

UNITED STATES OF AMERICA
CENTERS FOR DISEASE CONTROL

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NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY
AND HEALTH

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ADVISORY BOARD ON RADIATION AND
WORKER HEALTH

+ + + + +

60th MEETING

+ + + + +

TUESDAY, DECEMBER 16, 2008

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

PRESENT:

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

TED KATZ, Acting Designated Federal Official

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Adjourn

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

9:10 a.m.

CHAIR ZIEMER: Good morning, everyone. I'd like to officially call the meeting to order. This is the Advisory Board on Radiation and Worker Health as you know and we're pleased to be meeting here in beautiful Augusta. It's a pleasant time of year to be here, at least for some of us who've come from the more northern parts of the country. But in any event, welcome to all. I have a couple of housekeeping reminders for you. There is a registration booklet out in the foyer and we'd like everyone to register, board members, members of the federal agencies, members of the public, register your attendance so that we have a record of that. Also, there is a sign-up booklet out there that is available for those who would like to participate in the public comment period today. The public comment period is scheduled for 5:00 p.m. and if you wish to make public comment you can

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1 register in that booklet again in the foyer.
2 Also, on the table in the back there are a
3 variety of documents, including today's
4 agenda, so please avail yourself of those as
5 needed.

6 In general, we will follow the
7 agenda as given. The times on the agenda are
8 in general approximate times. They are not
9 time certain, so we may get ahead or behind
10 depending on the issue and the nature of the
11 discussion. But in any event, unless
12 otherwise announced we will follow the order
13 of the agenda as designated in that document.

14 I will take a moment to welcome one
15 individual who is with us and that is Dr.
16 Lewis Wade who was our Designated Federal
17 Official. Lew, we're glad to have you here.
18 He missed us so much, the deliberations, he
19 couldn't stay away, but Lew, welcome. For the
20 record, the record will show that Board Member
21 Phil Schofield is not here this morning. Phil
22 had some difficulty in traveling and will

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1 arrive tomorrow. Board Member Dr. James
2 Lockey will not be able to be with us today.
3 And Board Member Dr. Gen Roessler will be with
4 us by phone, and I think we do need to
5 determine whether Dr. Roessler's on the line.

6 Gen, are you with us this morning?

7 MEMBER ROESSLER: I am on the line.

8 CHAIR ZIEMER: Great, that sounds
9 like we have a good connection.

10 MEMBER ROESSLER: I can hear well,
11 thank you.

12 CHAIR ZIEMER: Thank you. So other
13 than that, the rest of the Board members are
14 here assembled. Our Designated Federal
15 Official is Ted Katz. Ted, if you have some
16 additional remarks please proceed.

17 MR. KATZ: Yes, thank you. I am
18 the acting Designated Federal Official and I
19 want to welcome you, everyone here in the
20 room, and from Savannah River site, and also
21 everyone who's attending by telephone. And I
22 also want to extend the welcome of Dr.

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1 Christine Branch who is the acting director of
2 NIOSH, but ordinarily serves as the Designated
3 Federal Official currently for this board, and
4 Secretary Levitt of the Department of Health
5 and Human Services who is advised by this
6 board. So welcome everybody.

7 And then just a functional matter
8 for the people attending by telephone. Please
9 realize - you don't, but your phones are
10 hooked into our sound system here so if there
11 is talk on your phones, if there's any
12 background noise we all hear it. Dogs
13 barking, dishes being washed, wherever you
14 might be in your office, phones ringing, all
15 of that is amplified here and it'll disrupt
16 the Board while we hear that noise, so please
17 mute your phones and keep them muted except
18 when you're addressing the Board, and if you
19 don't have a mute button *6 will work on your
20 phone to mute the phone. And the other thing
21 I just ask is if you want to disconnect please
22 don't hit Hold, but disconnect completely and

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1 call back in because if you press Hold, you
2 don't realize that but there is - we'll either
3 get a beep, or we'll get Muzak or something
4 and that'll disrupt the Board as well. So
5 please disconnect and call back in if you need
6 to. Much thanks.

7 CHAIR ZIEMER: Okay, thank you very
8 much. We will proceed then, and for the
9 benefit of those of you who may be visitors
10 for the first time to this board, we typically
11 have an update from the federal agencies that
12 are involved in this program, more
13 specifically from NIOSH and Department of
14 Labor. And so we're going to begin our agenda
15 with those two reports this morning. We'll
16 begin first with the program update from NIOSH
17 and this will be given by the Director of
18 OCAS, Office of Compensation Analysis, Larry
19 Elliott.

20 MR. ELLIOTT: Good morning. Thank
21 you Dr. Ziemer, and I too add my appreciation
22 for the Board meeting here in lovely Augusta.

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1 It's much warmer here than it is back in
2 Cincinnati where we're experiencing snowstorms
3 today. So thanks for meeting here.

