spend much  
22 time talking about it --

23 **DR. ZIEMER:** Well, we need -- we need to just  
24 clarify --

25 **DR. MELIUS:** -- and just -- so we're just

1 looking for clarification on that -- that  
2 issue.

3 **DR. ZIEMER:** So Board members, you've heard  
4 this recommendation. Any discussion on it?

5 (No responses)

6 If not, I'll call for a -- call the question.  
7 All who favor proceeding on this basis on the  
8 Ames, Iowa petition, say aye.

9 (Affirmative responses)

10 Any opposed?

11 (No responses)

12 No? Abstentions?

13 (No responses)

14 It is so ordered.

15 **DR. WADE:** One other small piece of business  
16 before we move on. That is just making sure we  
17 have the workgroups -- that the work assigned  
18 to the appropriate workgroups. I think on Ames  
19 it's Dr. Melius's SEC workgroup. Yeah, I think  
20 on Y-12 and Rocky it's clearly Mark's  
21 workgroup. But we do have the task of Nevada  
22 Test Site and Pacific Proving Grounds, and  
23 which workgroup would take that on, just so I  
24 can schedule meetings?

25 **MS. MUNN:** The Nevada Test Site has been Bob

1 Presley's.

2 **DR. MELIUS:** I think what we had -- Paul and I  
3 had discussed this briefly --

4 **DR. ZIEMER:** Discrete event issue --

5 **DR. MELIUS:** Yeah, yeah.

6 **DR. ZIEMER:** -- be raising, I think.

7 **DR. MELIUS:** Yeah, and -- and I think what  
8 might be the -- you know, at least since we  
9 want to approach that originally sort of  
10 generically, so forth, is that if our workgroup  
11 -- I guess my -- workgroup headed by me, I hate  
12 to call it my workgroup 'cause we all do the  
13 work, but --

14 **DR. ZIEMER:** In this case it's the SEC kind of  
15 generic workgroup.

16 **DR. MELIUS:** Yeah, what do you call it, Paul --  
17 or --

18 **DR. WADE:** I call it the S-- SC&A/SEC  
19 workgroup.

20 **DR. MELIUS:** Oh, but -- okay -- that we do  
21 that. But we will coordinate with the Nevada  
22 Test Site group as -- as we get into specific  
23 issues related to the Nevada Test Site. Does  
24 that sound reasonable?

25 **MS. MUNN:** That's nice.

1           **DR. MELIUS:** Yeah. Well, it's more than nice.  
2           It makes -- it makes sense.

3           **DR. ZIEMER:** So that -- that group is  
4           addressing sort of the generic issue of  
5           discrete events --

6           **DR. MELIUS:** Yeah.

7           **DR. ZIEMER:** -- which includes those both at  
8           Nevada Test Site and Ames and perhaps other  
9           places.

10          **DR. MELIUS:** Yeah. And to -- to initiate that  
11          workgroup, I'd like to schedule a short  
12          conference call with NIOSH just to talk about  
13          some data issues and sort of figure out how we  
14          can work together to -- some sort of  
15          information needs related to that, so we'll --  
16          we'll work on that and...

17          **FUTURE SCHEDULES/BOARD CORRESPONDENCE**

18          **DR. WADE:** Then very briefly, our next face to  
19          face meeting is scheduled for June 14, 15, 16  
20          in Washington, D.C. Based upon dates  
21          available, we're scheduling -- we would like to  
22          schedule a call of the Board on August 8th. We  
23          might not need it but we'd like to schedule it.  
24          And then again, based upon your calendars'  
25          availability, a face to face meeting of the

1 Board September 19, 20 and 21. Now LaShawn  
2 tells me it's clear on all calendars.

3 **DR. DEHART:** Except mine. I'll be in India.

4 **DR. WADE:** Okay. That's right, we did have  
5 that.

6 **DR. MELIUS:** Well, now we have a location.

7 **DR. ZIEMER:** Okay. Everybody make sure you  
8 have those dates on your calendars then. That  
9 takes us through September and we'll want to  
10 get later dates reserved fairly soon.

11 **DR. WADE:** Yeah, I'll ask LaShawn to start  
12 Monday to -- to schedule the rest of the year.

13 **DR. MELIUS:** What were the September dates  
14 again?

15 **DR. WADE:** 19, 20, 21.

16 **DR. ZIEMER:** Okay. Mark, you have a comment?

17 **MR. GRIFFON:** I just -- just have some other --  
18 other potential date here. I wanted to try, if  
19 the principal players are still here, to get a  
20 workgroup date -- we're going to need a  
21 workgroup date, and I was hoping to do Y-12 and  
22 Rocky all in one day, as we've been doing. And  
23 I -- in talking with SC&A, I think -- I tried  
24 to time this so that it would be -- well, first  
25 so that our workgroup could all attend, and

1 secondly so that SC&A would have a complete  
2 evaluation report for the Rocky, and they said  
3 probably mid-May. And the dates we found so  
4 far are narrowed down to like May 17th,  
5 possibly May 18th -- I don't know if Jim Neton  
6 is -- yeah, Jim's still here, or Brant -- if  
7 there's any major conflicts or if you think  
8 that's too soon, too late. I don't know if you  
9 have any --

10 **DR. NETON:** I'm sorry, you caught me thinking  
11 about something else.

12 **MR. GRIFFON:** May 17th, it would be Y-12 and  
13 Rocky working group.

14 **DR. NETON:** Okay. It's clear for me. I can't  
15 speak for Brant, but --

16 **MR. GRIFFON:** Okay, I didn't know.

17 **DR. NETON:** We could arrange it to be clear --  
18 since he's not here.

19 **MR. GRIFFON:** So we'll -- at least tentatively  
20 we'll say May 17th --

21 **DR. NETON:** Yes.

22 **MR. GRIFFON:** -- workgroup, location probably  
23 Cincinnati -- although I like Boston -- no.  
24 Probably Cincinnati.

25 **DR. ZIEMER:** And John Mauro --

1           **MR. GRIFFON:** May 17th, and we'll probably  
2 start at 8:30, 9:00 a.m. or something, you  
3 know, as early as we can -- full day.

4           **DR. MAURO:** Paul, with regard to that date --  
5 certainly that's fine with SC&A. I'd just like  
6 to point out we will be in position to deliver  
7 and have well in hand Y-12 revised report.  
8 With regard to having a complete draft in the  
9 hands of the working group for that date for  
10 Rocky, you picked a day when -- where we're  
11 probably going to be in the midst of writing it  
12 at that time. That doesn't meant we would not  
13 be in a position to discuss it with you, but we  
14 probably will not have a clean draft for you  
15 folks to review prior to that meeting. I mean  
16 that -- that would be -- 'cause you -- you  
17 happened to turn out to pick the date when we -  
18 - we -- we will be receiving our drafts  
19 internally and integrating it into a draft  
20 report, so -- but if -- so but we'll certainly  
21 be in a position to air out the issues very --  
22 you know, I would say very thoroughly, but you  
23 won't have the luxury of -- of -- of reading  
24 our draft regarding Rocky prior to that  
25 meeting.

1           **DR. ZIEMER:** Well, you'll have to decide if  
2           that's a critical point or not then.

3           **MR. GRIFFON:** Yeah.

4           **DR. ZIEMER:** If it is, then you may have to  
5           wait a week or two.

6           **MR. GRIFFON:** And the --

7           **DR. ZIEMER:** When would you issue the report,  
8           if that's the -- that's the day you start --

9           **DR. MAURO:** Right --

10          **DR. ZIEMER:** -- putting it together?

11          **DR. MAURO:** -- right now our plan is we will  
12          probably be assembling the report about that  
13          time, and deliver the draft to the working  
14          group and the Board within a week from then.  
15          So you're about a week early.

16          **MR. GRIFFON:** Yeah.

17          **DR. ZIEMER:** Well, I'm going to suggest,  
18          workgroup, you may need to cogitate on this on  
19          your own and --

20          **MR. GRIFFON:** We'll tentatively say May 17th --

21          **DR. MAURO:** That's fine.

22          **MR. GRIFFON:** -- then we'll -- we'll --

23          **DR. ZIEMER:** You may have to move it.

24          **MR. GRIFFON:** We may have to move it, right.

25          **DR. ZIEMER:** Thank you.

1           **DR. MELIUS:** Do we have a location for the  
2           September meeting?

3           **DR. WADE:** No.

4           **DR. MELIUS:** Can we come up with one? It makes  
5           some difference in terms of what we schedule  
6           our travel plans around. Especially if it's in  
7           India since it takes us so long to get there.

8           **DR. WADE:** I mean we don't have a location.  
9           You know, I don't know what the timing will be  
10          in terms of the issues that you're working on  
11          now, so --

12          **DR. ZIEMER:** Well, we may need to see what's  
13          coming on the horizon.

14          **DR. MELIUS:** Okay.

15          **DR. WADE:** But if you want to pick one today...

16          **MS. MUNN:** Always Pantex.

17          **DR. ZIEMER:** Well, yeah, the Pantex area is  
18          very hard to get to.

19          **DR. MELIUS:** How about -- maybe -- it's too  
20          early for Fernald.

21          **DR. WADE:** Why don't you let me propose a  
22          couple of locations next week by e-mail and  
23          then --

24          **DR. MELIUS:** Okay.

25          **DR. WADE:** -- we'll pick them and then we'll

1           decide by the end of next week.

2           **DR. MELIUS:** Anybody -- other -- since this is  
3           back before Lew's time, any locations that we  
4           had talked about and have gotten bumped because  
5           of --

6           **DR. ZIEMER:** Yeah, we met one time in South  
7           Carolina, but we were quite a ways from the  
8           plant, so it wasn't a very good venue for  
9           getting input from the workers at Savannah  
10          River. I wonder if we would do better to get  
11          closer to the plant. What's the closest -- is  
12          Aiken the closest town of size?

13          **MR. PRESLEY:** Aiken is the closest -- Bob  
14          Presley, I'm back.

15          **MS. MUNN:** Bob is back.

16          **DR. ZIEMER:** Bob, you're back.

17          **MS. MUNN:** Missed the vote.

18          **DR. ZIEMER:** Yeah, Bob, we have completed the  
19          voting. I -- all three of the motions that you  
20          were aware of have been approved. We are  
21          discussing a -- some possible future locations,  
22          and I was asking what -- what's the closest  
23          decent-sized city to the Savannah River site,  
24          is it Aiken or is it Augusta? Maybe Augusta's  
25          a little --

1           **MR. PRESLEY:** Augusta's -- Augusta's closer  
2 than Aiken.

3           **DR. ZIEMER:** And Augusta's a little bigger. I  
4 think could probably accommodate --

5           **MS. MUNN:** That's where we were.

6           **DR. ZIEMER:** Well, we were in Charleston.

7           **DR. MELIUS:** We were both.

8           **MS. MUNN:** We were in Augusta, too.

9           **DR. ZIEMER:** How soon we forget. That's been a  
10 while.

11          **MR. PRESLEY:** Didn't we meet in Augusta?

12          **DR. ZIEMER:** No, I'm just getting information  
13 from you. I've been out-voted already.  
14 Well, I'm trying to think of other sites.  
15 We've been to Oak Ridge. Pinellas is a  
16 possibility.

17          **MR. PRESLEY:** We've -- we have talked about  
18 going to Pinellas.

19          **DR. ZIEMER:** Yes, this would be basically  
20 Pantex -- well, Pantex is Texas, but -- or  
21 Pinellas is --

22          **MR. PRESLEY:** Florida.

23          **DR. ZIEMER:** -- Florida. What, St. Petersburg?

24          **UNIDENTIFIED:** Tampa.

25          **DR. ZIEMER:** Those are possibilities, not --

1 Fort Myers is way far from Pinel-- from  
2 Pinellas.

3 **DR. WADE:** Let me put something together. I'll  
4 look at Augus-- I'll look at Savannah River and  
5 Pinellas as two, and if anybody else wants to  
6 suggest.

7 **MR. PRESLEY:** Did we talk about Pinellas?

8 **DR. ZIEMER:** We haven't decided on one, just  
9 gathering information. Albuquerque is another  
10 possibility. That -- there's -- Sandia is  
11 there. You have of course Los Alamos National  
12 Lab is close by. We have been to Santa Fe.  
13 Actually there's some other facilities at  
14 Albuquerque, the -- the Inhalation Tox group is  
15 there, as well, they -- part of the DOE  
16 complex.

17 **DR. WADE:** Dr. DeHart has his thing up.

18 **DR. DEHART:** It's a different topic, but I was  
19 wondering if it would be possible to have as an  
20 agenda item at one of our forthcoming meetings  
21 -- and this comes out from the presentation  
22 that Dr. Ringen had the other day -- the other  
23 evening. The topic then was construction  
24 workers, and it was mentioned that NIOSH is in  
25 the process of coming up with a work plan or a

1 method of analyzing dose reconstruction for  
2 that work group, and I was wondering if we  
3 could get a status report.

4 **DR. ZIEMER:** Well, Larry is shaking his head in  
5 the affirmative, so perhaps that could go on  
6 the agenda at -- we saw some things that were  
7 presented in the public comment period about  
8 the working group, but we -- and -- and NIOSH  
9 has told us before about what the plans are, so  
10 maybe just an update on that -- be timely.

11 Thank you, Roy.

12 We have a couple of items that we skipped over  
13 in order to get through the voting portions of  
14 the meeting. First there's a program update  
15 from NIOSH, and Larry, you have the current  
16 status of issues for us?

17 **DR. MELIUS:** Break, Paul?

18 (Pause)

19 **DR. ZIEMER:** When they're done we'll hear from  
20 Department of Labor --

21 **DR. WADE:** Dr. Melius asked for a break.

22 **DR. ZIEMER:** Oh, well, I was just going to plow  
23 right through there. Okay. I'm usually the  
24 one most uncomfortable, but we'll take a ten-  
25 minute break while they get set up.

1 (Whereupon, a recess was taken from 2:50 p.m.  
2 to 3:05 p.m.)

3 **PROGRAM UPDATES, NIOSH, MR. LARRY ELLIOTT**

4 **DR. ZIEMER:** Larry, welcome back for the latest  
5 status report. And I actually looked at it  
6 already and I was astounded. It seemed to be a  
7 big jump from January on -- on closeouts,  
8 almost 2,000. Was -- is that right?

9 **MR. ELLIOTT:** Yes, we're just -- we're doing  
10 fine. Production is -- is moving along and  
11 quite pleased with the ORAU team support in  
12 that regard. They are working hard in many  
13 areas, as the OCAS staff are, in responding to  
14 the Board's interests and concern with the  
15 evaluation of SEC petitions, of course, site  
16 profile reviews. And at the same time we're  
17 maintaining and improving and increasing our  
18 production level efforts, so -- and I think  
19 that's primarily due to the number of Technical  
20 Basis Documents and site profile tools that  
21 have been developed and finalized. The more we  
22 bring on line of those tools, the more claims  
23 we can complete.

24 **DR. ZIEMER:** And before you get under way and -  
25 - I just got a phone call from Bob Presley and

1 he's back on the line again. His staple  
2 removal went well. But Bob reminded me to be  
3 sure to tell the NIOSH folks how pleased he was  
4 with the support you gave to the workgroup that  
5 he was involved in and really thanks you for  
6 all that support.

7 **MR. ELLIOTT:** That's -- that's what we're here  
8 for. We're public servants and we're trying to  
9 do the best we can in a very difficult  
10 situation, so -- and with the full intent of  
11 doing the best we can for the claimant  
12 population. I'm sorry that we seem to have  
13 lost most of those folks today, but I  
14 appreciate those of you who are in the  
15 audience.

16 Before I start walking through these slides, I  
17 do want to give you a brief update in response  
18 to Dr. DeHart's request and with regard to what  
19 you heard last night from Knut Ringen.  
20 Unfortunately I wish he had vetted his  
21 presentation with NIOSH before he decided to  
22 present it because -- well, you'll see here  
23 that many -- many points of clarification and  
24 inaccuracies that I need -- I feel compelled to  
25 speak to.

1 First of all, yes, we did work with CPWR, asked  
2 them to help -- help us with the development of  
3 a Technical Information Bulletin that would be  
4 used to treat dose reconstructions for  
5 construction workers. That document was  
6 completed -- I don't have the date of when we  
7 initiated that effort and when it was  
8 completed, but the current status of that  
9 document is that it's -- it's undergoing some  
10 final revisions within NIOSH, in OCAS, getting  
11 also some technical support from ORAU to put  
12 some finishing touches on that document,  
13 addressing some concerns that CPWR and their --  
14 the esteemed colleagues that they brought to  
15 bear on the issue raised with us about the  
16 document and the draft of that document. I  
17 think that document is about -- perhaps six  
18 weeks away from seeing completion and being put  
19 to use. So in the six weeks time frame I hope  
20 to be able to tell you at the next meeting that  
21 it's in use and it's underway and we're working  
22 with it.

23 Now points of clarification. There are -- the  
24 numbers in Knut's presentation were not  
25 accurate, and let me give you some accurate

1 numbers. There -- and these are raw numbers,  
2 and they're raw because not only did I get them  
3 through many people looking through case files  
4 today back in the office and trying to  
5 understand the various job titles that a  
6 construction worker can hold and how can -- you  
7 know, as many of you know, these people that  
8 work at these sites hold the different jobs,  
9 different job titles, as they move through  
10 their careers. So there are a number of job  
11 titles that we have to examine to determine how  
12 many claims do we have that are relevant to  
13 construction trades.

14 In raw number, 4,387 claims have had some  
15 mention of some -- in their work history,  
16 development of some construction trade-related  
17 job. We have -- pardon me?

18 **UNIDENTIFIED:** What was that number again?

19 **MR. ELLIOTT:** 4,387 total claims that we can  
20 identify, just -- you know, without -- job  
21 titles and in the work history file are not a  
22 searchable -- by electronic means not  
23 searchable. We have to go through a screening  
24 process. So that's why this is a raw number.  
25 I believe it's in the right ballpark, though.