4 I've got a couple or three news
5 briefs that I'd like to share with the Board
6 before I get into the regular set of slides
7 that I use. First of all, just to let the
8 Board know and members of the audience, we
9 have entered into another review by the
10 Government Accountability Office. This review
11 on the program concerns the implementation of
12 this law. The review includes not only NIOSH,
13 but also the activities of the Department of
14 Labor and the Department of Energy in the
15 program. Can't hear? Is that better? Okay,
16 now we're up and running. As I was saying, we
17 have entered into a review with the Government
18 Accountability Office looking at the
19 implementation of this program. It addresses
20 the activities of the Department of Labor as
21 well as NIOSH and the Department of Energy.
22 That review has just started and we're not -

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1 we don't know at this point in time when it
2 will be completed or how soon they will
3 deliver their report. They have just started
4 their fact-finding phase, and so that's off
5 and running.

6 The second news brief I have to
7 make sure the Board is aware of is that the
8 Department of Labor's Inspector General,
9 Office of Inspector General filed a report -
10 and you can find this on the DOL website; you
11 can use OCAS's website and go to Related Links
12 and that will take you to the Department of
13 Labor website. You can find this report
14 there. Accompanying the report is a
15 memorandum of response from the Assistant
16 Secretary of Department of Labor providing
17 remarks about the report, and I'll have a few
18 slides to address some issues that we have
19 with the report later on in my presentation.

20 There's also been some - I'd like
21 to take the opportunity at this point to also
22 mention that in the media there's been some

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1 recent information that has been provided that
2 perhaps has given misunderstanding or
3 misconception to things that are going on
4 around the Dr. Ruttenberg data for the Rocky
5 Flats site. NIOSH has been working hard with
6 Dr. Ruttenberg's wife, Margaret Ruttenberg, to
7 get a copy of this data set. We've been doing
8 that since April of 2006 when a NIOSH
9 scientist met with Dr. Ruttenberg before his
10 death to discuss Dr. Ruttenberg's study. And
11 based on that meeting we concluded, with the
12 information Dr. Ruttenberg had given us that
13 the dosimetry data that was used in Dr.
14 Ruttenberg's study is the same set of data
15 that NIOSH has used in our efforts to
16 reconstruct dose in the neutron dose
17 reconstruction project, which is the data
18 that's used by NIOSH as well as the data used
19 by Dr. Ruttenberg. Our efforts to work with
20 Ms. Ruttenberg to get a copy of the data has
21 been to verify that we have the same set of
22 data and that the data is being used to the

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1 fullest extent and vantage of the claimants.
2 However, there's a few key pieces of
3 information, misinformation, that I'd like to
4 clarify. NIOSH has not had the opportunity to
5 fully examine the data set that the
6 Ruttenbergs hold. We've discussed its source
7 and its structure and we've seen samples of
8 the data, but we've not had the opportunity to
9 review the dosimetry data and to confirm our
10 belief that it is the same set of neutron dose
11 reconstruction project data that we're both
12 using. Two, both Dr. Ruttenberg and Ms.
13 Ruttenberg have confirmed that the source of
14 the study's data was the neutron dose
15 reconstruction project data, data which is
16 also used in our efforts to reconstruct the
17 doses. Three, we think it's an
18 oversimplification to say that if Rocky Flats
19 worker had proof that they were monitored for
20 neutron exposure that they would qualify for
21 compensation. Many people had neutron
22 exposure outside of the class, period. And so

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1 that could be part of what is being contested
2 here. Four, we cannot comment on any
3 particular claimant's data and so we encourage
4 claimants to contact NIOSH if they think that
5 we have missed the mark on doing their dose
6 reconstruction, or if they think that they've
7 had neutron exposure in their work history
8 that the Department of Labor may not be able
9 to identify. We are continuing to pursue the
10 Ruttenberg data and I'm hopeful that later
11 this week if not early next week we will be
12 able to reach agreement with Ms. Ruttenberg
13 for the transfer of the full data set to NIOSH
14 for use in the program.

15 Lastly as a news brief, I sent an
16 email to you all yesterday, all the Board
17 members, with a Federal Register notice about
18 the opportunity to comment on the computer-
19 assisted telephone interview questionnaires
20 that are used. This is a requirement by the
21 Office of Management and Budget that we get a
22 renewal of this survey instrument every so

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1 often. This'll be the second time we've asked
2 for that renewal. There's been some concern
3 among board members that you will not have the
4 opportunity to comment on this set of
5 questions or the questionnaires that are used,
6 and I just want to confirm for you that you
7 have plenty of opportunity, both as individual
8 citizens. You can make comments through the
9 public comment period and get your comments in
10 within 60 days. Go into the docket and we
11 will take those into consideration as we
12 revise and finalize these survey instruments.

13 I've also spoken with the working group on
14 procedures and informed them that if, as they
15 come forward to the Board with recommendations
16 or comments about these questionnaires that -
17 and if the Board does not have enough time to
18 meet the 60-day public comment period we will
19 still accept the Board's consensus comments
20 and they will be considered in the revision of
21 these questionnaires. So just wanted to make
22 sure that everyone on the Board understood

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1 what was happening with these CATI
2 questionnaire documents. And with that I'll
3 stop with the news briefs and get into the
4 slides that you typically see every time I
5 make this presentation.