1           2,548 of those claims have been completed,  
2           using generic tools and dose of record. 168 of  
3           those claims have been pulled by the Department  
4           of Labor for a variety of reasons and -- or  
5           they have been administratively closed by us or  
6           DOL. And administratively closed means, for  
7           us, they didn't -- the claim was dose  
8           reconstructed and the OCAS-1 wasn't signed, and  
9           we give 60 days and then we give another 14  
10          days grace period upon that, and if we still  
11          don't have the OCAS-1, we administratively  
12          close the claim. And if the claimant decides  
13          to come back to us with either additional  
14          information or a completed OCAS-1, then we'll -  
15          - we'll complete the -- the claim for them.  
16          137 claims that have had construction trades  
17          job title in it have been closed out under the  
18          SEC classes that have been added, leaving 1,534  
19          active claims, out of which right now 545 are  
20          pending, awaiting this Technical Information  
21          Bulletin. So I would offer that construction  
22          trades has been a priority for us. It has not  
23          been a forgotten group of workers by any  
24          stretch of the imagination. So I just leave  
25          you with that and I'll have a better report for

1           you with more details at your next meeting.  
2           Yes, production has been going quite well for  
3           us in completing dose reconstructions. We've  
4           completed 13,590 draft dose reconstruction  
5           reports that have been provided to the  
6           claimants. This is as of March 31st, 2006.  
7           12,715 of those dose reconstruction reports  
8           have been sent to DOL, so the remainder, the  
9           difference between the two numbers are those  
10          claim reports that are in the hands of  
11          claimants that we're awaiting an OCAS-1 on.  
12          As you see here, 940 claims have been sent back  
13          to Department of Labor for their determination  
14          of eligibility within a specified class, and  
15          the breakdown is -- is provided there for you  
16          in that slide, and I will let you walk through  
17          that yourself.  
18          4,090 dose reconstruction reports have been  
19          sent back to DOL out of our first 5,000 claims.  
20          We -- we have a concerted effort to complete  
21          the oldest claims first, and this gives you a  
22          statistic on how well we're proceeding in that  
23          regard. Of that -- in the earliest claims,  
24          those first 5,000, there's 305 claims where the  
25          draft dose reconstruction is laying with the --

1 sitting with the -- the claimants and we're  
2 awaiting that OCAS-1, so you can add that  
3 number to the 4,090. We're -- we're close.  
4 395 of the claims have been pulled for a  
5 variety of reasons. Again, it's either -- in  
6 the early days DOL sent us some claims that  
7 were wrongly submitted to us. They weren't  
8 cancer, or they were CLL; they pulled them  
9 back. And again, you've heard me speak about  
10 this, the worst situation where we have a  
11 pulled claim is where there's a -- there's no  
12 survivor and the Energy employee has died or  
13 the last survivor has died and we've not  
14 completed the case. I would continue to make  
15 the same remark I've made in the past. That's  
16 -- that's a very small number. It's not a  
17 large proportion of these 395 claims. Forty-  
18 six claims below 5,000 have been  
19 administratively closed -- again, where we have  
20 not received an OCAS-1. Those could be  
21 reopened if we get an OCAS-1 back or if the  
22 claimant comes back to us with additional  
23 information that we need to consider in the  
24 dose reconstruction.  
25 108 claims are active at this point in time,

1 and we have put -- assigned 56 of those cases  
2 for Battelle, another contractor, to do work  
3 on. And these are primarily cases where there  
4 are one or two per site in the AWE sites,  
5 primarily. We've tasked Battelle, as I've  
6 reported to you at last meeting, with pursuing  
7 with all due diligence the completion of about  
8 1,400 claims that represent over about 180  
9 sites.

10 With regard to where we stand on the Special  
11 Exposure Cohort classes, as you know, six  
12 classes have been added to the Special Exposure  
13 Cohort and they're listed here -- two at  
14 Mallinckrodt for those two different time  
15 frames; the Iowa Army Ammunition Plant also two  
16 classes with two different, distinct time  
17 frames; Y-12 in the early years, '43 to --  
18 through December of '47; and Linde Ceramics  
19 Plant. One petition was -- was recommended to  
20 be added to the SEC, but then the National  
21 Bureau of Standards was deemed not a covered  
22 facility at the conclusion of that and it was -  
23 - a designation was not sent to add it as a  
24 class.

25 Five petitions have been evaluated and provided

1 for your review. They are listed here and  
2 you've taken action on -- on two of those at  
3 this meeting, Nevada Test Site and Pacific  
4 Proving Ground. And of course you've discussed  
5 and deliberated on Rocky Flats and Y-12, as  
6 well, and have touched on the starting point of  
7 your evaluation of -- of Ames.

8 Four petition evaluation reports are currently  
9 in development. Those are Blockson Chemical,  
10 Chapman Valve; the Fernald site, Feed Materials  
11 Production Center; and the Oak Ridge Institute  
12 for Science and Education.

13 We have 12 current requests to add a class to  
14 the SEC that are going through the  
15 qualification process, and in that regard we  
16 have a Bethlehem Steel request, two from  
17 Hanford, one from -- excuse me, two from Los  
18 Alamos, one from Nuclear Metals, one from  
19 NUMEC, one from Monsanto Chemical; and one that  
20 covers multiple facilities, which I will note  
21 for you is problematic because we are working  
22 with the petitioner to narrow it down to one  
23 facility, that's required by our rule; then we  
24 have three new Y-12 petitions that we're  
25 working with the petitioners on.

1 We have had 26 requests for classes to be added  
2 to the SEC which we have administratively  
3 closed. They were found not to have met the  
4 basis for a petition. They were  
5 administratively closed, that's one reason. Or  
6 they were withdrawn by the petitioners, or the  
7 facility and the class for which they were  
8 petitioning for was already in the SEC. So  
9 those are the reasons why those 26 have been  
10 administratively closed.

11 Now we'll move on to -- as part of the program  
12 update from your last meeting, you met with  
13 Bethlehem Steel and you asked that we provide  
14 you an update on six outstanding issues that  
15 were -- we had committed to develop further for  
16 you, and that's what I'm going to present here,  
17 the status of those six.

18 The first issue was whether or not the model  
19 used for 1951 and 1952 exposures were -- was  
20 appropriate, was it fully appropriate in its --  
21 in its use of all information. We have  
22 modified the site profile. That modification  
23 is now complete. 1951 and 1952 will be treated  
24 separately in the site profile and we have  
25 incorporated the adjustment factor for 1951 air

1 samples that are used as the highest data point  
2 for that year. This is all that was -- this  
3 particular issue, as you know, as the others  
4 were, were vetted in discussions with SC&A and  
5 -- and with the Board.

6 The second issue was the -- was the 95th  
7 percentile does not take into account short-  
8 term episodic exposures. From your -- you can  
9 go back into the discussion in the transcript  
10 and you'll find this is what I took from that.  
11 The Board agreed in principle, but wanted  
12 additional information about the time that was  
13 required to cut out the cobbles. And we agreed  
14 to work with Mr. Walker and stakeholders to  
15 determine if there was more information that  
16 could be uncovered about were cobbles actually  
17 cut with a cutting torch or how were they, the  
18 cobbles, dismantled and what kind of exposure  
19 would that have resulted in. And we're still  
20 working on that. We're still working with Mr.  
21 Walker to identify individuals that we can  
22 interview and gain information from about this  
23 particular work practice.

24 The third issue is -- addresses ingestion, and  
25 the site profile has been modified to

1           incorporate handling and -- ingestion intakes  
2           based upon handling of other material. It's  
3           based on an air concentration to surface  
4           contamination and surface to ingestion transfer  
5           factor, and so that's incorporated now into the  
6           site profile.

7           The fourth issue was resuspension and whether  
8           or not we had appropriately accounted for  
9           resuspension of dust from various surfaces in  
10          the floor and also the overhead structure in  
11          the plant. We have incorporated guidelines  
12          using the median value for -- of exposure for  
13          '49 through '50 and also then the median value  
14          separately for '51 and '52 to address this  
15          particular resuspension issue.

16          The fifth issue that was under study was an  
17          issue raised by workers about the extended  
18          contact with uranium, and they didn't feel that  
19          our site profile addressed this adequately.  
20          The site profile has now been modified and  
21          assumes a 1.5 millirem per hour contact from  
22          clothing contamination and a -- that is  
23          adjusted on a two-week behavioral practice of  
24          washing the clothing and results in a 1.8  
25          millirem -- or 1.8 rem per year from clothing

1                   contamination alone.

2                   **MS. MUNN:** That's very generous.

3                   **MR. ELLIOTT:** The last issue was the effect of  
4                    oronasal breathing, and this is a generic -- a  
5                    general concern across several of our site  
6                    profiles, and we're working on that still, and  
7                    we'll be bringing forward generic guidance on  
8                    this issue in the future.

9                    So Bethlehem Steel site profile has been  
10                  modified. We still have two of the six issues  
11                  that we're still working on, the cobble issue -  
12                  - we're still working with the stakeholders --  
13                  and this final issue of oronasal breathing.  
14                  And we'll be -- bring the guidance to the Board  
15                  for its deliberation at a future meeting.  
16                  Let's move on to science issues, and as you  
17                  know, we have proposed some scientific  
18                  modifications to our approaches, specifically  
19                  with regard to how we treat lymphoma cases. In  
20                  February of this year we put out a *Federal*  
21                  *Register* notice announcing that we were going  
22                  to make this change, seeking public comment.  
23                  Specifically this change responds to our  
24                  evaluation of the current scientific data and  
25                  understanding of what tissues should be dose

1 reconstructed against with regard to lymphomas.  
2 The injury of the radiation exposure can occur  
3 at different tissue sites, and we want to make  
4 sure that we're -- we're giving benefit of the  
5 doubt as appropriate to the claimants. And if  
6 we don't have that specific information, we do  
7 select the tissue or the target organ that  
8 would give them the most benefit of the doubt.  
9 We -- it's noted here that this change may  
10 result in DOL calculating higher POC  
11 determinations, so we are re-evaluating all  
12 completed claims. And I can tell you that  
13 there are around -- I believe five -- 536  
14 completed claims that are being re-evaluated  
15 right now, so these would be previously dose  
16 reconstructed claims that have been found to be  
17 non-compensable and now they're being re-  
18 evaluated against this new methodological  
19 approach.

20 **MS. MUNN:** Are you getting lots of responses?

21 **MR. ELLIOTT:** Comments? Not on this one, not  
22 that much. I think -- you can go to our web  
23 site and we have a docket open for this, and I  
24 think we've had like -- I want to say about a  
25 dozen, and they're all in favor of the change,

1 of course. And you know, questions like how  
2 will this affect my dose reconstruction, but  
3 I'm in favor of it if it helps me. That's kind  
4 of -- no real scientific --

5 **MS. MUNN:** That was my --

6 **MR. ELLIOTT:** -- debate going on about this  
7 change.

8 **MS. MUNN:** That was my real question.

9 **MR. ELLIOTT:** Thank you. We've also proposed a  
10 change to the NIOSH IREP lung cancer risk  
11 model. We published a *Federal Register* notice  
12 on March 24th, 2006, and that will be open for  
13 comment from the public until May 23rd of this  
14 year. We changed the guideline for determining  
15 the probability of causation for Energy  
16 employees with cancers of the lung, trachea or  
17 bronchus. The new guideline bec-- we made it  
18 effective on February 28, 2006 with the  
19 introduction of our new IREP version of NIOSH  
20 IREP and we did so because we wanted to start  
21 treating cases at that time. We're -- we're  
22 still involved in public comment and we  
23 recognize that, and we'll address those  
24 comments as they come in. And here again, I  
25 don't know that I see a lot of public -- or

1 scientific concern or interest with this  
2 change. This change is -- I remind you is in  
3 concert with what the NCI IREP had provided,  
4 and we find it to be claimant-favorable.  
5 Now I give you some of the typical graphics  
6 that we talk about when we give you our program  
7 update. The blue line in this graph are cases  
8 received from the Department of Labor. The  
9 green line shows those draft dose  
10 reconstruction reports that we have provided  
11 back to claimants. And the red line shows  
12 those final dose reconstruction reports that  
13 have been sent on to DOL. And you can see that  
14 -- I think very clearly that we're working off  
15 our backlog. Not as quickly as I want, but  
16 we're -- we're picking up the pace.  
17 With regard to how we're standing with our  
18 support from the Department of Energy on  
19 exposure record requests, these -- each claim  
20 has -- as soon as we get a claim from the  
21 Department of Labor, we send a request for any  
22 dose-related information, whether it's badge-  
23 related, TLD or bioassay, breath analysis, lung  
24 count data, whatever they have acquired on an  
25 individual for that claim, we ask them for

1 provision of that to us. I remind you that we  
2 don't use annual summaries. We want the raw  
3 data, the raw information, the raw count  
4 numbers.

5 Right now we have a number of 274 outstanding  
6 requests, and of that number 81 are greater  
7 than 60 days. And I'll just jump in here and -  
8 - maybe for the sake of timeliness 'cause I  
9 know I'm going to get this question. Of those  
10 81 claims that are over 61 days, the Boeing  
11 Company out in Santa Susana are our worst  
12 offender there. We have 40 of the 81 that we  
13 are persistently watching and monitoring  
14 progress -- or lack of progress on those  
15 claims. And these numbers do change. It's not  
16 the same claim numbers in some instances. In  
17 some it is. And so we're monitoring that very  
18 closely. I have staff who provide OCAS and  
19 ORAU and Battelle and DOE and the site contacts  
20 at DOE a report every 30 days on where these  
21 things stand. And she also tics off those that  
22 seem to be problematic in some way and we fire  
23 letters off to DOE, and we're working with DOE  
24 to make sure that we have the information we're  
25 requesting.

1           The biggest -- next biggest problem child would  
2           be the Ohio Field Office, which covers  
3           specifically Fernald, Mound and Battelle, the  
4           King site, and West Jefferson Street site. And  
5           so there's 23 cases there where they are over  
6           60 days in response. And then the rest of the  
7           remainder are distributed across a variety of  
8           sites.

9           Right now we have 4,734 cases in what we call  
10          pre-dose reconstruct or assignments --  
11          development, screening. These are where we're  
12          gaining information, we're trying to triage the  
13          case load and determine how best they can --  
14          they can be reconstructed, what tools should be  
15          used.

16          We have 1,273 cases currently assigned with a  
17          dose reconstructor. This was as of March 31st.  
18          These numbers have changed, I'm sure, but the -  
19          - there are 749 draft reports sent to the  
20          claimants. We have, as I told you earlier,  
21          completed 12,715 that have been sent to DOL for  
22          decision.

23          Give you another graphic here. As you know, we  
24          assign a tracking number to our claims.

25          Whereas the Department of Labor uses a Social

1 Security number, we use a tracking number and  
2 we use this number in various ways, but here's  
3 one way that we use it. We try to look at, by  
4 1,000 increment cases, where we stand in the  
5 completion of those cases. And of course we  
6 are looking at the oldest cases and trying to  
7 work those off our books before we deal with  
8 those that are down in the 21,000 range. And  
9 you can see what's going on there.

10 The blue cases are those that are completed.  
11 The red cases are those that have been pulled  
12 or administratively closed. And the green  
13 cases are those that have been pended. Again,  
14 I'll remind you pended -- the construction  
15 workers is an example. There are a variety of  
16 reasons why a case might be pended. For  
17 technical reasons, it could be pended because  
18 we're -- we're hearing from DOL that they're  
19 developing further information on the claim and  
20 we don't need to be expending our resources  
21 doing dose reconstruction until they provide us  
22 that additional development, whether it's  
23 another cancer or additional employment. And I  
24 think I've explained cases pulled and cases  
25 administratively closed, so I won't -- unless

1           there's questions, I won't belabor that point.  
2           This is just to show you how many cases and by  
3           -- by month from the start of our dose  
4           reconstruction experience how many cases we  
5           have administratively closed. I think perhaps  
6           at the next meeting I'm going to add something  
7           to this slide that will show you how many we  
8           have re-opened and then re-closed with a --  
9           with a final decision, 'cause there are some of  
10          those that are happening now. They're coming  
11          back to us and saying well, I do want a  
12          decision, or I've got additional information  
13          and we complete the dose reconstruction and  
14          move the claim on. And so -- but this gives  
15          you a sense that it's -- it's not a lot.  
16          Reworks, I think this is my last slide.  
17          Reworks -- here again, you -- you may have  
18          heard me mention this -- I don't know which day  
19          it is now or which day I said this earlier in  
20          the week, but the reworks that are returned to  
21          us from DOL based upon a need to redo the dose  
22          reconstruction for a variety of reasons -- it  
23          can be additional cancers, it can be additional  
24          employment that's been developed, or it can be  
25          a technical issue with how we did the dose

1 reconstruction, a complaint or appeal point on  
2 -- we didn't factor something in. And as you  
3 see here, we're running about a 9.8 percent  
4 rework return rate, and I said earlier in the  
5 week that less than two percent of those are  
6 really technical reworks where we have to  
7 rework the case because we didn't account for  
8 something in a dose reconstruction we should  
9 have. So the seven percent -- almost seven  
10 percent is due to additional employment or  
11 additional cancer.

12 And I think that concludes my presentation.

13 I'd --

14 **DR. ZIEMER:** Yeah, very good, Larry.

15 **MR. ELLIOTT:** -- questions.

16 **DR. ZIEMER:** Let's see if there's additional  
17 questions now. Jim?

18 **DR. MELIUS:** I did cross off the DOE question.

19 **MR. ELLIOTT:** I didn't anticipate the other  
20 one, though.