6 As of November 30, 2008, the
7 Department of Labor has referred 28,405 cases
8 to NIOSH for dose reconstruction. We have
9 completed 79 percent of those, or 22,396 cases
10 have been returned to DOL. And if we break
11 that number down into finer segments, 19,333
12 were returned to Department of Labor with a
13 dose reconstruction report, 793 were pulled
14 from NIOSH's claim population by the
15 Department of Labor for various reasons, but
16 essentially a claim was not any longer
17 eligible so they were removed from our claim
18 population. There have been 2,270 claims
19 pulled from our claim population so that the
20 Department of Labor can determine the SEC
21 class eligibility for those. That leaves 20
22 percent of the 28,405 claims, or 5,562 claims

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1 or cases still at NIOSH for dose
2 reconstruction. We've had 447 claims, or 1
3 percent, that are in a state of administrative
4 closure on dose reconstruction. And I remind
5 the Board and the audience that this means
6 that we have completed our work and we're
7 awaiting, by preparing a dose reconstruction
8 report and providing that to the claimant, and
9 we're waiting for the claimant to sign the
10 OCAS 1 form and return the claim, the dose
11 reconstruction to us with the OCAS 1 so that
12 we can then transmit that all to the
13 Department of Labor for decision. Claimants
14 are given 60 days to sign the OCAS 1
15 indicating that they have no further
16 information to provide and they are given
17 another 14 days grace at any point thereafter.

18 If they choose to submit the OCAS 1 or submit
19 additional information we would reopen that
20 dose reconstruction for the claim.

21 This is your pie chart which shows
22 you the current case status in the NIOSH case

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1 population. I won't go through all of this,
2 but I would highlight your attention to those
3 portions of the pie chart that we are still
4 working on. Those would be the yellow, the
5 active claims, 4,399, and the pended claims,
6 1,163. And I'll speak a little more about
7 those in a moment. Of the 1,163 pended claims
8 that NIOSH holds, we provided here for you the
9 top six categories which represent 91 percent
10 of those claims. And these categories for
11 pending include technical basis documentation,
12 changes that are occurring so the claim is
13 awaiting those changes. Four hundred and
14 seventy-nine claims await those kinds of
15 changes. Three hundred and twenty-seven
16 claims are pended because of a special
17 exposure cohort issue, either there's - it's a
18 claim that doesn't fit into the class and
19 we're developing the partial dose
20 reconstruction approach that will be used for
21 that claim, or the claim has been pended
22 awaiting the designation of an SEC class. In

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1 other words, we know that the class is going
2 to go forward and we're not performing any
3 work until that class is established so the
4 claim can move under that mechanism. There
5 are 82 claims that are pended because of
6 incorrect employment information and so we're
7 awaiting the Department of Labor. Time is
8 ticking on them in that regard for us to hear
9 from them about the correct employment
10 information. Seventy-four claims have an
11 incorrect cancer ICD-9 code, and again we're
12 waiting for Department of Labor to correct
13 that situation to allow us to move forward
14 with the dose reconstruction. Fifty-four
15 claims are pended because they're awaiting
16 additional information from the Department of
17 Energy or atomic weapons employer facility,
18 and we can't complete a dose reconstruction
19 until we have that information. There are 41
20 claims that have a situation where a missing
21 survivor or claimant is the cause for the
22 pending status. Again, these six categories

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1 comprise 91 percent of the pended claims.
2 Whoa.

3 MEMBER CLAWSON: Way to go.

4 MR. ELLIOTT: Well, I hope you
5 liked that. Sorry for that. Of the 19,333
6 dose reconstructions that were returned to the
7 Department of Labor, we show in this slide
8 that 33 percent of those had a Probability of
9 Causation greater than 50 percent, leaving 67
10 percent with a PoC of less than 50 percent.
11 If we look at the distributions of probability
12 for causation of all claims dose reconstructed
13 and returned to Department of Labor, you'll
14 see here in this slide the breakout of those
15 distributions in 10 percent tile increments,
16 up to the 50 percent and greater.

17 To look at our active caseload, of
18 the 5,562 cases that are remaining at NIOSH
19 for dose reconstruction, we have 2,417 that
20 are in the process dose reconstruction. A
21 dose reconstructor has an assignment, they're
22 working on a piece of that claim or they're in

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1 a review stage. So there are 682 initial
2 draft dose reconstruction reports in the hands
3 of the claimants, where we're awaiting the
4 OCAS 1 form to be returned, and 2,463 cases
5 have not yet been assigned to a health
6 physicist for dose reconstruction. It's
7 important to note, and we monitor this
8 closely, that 61 percent of these, or 3,406
9 claims are older than one year. We have these
10 - since September's meeting we've seen a
11 dramatic decrease in this number of old cases,
12 older than a year. We've been working hard on
13 those, and just to remind you at your
14 September board meeting that number was 3,849
15 and so we've removed and acted upon 433 of
16 those old claims.