21 **DR. MELIUS:** Yeah. Well, first there's a  
22 comment and it was a slide you put up reminded  
23 me of -- we're talking about possible sites.  
24 One that might come to mind that we might be  
25 ready and -- in terms of a -- these are the

1           ones that -- where we've had SEC petitions that  
2           are currently under evaluation. Chapman Valve  
3           I think is in Springfield, Massachusetts area,  
4           and I believe there's a fair number of cases --  
5           not a huge -- it's a huge facility. It's --  
6           this -- the AEC part of it was small, so atomic  
7           weapons part of it was small, so -- but I think  
8           there's been some public meetings there, some -  
9           - some interest. Richard Miller will invite  
10          you to his -- all of us to his house for dinner  
11          -- lives up there, he lives near there, but  
12          that might be someone -- Springfield area we  
13          may want to think about. Hartford airport's  
14          not that far away -- Hartford/Springfield  
15          airport -- doing that. And then -- and I don't  
16          know, at some point Cincinnati -- I think  
17          Fernald under-- at least my guess from the size  
18          of the infor-- amount of information and so  
19          forth, it's going to take some time before  
20          you're ready to -- I'm not sure that'll be  
21          ready by September, but we -- we may want to  
22          think -- put Cincinnati on the list of a place  
23          to visit. And then the final place -- a little  
24          bit of a question -- this, but came up during  
25          the Congressional hearing, it's Rocketdyne.

1           **MR. ELLIOTT:**   Rockedyne --

2           **DR. MELIUS:**   Yeah.

3           **MR. ELLIOTT:**   -- out in California?

4           **DR. MELIUS:**   Yeah, out in California and so  
5           forth.  Certainly the Congressman out there was  
6           interested and I understand there's been some  
7           delays related to issues of -- of which parts  
8           of the facility were -- were covered and so  
9           forth, which I -- I think's delayed, but again  
10          might be a possibility for --

11          **DR. ZIEMER:**   Have we had claims from Rockedyne?

12          **MR. ELLIOTT:**   Yes, we have.

13          **DR. MELIUS:**   Yeah.

14          **MR. ELLIOTT:**   And if I can help you out there a  
15          little bit in this regard, the Chapman Valve  
16          evaluation report, it's our full intention to  
17          meet the 180-day mark there, and that will be  
18          due May 8th --

19          **DR. MELIUS:**   Okay.

20          **MR. ELLIOTT:**   -- to you.  We hope to get that  
21          in your hands May 8th and meet our deadline  
22          there.  The Fernald -- Fernald petition didn't  
23          qualify till April 6th of this year, so 180  
24          days or six months, you've got a -- we've got a  
25          while for that.  Let me see, we've got the Oak

1 Ridge National Institute for Nuclear Studies,  
2 ORINS, and that is -- that's due -- that's  
3 imminent, I think we're -- probably next week,  
4 due for that one. It qualified on October 6th  
5 of '05, so maybe we're over -- a little bit  
6 overdue on that.

7 **DR. WADE:** Just -- when you mention Chapman  
8 Valve, then you said May. It's quite possible  
9 that the workgroup on SEC petitions might want  
10 to consider that evaluation report when it  
11 comes out and decide what it might want to do  
12 in terms of having SC&A look at it.

13 **DR. MELIUS:** Okay. Yeah, that's a good...

14 **MR. ELLIOTT:** We also have Blockson Chemical.

15 **DR. MELIUS:** Yeah.

16 **MR. ELLIOTT:** Blockson Chemical was qualified  
17 in March of this year, so --

18 **DR. MELIUS:** Where -- is that Joliet or where's  
19 -- where's --

20 **MR. ELLIOTT:** It's around there somewhere.

21 **DR. MELIUS:** Yeah, that -- so that'd be the  
22 Chicago area, so be another -- it's like --  
23 it'd be helpful -- Chapman -- well, depends on  
24 the report and our evaluation whether we'd --

25 **DR. ZIEMER:** We could pick up a couple in the

1 Chicago area 'cause Argonne National Lab of  
2 course is a big site, and I don't know if  
3 Batavia has any eligible people. They're  
4 probably too new, the accelerator.

5 **DR. MELIUS:** Anyway, just so I have some  
6 questions. One is just back to -- not to get  
7 into a debate or -- or whatever but just to  
8 point out, in Dr. Ringen's defense, I do  
9 believe the 5,000 pending case -- construction  
10 case figure came -- at least was based on some  
11 information from another source within ORAU or  
12 NIOSH, and I think the best way to resolve this  
13 is a full report so -- at the next meeting, so  
14 let's move -- move forward on that -- that  
15 basis and so forth. And do that.

16 The -- and I appreciate the update on Bethlehem  
17 and making progress, so I'm not sure Mr. Walker  
18 will be as pleased, as always, but I'm glad  
19 you're making progress and following through on  
20 that.

21 One of the issues that's come up in public  
22 meetings, and I'm not saying it's a huge  
23 problem and so forth but it's certainly a  
24 difficult one, embarrassing one in some ways,  
25 and that's cases where there are errors in

1 terms of the organ -- communication errors with  
2 the -- with the claimants or years worked that  
3 don't -- you know, where your records don't  
4 match what the records that the claimant has  
5 and so forth. And I would view these more as  
6 sort of QA/QC problems that -- that go along.  
7 And we really -- at one point several years ago  
8 we had a -- a working group that looked at that  
9 issue, and met with you and so forth 'cause  
10 Tony Andrade, myself, I forget who else was  
11 part of that, but reviewed. And maybe some  
12 thought that that would be a topic for  
13 presentations --

14 **MR. ELLIOTT:** We certainly would -- I would  
15 welcome the opportunity to present to you on  
16 our quality control program. But I'd offer  
17 this. What you heard last night, what you  
18 heard in Oak Ridge about the discrepancies in  
19 communication were not ours. These are DOL  
20 letters.

21 **DR. MELIUS:** No, no, I -- I --

22 **MR. ELLIOTT:** Pete and I talked about this.

23 **DR. MELIUS:** No, I understand, but there have  
24 been --

25 **MR. ELLIOTT:** I have no control over what they

1 cut and paste.

2 **DR. MELIUS:** Yeah, I -- I think we understand  
3 that, it's just that there -- there have been  
4 other instances where it's been NIOSH issues  
5 and so forth, and I'm not speaking to the  
6 particular instances, but I'm just thinking in  
7 terms of timeliness of us --

8 **MR. ELLIOTT:** Sure.

9 **DR. MELIUS:** -- addressing that issue again  
10 'cause I think it's good --

11 **MR. ELLIOTT:** We would be happy to present on  
12 quality control/quality assurance.

13 **DR. MELIUS:** Yeah, be good, 'cause I -- I  
14 suspect it's changed and improved since we  
15 looked at it, and that -- that would be good.  
16 My --

17 **DR. ZIEMER:** Well, let me interrupt there for  
18 just a minute, too, because in thinking about  
19 that yesterday I wondered -- and I don't know  
20 the answer to this, but I wondered to what  
21 extent our own contractor is focusing so much  
22 on the technical issues that perhaps is not  
23 looking at did they record -- do they have the  
24 right starting information and so on, which is  
25 part of an audit, as well. And per-- I think

1 most of the -- well, maybe -- Hans, you're  
2 still here. Do you guys look at that at all?  
3 You know, do they have the right dates and so  
4 on? Are you still looking at that? I couldn't  
5 remember whether you were or not 'cause we --  
6 we tend to focus on all the more technical  
7 issues.

8 **DR. MELIUS:** Yeah, that -- that --

9 **MS. MUNN:** They have a task.

10 **DR. MELIUS:** They -- they -- they do that, and  
11 I think they pointed out some small  
12 discrepancies that -- that are questions about  
13 -- certainly have arisen about that. To me,  
14 it's the type -- I don't think we necessarily  
15 would want them to focus on that, which might  
16 require a different kind of sampling and  
17 evaluation --

18 **DR. ZIEMER:** No, but if they're already doing  
19 it --

20 **DR. MELIUS:** Yeah, they -- they certainly  
21 should include it, I agree, and I think it's  
22 more how sort of NIOSH does its QA and QC in  
23 this issue.

24 **DR. ZIEMER:** Roy, any comment on that?

25 **DR. DEHART:** Yes, just a question. When there

1 is DOL error, is there feedback to them? Are  
2 they aware that we may be picking up something  
3 or a claimant is?

4 **MR. ELLIOTT:** Well, I -- I know Jeff was here  
5 in the audience last night. I'm sure he took  
6 notes of that. I know that Pete's been made  
7 aware of what we heard in Oak Ridge. In fact,  
8 I pulled a lady in Oak Ridge aside to -- 'cause  
9 I was very concerned. If you recall her  
10 remarks, she was given a dose reconstruction  
11 report with the wrong cancer and the wrong SSN,  
12 so when I looked at the report, it was not our  
13 dose reconstruction report. It was Pete's  
14 letter or his District Office letter informing  
15 them of the decision. So you know, I recog--

16 **DR. WADE:** Just for the record, I forget the  
17 young lady's name from DOL who was at the  
18 meeting, but she went right up to that lady and  
19 made contact --

20 **MR. ELLIOTT:** Yeah.

21 **DR. WADE:** -- immediately.

22 **MR. ELLIOTT:** Yeah.

23 **DR. WADE:** Uh-huh.

24 **MR. ELLIOTT:** Yeah, we're -- we're -- we share  
25 these things, and I'm sure Jeff took notes last

1 night. We're trying to be coordinated on this.

2 **DR. ZIEMER:** Thanks. Go ahead, Jim, you were

3 --

4 **DR. MELIUS:** Yeah, and my --

5 **DR. ZIEMER:** -- one other.

6 **DR. MELIUS:** -- my final questions, I believe  
7 at the tail end of our last meeting there was  
8 some -- some work that SC&A reported on some  
9 doses where there appeared to have been some  
10 overestimates on their doses, and you were  
11 going to do some follow-up, Larry, and I'm just  
12 trying to get an update on where that stands.

13 **MR. ELLIOTT:** And I was expecting that to be a  
14 point of discussion in the review of the fourth  
15 round, and I'm sure it will be, but yes, we  
16 have looked at that very carefully. This was  
17 an instance in a point in time where we were  
18 working very hard to complete cases as fast as  
19 we could and we were trying to be as timely as  
20 we could. We chose to use a methodology that  
21 would -- was intended to be an overestimating  
22 methodology to show non-compensability, and it  
23 got used in the wrong way and we found some  
24 quality control issues and how we reported that  
25 in some of the -- some of the dose

1 reconstruction reports, and it was not clear  
2 that our methodology was being appropriately  
3 used. And we're very cognizant of that. We  
4 know exactly how many of those cases were done  
5 that way. We're looking carefully at the  
6 report language and we'll be going back and  
7 making any changes as we need to for those  
8 individual reports. I'll have better -- better  
9 statistics and details on where we stand with  
10 that when we take that up in the fourth round  
11 review.

12 **DR. MELIUS:** Okay. Thanks, Larry.

13 **DR. ZIEMER:** Wanda?

14 **MS. MUNN:** You know, sometimes I think we may  
15 see these reports as -- as of primary interest  
16 to us, and certainly the kind of report that  
17 Larry just gives us in -- can be easily  
18 segregated into two things. One of them is  
19 where are we with cases and how is the daily  
20 work progressing that the public sees. And the  
21 other is where are we with SECs and -- and site  
22 profiles, things that I think of as internal  
23 Board activities. We're more interested in  
24 that than anything else. But it strikes me --  
25 didn't we earlier in our program sort of as a

1 matter of course have both NIOSH and Labor do  
2 some -- some graphs and here's where the whole  
3 program is, up front, earlier, so that -- that  
4 the public and the petitioners who were there  
5 had an opportunity to see where we were --

6 **DR. ZIEMER:** Yeah, actually it used to be at  
7 the front end of the program. I think what has  
8 happened here was taking into consideration I  
9 believe the concern about having quorums for  
10 the vote. Is that not the case, Lew, sort of -  
11 -

12 **DR. WADE:** Right, although -- I mean I think  
13 Wanda's point is well made.

14 **DR. ZIEMER:** Yeah, it certainly would be useful  
15 for the general public to hear some of these  
16 figures.

17 **MS. MUNN:** I really think it's just crucial for  
18 them to see this. We -- we have -- we have  
19 public meetings where we do everything we can  
20 to get as many people here and to tell us what  
21 their concerns are. But one of the overriding  
22 concerns appears to always be you're not moving  
23 fast enough and you're not doing things we feel  
24 that you ought to be doing. But if they don't  
25 see the progress numbers, if -- if we hold this

1                   closely into -- to a little group --

2                   **DR. ZIEMER:** I think that's an excellent point.

3                   **MS. MUNN:** I really -- I can see how Larry's  
4                   report -- that -- that type of report can  
5                   easily be divided into two things. But the --  
6                   the overall program report seems to me, both  
7                   from NIOSH and Labor, would do very well to go  
8                   up front.

9                   **DR. ZIEMER:** Thank you.

10                  **DR. WADE:** If I either remember or find my note  
11                  that I just made, that's what I'll do.

12                  **DR. ZIEMER:** We'll remind him.

13                  **DR. WADE:** And if you remember to remind me.

14                  **DR. ZIEMER:** It's been -- it's interesting,  
15                  because we used to have two-day meetings, also.

16                  **MS. MUNN:** Yes, yes.

17                  **DR. ZIEMER:** And we are packing more and more  
18                  into our meetings, and in the press for time I  
19                  think this has occurred. I think the point is  
20                  a good one in terms of the fact that the  
21                  general public is more likely to be around at  
22                  that point and have the opportunity to sort of  
23                  get an overview of what's happening.

24                  **MS. MUNN:** And there's a great -- an enormous  
25                  impact in the enormity of the final numbers, as

1 well. The perception that claims are not being  
2 paid cannot continue to be made in the light of  
3 -- of the millions of dollars that have already  
4 gone out.

5 **DR. MELIUS:** Yeah.

6 **DR. ZIEMER:** Jim.

7 **DR. MELIUS:** Yeah, only my recollection -- and  
8 it may be wrong -- is that we used to provide  
9 some of that information as a handout sheet or  
10 something for the public meeting portion, the  
11 evening meeting, and I frankly haven't been  
12 paying attention recently as to whether that's  
13 been done, but -- but that may be another way  
14 of getting the information out 'cause a lot of  
15 the people that are at the evening meeting are  
16 not the people at the -- during the daytime.

17 **DR. ZIEMER:** Well, that's certainly true, and  
18 of course the information is available on the  
19 tables, but I don't believe we ever had the  
20 presentation at the evening meetings.

21 **MR. ELLIOTT:** We didn't do the presentation,  
22 but I can assure you that my slides have always  
23 been on the table at the start of the meeting,  
24 so --

25 **DR. MELIUS:** But I would say -- you know, we

1           may want to format it a little bit more --  
2           friendlier to the public rather than as slides,  
3           and have some sort of a handout available and -  
4           - and actually hand it out, draw attention to  
5           it. How much time we spend on it may be a  
6           separate issue, and it's not separate from what  
7           gets presented, but -- we don't want to change  
8           how we present it or anything, but I think some  
9           more active outreach at -- at those meetings  
10          would be -- in that way would be -- in an  
11          educational sense would be helpful. I know  
12          Larry has staff here. DOL at times has had  
13          staff at these meetings that help people with  
14          claims issues and -- and so forth, so I think  
15          that's another important part of a -- of that.

16          **DR. ZIEMER:** Let me suggest something you might  
17          think about and that is to have a truncated  
18          version of these reports that we might include  
19          in public comment period as -- at the  
20          beginning, kind of an overview of -- so people  
21          can see, you know, where does Rocky Flats fit  
22          into the scheme of things, what else is going  
23          on.

24          **MR. ELLIOTT:** Two or three slides.

25          **MS. MUNN:** Uh-huh.

1           **DR. ZIEMER:** And I think it may also help  
2 people understand perhaps that not all of this  
3 can be done at one time.

4           **MR. ELLIOTT:** Yeah, if that's what you want,  
5 I'm sure I can --

6           **DR. ZIEMER:** Well, let's give it some thought  
7 as to how -- obviously the people have not come  
8 to hear us give lengthy papers. But a five or  
9 ten-minute capsule at the beginning, overview  
10 of --

11          **MR. ELLIOTT:** Two or three slides I think would  
12 --

13          **DR. ZIEMER:** -- might be a good way to kick off  
14 -- we might think about that as formatting the  
15 meeting next time, and then go from there.

16          **MR. ELLIOTT:** Very good suggestions, I  
17 appreciate hearing this. And I would be remiss  
18 if I didn't comment on the -- on the staff that  
19 are here that you probably didn't see this  
20 time. I know in Oak Ridge you saw them 'cause  
21 they were -- we were all cramped together in  
22 the entryway aisle and that presented us some  
23 problems with Privacy Act concerns. But staff  
24 were here. We had two health physi-- or two  
25 public health advisors here who had scheduled

1           appointments. They worked a 10-hour day, plus  
2           the meeting yesterday. I believe they saw on  
3           order of about 85 claimants this time.

4           We were also doing -- we -- we have -- at the  
5           next meeting I'll give you a little bit more on  
6           my program report about our communication  
7           efforts. Right now we have some increased  
8           efforts on communications. We're revising the  
9           dose reconstruction report, hopefully to make  
10          it more reader-friendly and understandable. I  
11          want to be able to just tell you where we're at  
12          on that.

13          We're upgrading our web site. I want to be  
14          able to tell you what's going on with that.  
15          There is so much information on our web site  
16          right now it's hard to navigate, it's hard to  
17          find, and I want to take an opportunity to  
18          point folks to some tools that exist or will  
19          exist on the web site that will enable people  
20          to find things that they want to see.

21          **DR. ZIEMER:** Good.

22          **MR. ELLIOTT:** Also I want to -- I want to make  
23          note of what goes on in these interviews with  
24          claimants. Yes, they are talking about  
25          individual claims, but they're equipped to

1           answer questions like how many cases have you  
2           done, so they have my presentation, they're  
3           able to point to it. They're -- they're  
4           equipped to bring a technical question out here  
5           and bring it in front and get a health  
6           physicist, bring -- you know, Stu or LaVon or  
7           whoever's here, Jim -- and take them back and  
8           answer their technical questions if they don't  
9           feel comfortable and confident in responding on  
10          that regard.