17 If we look at the first 5,000
18 claims that were sent to us which represent
19 our oldest portion of the caseload, there have
20 been 3,722 returned to Department of Labor
21 with a dose reconstruction. Eighty-five of
22 the first 5,000 currently are in an

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1 administratively closed situation, 254
2 represent cases that had been pulled from our
3 caseload by the Department of Labor, 331 cases
4 are representative of eligibility for a
5 special exposure cohort class, four cases have
6 a situation where the dose reconstruction is
7 with the claimant and we're awaiting the OCAS
8 1. That leaves - the big thing here is 579
9 cases which we've completed once and they've
10 been returned to us for some rework issues and
11 there are 25 cases that have not yet had one
12 dose reconstruction, or initial dose
13 reconstruction out of the first 5,000 claims.

14 We're working hard on those 25 and you can
15 see that those 25 represent 20 distinct sites.

16 Seventeen of these 25 are in a pending status
17 for these reasons. There's either a claimant
18 survivor information is missing. The
19 employment is questionable for two cases.
20 There are 13 that are pended for various
21 reasons as you see here in this slide, either
22 awaiting a dose reconstruction methodology or

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1 they're SEC class cases pended before the
2 designation of the class, or there's
3 modifications to the TBD that - technical
4 basis document - that needs to be done. And
5 in one case it is a petitioner that is
6 awaiting the outcome of their petition. Eight
7 of the 25 are in an active status, and these
8 are broken down here. Two employees which do
9 not meet the 250-day criteria for a special
10 exposure cohort class, NUMEC and Y-12, and so
11 we are working on partial dose reconstructions
12 for those claims. Four NUMEC claims are
13 pended for non-SEC cancers and we are awaiting
14 a non-SEC dose reconstruction methodology, and
15 two claims have been accepted for special
16 exposure cohort at NUMEC for SEC cancers, but
17 a dose reconstruction is needed for those
18 claims for medical benefits for non-SEC
19 cancers. So you can see that as we work hard
20 to try to work off the oldest claims, they
21 still can come back to us for various reasons,
22 some due to changes that we have made and some

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1 due to changes within the claim, and in some
2 instances like that last example where dose
3 reconstruction is needed for other purposes
4 within the claim adjudication process.

5 The graphic here shows you the
6 trend of receipt of cases from the Department
7 of Labor shown in the blue line. The dose
8 reconstruction reports as draft reports to the
9 claimants is shown in the green, lime green or
10 yellow line. And then the final reports that
11 are provided to the Department of Labor is
12 shown in the red line. Since the third
13 quarter of 2008 we've been working again above
14 the receipt of DOL so we're working off the
15 backlog. Before that you see that little area
16 there. That's where we were receiving more
17 than we were working off so we were building a
18 backlog. So this is the chart that we monitor
19 weekly to determine where we're at in our
20 production effort. If we break down - I'm
21 sorry this doesn't come out very well in the
22 purple at the top, but looking at our full

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1 caseload and we break these down, these 1,000
2 increments of cases received, we show in this
3 blue that these are the completed, the red is
4 the case that has been pulled from us for
5 Department of Labor purposes. The active case
6 is this mustard color here. The SEC cases are
7 in green. You can see how those are
8 distributed across claim populations. Cases
9 that have been administratively closed are up
10 here in yellow and then this case pending in
11 the purple status at the very top.

12 A new chart that we've added to
13 this presentation which also is of interest to
14 the government accountability review that is
15 underway is how much time is it taking us to
16 process dose reconstructions. And this chart,
17 and there are several other ways of reporting
18 out on this, but this is one example. In the
19 early days we certainly acknowledged the fact
20 that we didn't have all of our tools and
21 infrastructure together and it was taking
22 quite a long time, years in fact to do a dose

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1 reconstruction. And you can see how over time
2 this has improved with more recent cases
3 getting quicker treatment. In fact, that -
4 now we are dealing with a case where we have
5 all of our dose reconstruction tools at our -
6 available to us and at our disposal we're
7 turning dose reconstruction claims around in
8 30 days or less in some instances. Depends
9 upon the claim. Some claims are, as you know,
10 very complex because of the amount of work
11 history the claimant may have had, the number
12 of jobs, the number of sites they worked at
13 and a variety of circumstances that they may
14 have encountered which require us to do as
15 good a job as we can. So at any rate we're
16 trying very hard to improve our timeliness and
17 this is one example of how we have done in
18 that regard.

19 If we look at the number of claims
20 that have been returned to us for rework. A
21 rework is a situation where something has
22 changed with the claim, the employment

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1 history, the cancer information, the number of
2 survivors may have changed, Department of
3 Labor will return the claim to us for a
4 rework. Also, if we make a change in our
5 technical basis approach to reconstructing
6 dose we claim that as a rework. And as you
7 know, we provide in those instances a program
8 evaluation review which identifies the
9 affected claims. And here you see in this
10 chart in red the 8,503 cases have been
11 returned to us over the course of time since
12 fourth quarter of 2003 till the present, and
13 we have returned 5,433 of those. The spikes
14 that you see here late in 2007 and up until
15 the second quarter of 2008 represent Super S
16 and a couple of other large program evaluation
17 reviews that were issued and are still
18 underway.

19 As you know, we turn to the
20 Department of Energy for requests for dose
21 information in order to complete our dose
22 reconstruction effort, and I report out to you

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1 every meeting on the DOE response to those
2 requests. Right now we have 255 outstanding
3 requests. We follow up on those every 30
4 days. We monitor their progress. We track
5 how long they take and we work with Department
6 of Energy to make sure that if the information
7 can be found we will get it. If not, then we
8 take steps to move the claim into dose
9 reconstruction without the information. At
10 this point in time there are 158 requests that
11 are outstanding longer than 60 days. Some,
12 there are five that are longer than 120 days.
13 Those are at the Oak Ridge facility's
14 operations office and we are working with DOE
15 on what to do with those five. The rest are
16 less than 120 days but more than 60 days.

17 In the past few presentations I've
18 made to you we have talked about the technical
19 basis documents that are used for atomic
20 weapons employers, especially those sites that
21 work with uranium and thorium metals. And we
22 reference that as Technical Basis Document

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1 6000. And there are a number of appendices
2 that had to be created for special exposure
3 circumstances at atomic weapons employer
4 facilities. We've now completed all 16 of
5 those appendices for those special exposures
6 and you won't see this slide in the future in
7 this presentation.

8 Where we looked at atomic weapon
9 employer sites that refine uranium and thorium
10 metal, we call that Technical Basis 6001, and
11 there are five appendices that had to be
12 created for special exposure circumstances
13 relative to those atomic weapon employer
14 sites. And those five have all now been
15 completed and are in use. This slide will not
16 be presented in future program staff
17 presentations.

18 I mentioned the program evaluation
19 reports. Thirty-two program evaluation
20 reports have been issued to date. This
21 represents 8,596 individual claims which have
22 been reviewed against those program evaluation

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1 reports to determine the need for a rework.
2 Of those, 3,684 individual claims will be or
3 have been reworked due to the PER changes,
4 1,810 have already been reworked to date and
5 262 claims have had a Probability of Causation
6 increase greater than 50 percent. So we're
7 very happy to report that for those claimants.

8 If you're interested in the bulk of that, 262
9 claims that changed in compensation decision,
10 124 were from PER 9 which is the lymphoma
11 program evaluation review. The next highest
12 is the Super S program evaluation review at
13 123 claims, and then it drops considerably
14 down to the next highest which is 30 for PER
15 20 on blocks chemical.

16 In the government we're required to
17 establish what are called PART goals, Program
18 Assessment Rating Tool goals, and in this
19 fiscal year we - in last fiscal year, Fiscal
20 Year 08 our goal as you see it was established
21 to complete 80 percent of the new dose
22 reconstructions within six months of receipt

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1 from Department of Labor. This Fiscal Year 08
2 was to set our baseline for performance
3 against this goal. And as you see here, we
4 did not do very well. We only achieved 31
5 percent of our goal in that regard. The other
6 goal that we have set in FY 08 was to complete
7 50 percent of the legacy dose reconstructions.

8 Legacy is defined as any claim in our hands
9 that is over two years old. And so this looks
10 at the oldest claims that we have and in
11 Fiscal Year 08 we completed 54 percent of
12 those claims. So those were our baselines in
13 08 and now we are in Fiscal Year 09 and
14 working to again try to complete 80 percent of
15 the new dose reconstructions within six months
16 from receipt of the Department of Labor. As
17 it says here, in 08 our performance was 31
18 percent. How did we get that? Well, there
19 were 2,322 initial dose reconstructions
20 referred to NIOSH in that Fiscal Year 08. We
21 returned 31 percent of those, or 713 to
22 Department of Labor within six months' time.

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1 Of those 713, 560, or 79 percent, were final
2 dose reconstructions sent to DOL and 153 or 21
3 percent are cases that were returned to DOL
4 because they fit into a new class. So we
5 didn't have to do a dose reconstruction for
6 those claims. We take credit for moving those
7 on. Our legacy goal is to complete 50 percent
8 of the claims that have been in NIOSH for two
9 years or longer, and as you saw our
10 performance in 08, our baseline performance is
11 54 percent. We arrived at that by completing
12 822 cases in FY 08. One thousand five hundred
13 and thirty-six were initial legacy cases at
14 the beginning of FY 08, 714 of those legacy
15 cases at the end of FY 08. We will report out
16 on our progress against these goals at your
17 next meeting and we'll see where we stand at
18 that point against the goals. Thirty-five
19 classes have been added to the special
20 exposure cohort since May of 2005 and 57
21 percent or 20 of those classes were processed
22 through the 83.13 process and 15, or 43

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1 percent were accomplished and designated
2 through the 83.14 process. These classes
3 represent workers from 29 sites and they also
4 represent 2,270 potential claims.