11          So I'll -- I'll factor that into my  
12          presentation for you next meeting to tell you  
13          what all we're doing in communications.

14          **DR. ZIEMER:** Good. Another comment, Jim?

15          **DR. MELIUS:** No, actually a question 'cause  
16          Larry reminded me of it -- that's on the web  
17          site. Are the Battelle conflict of interest  
18          information posted for the dose reconstructions  
19          that they're doing? 'Cause I actually looked  
20          for it a while ago and it was -- I had trouble  
21          finding it.

22          **MR. ELLIOTT:** It wasn't there probably a month  
23          ago.

24          **DR. MELIUS:** Okay.

25          **MR. ELLIOTT:** I think around two weeks ago we

1 got their link. The way we have to operate in  
2 this regard is that the contracting entity has  
3 to have on their web site the disclosure  
4 statements --

5 **DR. MELIUS:** Right.

6 **MR. ELLIOTT:** -- and they were putting that in.  
7 We have to have a link then that takes you  
8 there. We do have and did have the Battelle  
9 conflict of interest policy, which is  
10 essentially the same as SC&A's. And we have  
11 been working with Battelle and ORAU and EG&G,  
12 which is another contractor you haven't heard  
13 much about, but EG&G provides Jim's staff or  
14 the science staff technical support in the  
15 science arena. So they're -- they're back  
16 crunching numbers and doing various things, but  
17 we want to make sure that they address their  
18 staff with full disclosure and abide by the  
19 conflict of interest policy, as well. And so  
20 EG&G will have a link on our site, too, very  
21 shortly. They're not up there right now, I  
22 don't believe.

23 **DR. MELIUS:** Okay, good.

24 **DR. ZIEMER:** Thanks. Other question --  
25 comments?



1           there was 18,526 payments, in excess of \$1.46  
2           billion dollars. Now in addition -- and then -  
3           - you know, in addition, nearly \$100 million in  
4           medical benefits. And then if you go over and,  
5           you know, look at the Part E statistics --  
6           which Part E has only been in existence now for  
7           a little bit over a year -- you know, we've  
8           paid over \$300 million in Part E already.  
9           One of the -- on the -- under the section on  
10          compensation of the NIOSH cases, you know, it's  
11          showing \$373 million have been paid to 3,521  
12          individuals. But something that needs added on  
13          there, you know, that only includes cases for  
14          which a dose reconstruction was done. So we  
15          have about 1,000 new SEC cases that are being  
16          paid, so really you need to add about another  
17          \$150 million onto that. So in round numbers,  
18          it's about a half a billion dollars now has  
19          been paid directly from the work that, you  
20          know, NIOSH has accomplished.  
21          And just -- just some of the other points, in  
22          Part B, you know, we had 73,000 cases, which is  
23          about -- or 73,000 claims. It's about 52,000  
24          cases involved. And in our District Office  
25          over 40,000 -- nearly 41,000 have recommended

1 decisions and another 11,300-some are what we  
2 call pending. So that would include cases that  
3 are at NIOSH, plus our normal work flow. And  
4 we normally have about a two-month to three-  
5 month backlog -- or working inventory of -- of  
6 cases, you know, that -- that fall into that  
7 category.

8 And we show pending at NIOSH 7,900. Now that's  
9 a little bit different because in our pending  
10 at NIOSH, if it goes -- because of the way our  
11 -- you know, the system works and we get the  
12 counts, if a case goes back for a rework, then  
13 that gets counted back in, you know, as a case  
14 that's -- that's at NIOSH.

15 And under final decisions in our claims, I  
16 think it's an interesting point and it's  
17 something that will be going away now. If you  
18 notice that under final decisions denied, over  
19 29,000 denied, almost 11,000 of those were non-  
20 covered conditions. We had an awful lot of  
21 cases that were asbestosis, COPD, that was  
22 filed under Part B. Now that'll go away now  
23 because we no longer have people file under B  
24 or E. They merely file a claim now. Yeah, so  
25 if it's a DOE facility, you know, and it's a

1 cancer, then it gets -- a cancer or beryllium  
2 disease or silicosis, it gets a B -- we just  
3 write the decision, and the decision will say,  
4 you know, whether it's denied -- approved or  
5 denied, and then benefits. You know, you're  
6 entitled to certain benefits under B and  
7 certain benefits under E. So that's -- the  
8 only way -- a claimant can still insist, and we  
9 do have claimants that insist, no, I want it  
10 evaluated under B, also. Then we would have to  
11 take that case and, you know, issue a denial  
12 for non-covered condition. So that -- that  
13 number will -- you know, for all intents and  
14 purposes, under the B statistics, should  
15 disappear in the future.

16 The NIOSH referrals, our count is near 21,000  
17 with 12,000 -- over 12,300 returned with dose  
18 reconstructions. Another 1,101 returned where  
19 dose reconstruction not required, so that would  
20 include the -- the ones that are pulled for,  
21 you know, an SEC.

22 And then there's the breakdown, the cases with  
23 recommended decisions -- you know, 3,000 to  
24 approve, 8,200 to deny. And then those that --  
25 those gone all the way to a final decision,

1           2,567 to approve, 7,000 to deny.  
2           One of the other points that I wanted to make,  
3           the issue that when -- that came up about  
4           Boeing, to give you a little update on that,  
5           there was a delay, and I think -- you know, the  
6           cases were pended with NIOSH and it's probably  
7           why DOE, you know, was slow on responding. The  
8           issue was that DOE -- and Boeing was -- was  
9           basically interpreting -- the Santa Susana  
10          Field Laboratory is kind of a inter-- a mixed  
11          campus, and DOE had a portion in what's called  
12          Area Four. Well, after the amendment and after  
13          our regs came out, the -- it's now DOL's  
14          determination of what is a DOE facility.  
15          Now Boeing was interpreting that only people  
16          were covered were those that were in that area  
17          that were actually working on DOE projects.  
18          Well, but that's not -- that doesn't fit with  
19          the real definition of a DOE facility. And so  
20          now we've come out and all of Area Four is a  
21          DOE facility, so there were a lot of people  
22          that Boeing and -- and DOE were saying were not  
23          covered that now are covered, and that probably  
24          amounts to some of the delay. And in fact, on  
25          May 9th I'll be meeting -- I'm going to a

1 meeting out there with some of the groups, and  
2 one of them is Boeing, in order to, you know,  
3 let them understand better about the program  
4 and what our definition was and so, you know,  
5 their response hopefully will, you know, start  
6 to improve after -- after they have some of  
7 that understanding.

8 On -- on the issue -- you were talking about  
9 looking at the dates -- you know, the dates  
10 don't match.

11 **DR. MELIUS:** Uh-huh.

12 **MR. TURCIC:** One caution there, the dates have  
13 to match what is accepted employment.  
14 Oftentimes what's on the claim form will not  
15 match what is in the dose reconstruction or the  
16 decision because sometimes, you know, some of  
17 that employment may not be covered. I mean we  
18 had a lot of people that were -- they might  
19 have had time as a subcontractor, for example,  
20 at an AWE. That doesn't count. So even though  
21 their employment, you know, may be longer,  
22 really what needs to match is what is in the  
23 dose reconstruction and what is in what we send  
24 as the NIOSH referral document, which means  
25 that here is the employment that is actually

1 covered. And -- and again, those often are  
2 quite different.

3 And with that, I think if -- if there are any  
4 questions --

5 **DR. ZIEMER:** Thank you, Pete, and actually I  
6 think the Rocky slides -- Rocky Flats slide  
7 that you didn't mention --

8 **MR. TURCIC:** Oh --

9 **DR. ZIEMER:** -- would have been very  
10 interesting to the folks here tonight (sic) and  
11 is interesting to me. I certainly didn't  
12 realize that basically \$22 million in claims  
13 has already been awarded to Rocky Flats  
14 workers. That probably would have come as a  
15 surprise to many of the folks here last night.  
16 Other comments or questions? Yes, Michael?

17 **MR. GIBSON:** Pete, you mentioned about the --  
18 the Boeing facility and that you've made a  
19 determination that everyone at the site's  
20 covered, you know, if the -- not --

21 **MR. TURCIC:** The entire Area Four at the Santa  
22 Susana Field is the DOE facility.

23 **MR. GIBSON:** But didn't -- if -- did I hear you  
24 right to say that they thought just the people  
25 working on DOE projects were covered, but in

1 fact everyone there --

2 **MR. TURCIC:** Yes. See, there was intermixed --  
3 at Area Four there could have been people --  
4 Rockedyne and -- it was kind of an intermix,  
5 and a lot of people used the word Rockedyne for  
6 the facility. But to explain what that really  
7 was, the -- and to make the determination of  
8 what the DOE facility was, you have to go back  
9 to the contractor. And see, the contract was  
10 with North American Aviation and not Rockedyne.  
11 Really there's no such thing as Rockedyne.  
12 It's merely a division of North American  
13 Aviation. So what we were getting back on  
14 employment when we would -- when we would send  
15 for employment, basically we would get back yes  
16 and no from DOE -- really from Boeing through  
17 DOE, and so then when these issues came up we  
18 started asking for -- you know, and looking  
19 behind that, and basically what was behind that  
20 was anybody who was listed as Rockedyne was  
21 automatically kind of excluded like they -- but  
22 they were actually doing the work, because the  
23 contract also allowed, you know, them to use  
24 anybody at the facility to do the work. So now  
25 that's all been resolved.