5 I mentioned earlier in the news
6 briefs to you that the Department of Labor's
7 Office of Inspector General issued a report on
8 November 12 that also included a response as
9 an attached memo from the Department of
10 Labor's Assistant Secretary for Employment
11 Standards, and that was sent in on October 30
12 or dated October 30, 2008, and it was based
13 upon the draft report. The Office of the
14 Inspector General did visit NIOSH in
15 Cincinnati and interviewed me, and we were
16 told that we would be given an opportunity to
17 comment on the draft report for clarity and
18 accuracy, but that never happened. We have
19 several concerns about the report, and I'll
20 mention a couple of them in the next few
21 slides. One of the recommendations that the
22 OIG made was to consolidate all communication

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1 with claimants at Department of Labor and the
2 response memo from the Assistant Secretary
3 disagreed with this recommendation as do we at
4 NIOSH. We think that we have a robust
5 communication process in dealing with
6 claimants and petitioners and we think it's
7 most appropriate that NIOSH have those
8 communications with the claimants and the
9 petitioners. So we don't see the benefit of
10 combining the communication effort and placing
11 it at the Department of Labor.

12 Also, there was a concern raised
13 about the impact of NIOSH's guidance changes.
14 These guidance changes refers to our program
15 evaluation reports which reflect our
16 commitment to use the best available science
17 in dose reconstruction. The number 12,955 is
18 a mystery to us. As you've already seen in
19 some of my earlier slides the total number of
20 dose reconstruction reworks for the entire
21 program is only 8,503 cases, a number that
22 includes reworks for reasons such as

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1 employment change or cancer information, and
2 out of that 8,503 as of right now only 3,684
3 claims have been determined to need rework due
4 to the program evaluation reviews that they
5 have issued. So we don't know where this
6 12,955 number comes from.

7 There is also mentioned in this
8 Office of Inspector General report that cases
9 which require NIOSH processing took an average
10 of 1,200 days for DOL to adjudicate, including
11 an average of 870 days for NIOSH dose
12 reconstructions. While it is true that dose
13 reconstruction is a lengthy process and is
14 time-consuming and in many cases is very
15 complex, in the early years of the program as
16 I mentioned we didn't have the infrastructure
17 available. This slide shows you that in 2008
18 our average time was 775 days, and it's
19 improved over the next two years, 586 days in
20 FY 2007 and 373 days in FY 2008. So we're a
21 little baffled by the 870 days at NIOSH.

22 I'll move on now to present some

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1 site-specific statistics relative to the
2 Savannah River site for those in the audience
3 who are interested as well as board members
4 who are interested. To date, as of November
5 30 there have been 3,318 Savannah River site
6 cases referred to NIOSH and we have completed
7 80 percent of those as a dose reconstruction
8 effort, or 2,647. If we look at the decisions
9 on those claims, Department of Labor has found
10 972 or 37 percent had a PoC of greater than 50
11 percent, and 1,675 or 63 percent had a PoC of
12 less than 50 percent Probability of Causation.

13 Sixty-seven, or 2 percent have been pulled by
14 the Department of Labor for various reasons,
15 but essentially they are ineligible for dose
16 reconstruction so they've been removed from
17 our case file. Six hundred and four or 18
18 percent are active Savannah River site claims
19 at NIOSH and we're working those.

20 If we look at the Probability of
21 Causation distribution for only Savannah River
22 site claims it mirrors somewhat what you saw

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1 in the earlier slide for the overall program.

2 There are 964 as I mentioned that are greater
3 than 50 percent, and the remainder are broken
4 out as you see in those other bars on the
5 chart. If we want to look at how long it's
6 taking to do dose reconstructions for Savannah
7 River site claimants, overall it's been 557
8 days on average for a Savannah River site
9 claim to get through dose reconstruction.
10 However, if we look at the year 2006, 216 days
11 were required on average to complete a dose
12 reconstruction. In 2007 that jumped up to 306
13 days, and in 2008 currently we are averaging
14 122 days to process a dose reconstruction for
15 Savannah River site claims. And that is to -
16 this slide is to submit to Department of Labor
17 a dose reconstruction report that the claimant
18 has provided us an OCAS 1 on. This slide
19 shows you just the days it's taken for NIOSH
20 to do its work and turn a dose reconstruction
21 over to the claimant. So the other slide is
22 to DOL, this slide is just to the claimant and

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1 you can see that the days here in 2006 are
2 173, 2007 are 273 on average, and 2008 the
3 average is 107 days. Remind everybody that
4 there is again a 60-day period for a person to
5 sign the OCAS 1, and I think the difference
6 between these two slides that you're seeing is
7 the time difference it takes folks to process
8 what they have in the dose reconstruction
9 report and provide the OCAS 1. And with that
10 I'll be happy to take any questions that might
11 be out there.

12 CHAIR ZIEMER: All right, thank you
13 Larry. I wonder if you might comment a little
14 more on the Program Assessment Rating Tool.
15 You indicated that your objective for Fiscal
16 Year 08 was 80 percent of the new dose
17 reconstructions within six months of receipt,
18 and your performance was I think 31 percent.

19 MR. ELLIOTT: That's correct.

20 CHAIR ZIEMER: And you indicated
21 your new goal for this new fiscal year again
22 is 80 percent. I guess my question is was the

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1 80 percent goal - you must consider it still
2 to be realistic, so - you're going back for
3 the same goal. This is the baseline, so
4 you're sort of getting a feel -

5 MR. ELLIOTT: We're tied to the
6 same goal because we had to establish a
7 baseline for PART. And so the goal has to
8 remain the same and you work against not only
9 the goal, but you work against your baseline.

10 And yes, we felt that 80 percent was
11 achievable and realistic if we were in a
12 situation where we, like in 2005 and 2006
13 where we had full production capacity from our
14 technical support contractor. We haven't had
15 that - we have not had that -

16 CHAIR ZIEMER: That was my
17 question. How much did that impact - you were
18 almost on a month to month basis on technical
19 support, is that?

20 MR. ELLIOTT: Yes, that is correct.
21 What you see here, we believe, is the
22 artifact of that. That low production rate,

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1 that 31 percent is an artifact of not being
2 able to see our contractor operate at the
3 fullest capacity. We've not had a regular
4 appropriations cycle since 2006 so we've been
5 operating under continuing resolutions which
6 are problematic, but more problematic is the
7 lack of a new technical support contract award
8 which has pushed us into using contract
9 extensions and we are only able to extend the
10 contract for short periods of time, four to
11 six weeks, eight weeks, and this last contract
12 extension which carries us through the end of
13 this month I think was the longest in a series
14 of 12 now contract extensions that we've had.

15 So we believe, we feel that we have the
16 experience documented that we could achieve 80
17 percent if our contract support is up to par.

18 CHAIR ZIEMER: Dr. Melius?

19 MEMBER MELIUS: I have a question,
20 but first a comment. I would note that if you
21 - the other way of getting that number up,
22 that percentage up is to do more SECs.

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1 MR. ELLIOTT: That's true.

2 MEMBER MELIUS: Because it seemed
3 to combine the two and it's - I know you have
4 to come up with a single statistic and it's
5 hard, but it seems like a funny way of mixing
6 things also. My question goes back to the
7 comments of the Board, or potential comments
8 of the Board about the changes in the
9 interview, and just actually a technical
10 question, but if we - if the Board were to
11 submit its comments after February 9, would
12 they become part of the docket?

13 MR. ELLIOTT: I believe I can add
14 them to the docket post the closing period of
15 the docket, but at any rate, we will still
16 consider them and you know, address them.

17 MEMBER MELIUS: Would it be
18 possible for the attorneys to give us an
19 answer to that question? It would be helpful
20 to know. I mean, not right now, but if they
21 could check because I think it makes some
22 difference at least in terms of my thinking.

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1 CHAIR ZIEMER: Thank you.

2 MEMBER MELIUS: One other comment.

3 Your one - I don't know how you can do this
4 better, but your claims processing trends
5 slide which is - you don't number the slides,
6 so it's Number 13 of the group. I just -

7 MR. ELLIOTT: Yes, the new slide I
8 introduced here?

9 MEMBER MELIUS: Yes.

10 MR. ELLIOTT: Average time?

11 MEMBER MELIUS: Right. If I
12 understand it correctly, that's for newly
13 received - from the time that you receive
14 them. So the numbering, like 24,000 would
15 represent those that were received, you know,
16 during some recent time period. But more
17 importantly, those, the 28,000 would be the
18 most recently received. So obviously if you
19 were able to complete them the short - you
20 know, the turnaround would be very short. And
21 so it doesn't really reflect all of the -

22 MR. ELLIOTT: It's not an overall

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1 average.

2 MEMBER MELIUS: Right.

3 MR. ELLIOTT: This slide - let me
4 see if I can go back to that.

5 MEMBER MELIUS: I think going back
6 in time, I would say it's towards the 20,000 -
7 it probably is a reflection of significant
8 improvement, but it's a little bit misleading
9 at the end.

10 MR. ELLIOTT: Well, if you look at
11 the X axis you're talking about those tracking
12 numbers in that 1,000 or 2,000 or 3,000, 4,000
13 category.

14 MEMBER MELIUS: Right.

15 MR. ELLIOTT: So it's the average
16 time within that category of claims.

17 MEMBER MELIUS: Yes.

18 MR. ELLIOTT: So then yes. But the
19 early claims, the oldest claims took us the
20 longest time.

21 MEMBER MELIUS: Right, right.

22 MR. ELLIOTT: If you're a claimant

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1 who has a claim - NIOSH tracking number of
2 28,000 you can see that it's taking on average
3 much less time today to do your claim than it
4 was six years ago.