1           **MR. GIBSON:** Okay. I -- I don't know if you're  
2 aware and I just wonder how you guys have or  
3 would interpret this. Of the accelerated  
4 clean-up sites -- I mean I know Rocky's turned  
5 into a wildlife refuge, but Mound is going to  
6 be an industrial park. We've demolished some  
7 buildings. Some buildings we've decontami--  
8 they've decontaminated now and are co-inhabited  
9 by private businesses, but it's still a DOE  
10 facility until the clean-up is finished and the  
11 work is done, and there's a -- and it's deeded  
12 over to the city. So would these private  
13 employers be covered under this --

14           **MR. TURCIC:** On-- only if -- that -- that's a  
15 good point. They would be if there was a  
16 contract with DOE for them to do operation or  
17 maintenance.

18           **DR. ZIEMER:** Interesting. Pete, in the case we  
19 heard last night where the woman pointed out  
20 that her husband's claim record showed that he  
21 started two years earlier than he actually did,  
22 was she misunderstanding or misinterpreting  
23 that, or --

24           **MR. TURCIC:** I would have to look at the  
25 specific case, but -- but -- oh, we've had

1           that. We have had -- that is not uncommon.  
2           Probably the biggest one that I've heard of was  
3           -- ended up being like an addition of 17 years.  
4           But here it was -- the wife knew nothing about  
5           that 17 years, and when we went and started  
6           doing the employment verification, we found  
7           that there was significant employment prior to  
8           the -- the -- you know, the spouse even  
9           knowing.

10          **DR. NETON:** I -- I could speak briefly to  
11          that. There are situations that we find where  
12          the Department of Labor will send us the start  
13          of covered employment and we will go back and  
14          get the records and we'll find bioassay samples  
15          from maybe two years prior to the start. And  
16          usually what happens there is the person may  
17          have started as a subcontractor for those two  
18          previous years and then hired on at the  
19          facility and -- and those subcontractor -- is  
20          not covered, so it would appear to be a  
21          difference in the employment history that is  
22          explained.

23          **DR. ZIEMER:** Uh-huh.

24          **DR. MELIUS:** It just -- my point was not to  
25          make any accusations of who was responsible or

1 anything, it was more -- more of the QA/QC  
2 thing. There ought to be something in the  
3 system that would, you know, notate that or  
4 explain that and just -- to make sure that gets  
5 -- that gets carried through. We're -- we're -  
6 - and some of that's the communication between  
7 NIOSH and -- and DOL on -- on these issues and  
8 that's --

9 **MR. TURCIC:** Well -- well, a lot of it. I'll  
10 tell you what a lot of it is, and a lot of it  
11 is that, you know, in the last six months we  
12 hired 200 new claims examiners. And you know,  
13 when -- when we're -- at the rate we're making  
14 decisions now -- you know, for the last few  
15 months, we've been issuing in the neighborhood  
16 of anywhere from 1,000 to 1,300 recommended  
17 decisions a week. And there is a lot of cut  
18 and pasting going on and we -- we -- we're  
19 always working on that. And it's useful to  
20 hear, you know, issues. Like some of the  
21 issues that I heard of was the issue on when  
22 some claimants are getting letters under Part E  
23 asking for their doctor to make a  
24 determination. Well, really what that is, and  
25 maybe it's not clear in the letter and we need

1 to, you know, take a better look at that. All  
2 they're doing is giving the claimant the  
3 opportunity for their physician to make some  
4 link. And a lot of times it's some illness  
5 that there is no known, you know, occupational  
6 exposure and -- but to give the due process,  
7 we're giving the opportunity, you know -- if  
8 your physician can -- we can't find anything  
9 that's -- you were exposed to that explains  
10 this illness. If your physician wants to give  
11 a rationale, then that's needed.

12 The other -- the other issue on the 30 days  
13 that -- that seems to be -- and these are  
14 really starting to take off now -- are --  
15 claimants have an option to get their  
16 impairment ratings done. We give them an  
17 option. One, they can -- they can choose to go  
18 to anybody they want and have an impairment  
19 rating done and submit it. And if it meets the  
20 criteria, we would use that and issue a  
21 decision. Or they can choose to have certain  
22 tests done that they can go get done anywhere,  
23 and then we would have the impairment rating  
24 done for them. One of the letters that go out  
25 -- when that letter goes out, it -- it tells

1           them -- see, we have no idea, especially on the  
2           25,000 claims that we got from DOE, we have no  
3           idea -- are they really claiming impairment.  
4           We've made a causation decision. We said okay,  
5           this illness is caused, but we don't know  
6           whether they're claiming wage loss or claiming  
7           impairment. So a letter goes out that says we  
8           need to know if you're claiming impairment.  
9           Now if you want to get your -- and we need that  
10          -- we're asking for that in 30 days. If you  
11          want to get your -- your own tests done, here  
12          are the tests -- you know, asbestosis, here are  
13          the pulmonary function tests that you need to  
14          get and all that. And -- I mean we realize  
15          that that's not -- you can't make an  
16          appointment with a doctor and get in to see  
17          them that quickly, so there's some -- and we  
18          need to polish our -- our letters to -- to do a  
19          better job.

20          There's a lot of confusion, for example, when  
21          people get the OCAS-1 and -- about -- well, if  
22          they disagree with it, where can they appeal  
23          it. So we have a draft that we're about ready  
24          to send to Larry of -- coming up with a flyer  
25          that we're -- you know, that could be included

1 and then the same thing on a recommended  
2 decision. You know, the flyer would say you're  
3 not agreeing with this. If you have issues  
4 when you get your recommended decision, that's  
5 where you appeal those issues. So we're --  
6 we're trying to -- to -- but it is a complex  
7 program.

8 **DR. MELIUS:** Just one -- one request for Pete  
9 rela-- related to sites for public meetings,  
10 since we've made the rounds of a lot of places.  
11 Certainly if you or your fie-- you know,  
12 District Office or whate-- have a site where  
13 you're hearing a lot of questions about the SEC  
14 or this program and so forth and you think it'd  
15 be worthwhile for us to have a meeting out  
16 there, I think we'd appreciate the --

17 **MR. TURCIC:** The Simi Valley area would be a  
18 good -- good area because people have been  
19 waiting. You know, it was a -- a legal  
20 question that took a long time, so that -- and  
21 there are quite a few claims out there.

22 **DR. MELIUS:** I think you have a site report  
23 you're working on, Larry, or -- is that -- no,  
24 no, it's not, just the -- okay.

25 **MR. ELLIOTT:** Don't have enough claims to

1 warrant that.

2 **DR. MELIUS:** Okay.

3 **DR. ZIEMER:** Stu, did you have a comment?

4 **MR. HINNEFELD:** (inaudible)

5 **THE COURT REPORTER:** I'm not getting that.

6 **MS. MUNN:** He's not getting anything.

7 **DR. ZIEMER:** Say that again, Stu.

8 **MR. HINNEFELD:** Is that not on?

9 **DR. MELIUS:** Yeah, that's what -- I think that  
10 was the issue that came up at the hearing, and  
11 that issue was related back to the decision --  
12 you know, how can you do a site profile unless  
13 you know what the site is kind of thing and --

14 **DR. ZIEMER:** We want to get Stu's comment on  
15 the record here again.

16 **DR. WADE:** Stu's been amazingly silent at this  
17 meeting so we can get him on the record.

18 **MR. HINNEFELD:** Probably everybody's benefit  
19 that I don't say much at these meetings. Yeah,  
20 we have just recently finished a site profile  
21 for the Santa Susana Area Four facility, and  
22 there's some related facilities in the  
23 neighborhood that are -- that these people also  
24 did this same related work at, and they're all  
25 covered in this at -- it was known at ETEC for

1 a while and what, AI, Atomics International,  
2 was that their term-- or is that somebody else?

3 **DR. MELIUS:** Yeah, I -- it's --

4 **MR. HINNEFELD:** It's any number but we're --  
5 but we're pretty clear on the -- on the names  
6 of the facilities now and so -- and they're --  
7 they are all called out in that site profile.

8 **DR. MELIUS:** Yeah, and it is names. That's the  
9 problem.

10 **DR. ZIEMER:** Thank you. Let me ask if there's  
11 anything else to come before the Board this  
12 afternoon?

13 (No responses)

14 If not, we thank everyone. We stand adjourned.

15 (Whereupon, the meeting adjourned at 4:15 p.m.)

1

**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 April 27, 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 27th day of May, 2006.

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**STEVEN RAY GREEN, CCR****CERTIFIED MERIT COURT REPORTER****CERTIFICATE NUMBER: A-2102**