5 CHAIR ZIEMER: Yes, and those
6 numbers wouldn't get fixed, you see, if they
7 didn't do any work on the old claims. That
8 number, if you report it the next time, the
9 other end of that would go up.

10 MEMBER MELIUS: Yes, it's got to go
11 up, yes. I mean, at some point -

12 MR. ELLIOTT: So the information is
13 in there.

14 MEMBER MELIUS: Well, but it's just
15 a confusing number. That's all.

16 CHAIR ZIEMER: Josie Beach.

17 MEMBER BEACH: Yes Larry, back on
18 Slide Number 7 you said that there was 2,463
19 cases not assigned. Can you give me an idea
20 of why, and are those new cases or older
21 cases?

22 MR. ELLIOTT: Well, there's a mix.

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1 There can be old cases, there can be new
2 cases. There's cases just coming in that
3 haven't been assigned because the new case -
4 because we haven't got the computer-assisted
5 telephone interview done, they haven't got the
6 POE information or the AWE information on
7 dose. That's one reason for that kind of
8 claim in that category.

9 MEMBER BEACH: So it's not one
10 distinct reason, there's several?

11 MR. ELLIOTT: No. The pending, you
12 know, the active but they're pended, they're
13 in that group there. There's a variety of
14 reasons why a claim may not have been assigned
15 to a dose reconstructor yet.

16 MEMBER BEACH: Thank you.

17 CHAIR ZIEMER: Any further comments
18 or questions? Okay, Larry, thank you very
19 much again for updating us. Next we'll hear
20 from the Department of Labor and Jeff Kotsch
21 is with us again today, and he will give us
22 the Labor update. Welcome again Jeff.

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1 MR. KOTSCH: Thank you. Good
2 morning and thanks for the opportunity to
3 provide the Department of Labor's update.
4 Often this is primarily the one that we always
5 give, other than changing the numbers. We are
6 working on the slides. And the data for this
7 set is December 4, the capture date for the
8 information on these slides.

9 Just a little background for
10 basically the people that haven't heard the
11 presentation before. The program the
12 Department of Labor administers has two parts.
13 There's a Part B which is really the part
14 that the Board is more interested in. That's
15 the part that has to do with cancer and
16 silicosis and things like that we'll talk
17 about a little bit later. Part B became
18 effective on July 31 of 2001. Since that time
19 64,346 cases or 94,650 claims have been filed.
20 I always mention that the number of claims
21 will always be higher than the number of cases
22 because when you're in a survivor claim

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1 situation you may have more than one survivor.

2 Of those cases, 42,531 have been cancer
3 cases, 28,316 cases have been referred to
4 NIOSH. Now, on the other side of our program
5 is Part E which became effective on October 28
6 of 2004. This program was formerly
7 administered - was the former Part D program
8 that the Department of Energy administered,
9 and on this side which is primarily the toxic
10 chemical exposure side, 54,909 cases or 76,866
11 claims have been filed. At the time that we -
12 or the time that Part B became effective, we
13 received or 25,000 cases were transferred over
14 from Department of Energy.

15 This is the primary overview for
16 the program. \$4.4 billion have been paid in
17 total compensation since the initiation of the
18 program. \$2.8 billion of that was Part B
19 claims, \$2.5 billion for a non-RECA Part B
20 conditions and \$300 million for the RECA which
21 is the Radiation Exposure Control Act which is
22 primarily administered by the Department of

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1 Justice. \$1.4 billion has been Part E
2 payments and \$271 million in medical payments
3 actually for both parts. So Part B is about
4 63 percent of the payments. Just quickly, the
5 claim categories under Part B are primarily
6 cancer, but also include chronic beryllium
7 disease, beryllium sensitivity, chronic
8 silicosis and then the RECA Section 5 claims
9 that again are basically coming from the
10 Department of Justice.

11 And just a quick overview of the
12 benefits for Part B. Who's eligible? Current
13 and former employees of DOE, its contractors
14 and subcontractors, the atomic weapons
15 employers (AWEs), beryllium vendors, uranium
16 miners, millers and ore transporters who
17 worked at facilities covered by Section 5 of
18 the RECA and certain family members of
19 deceased workers. This is a summary of the
20 Part B cancer case status and I'll primarily
21 just talk about it in terms of cases. Forty-
22 two thousand five hundred and thirty-one cases

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1 had 65,990 claims. We've had 35,622 with
2 final decisions, 1,630 with recommended but no
3 final decision, 3,547 referred to NIOSH but no
4 recommended decision, and 1,732 cases with no
5 DOL initial processing. Those are the
6 incoming cases primarily. The way the process
7 works is the case comes in, is developed for
8 medical and - I'm sorry, developed for medical
9 and employment. If it needs a dose
10 reconstruction it's transmitted to NIOSH. We
11 receive the final dose reconstruction back
12 from them, back to the district office. They
13 then render a recommended decision. At that
14 point the claimant is allowed the opportunity
15 to provide comments, objections, or basically
16 contest the decision. That goes to our final
17 adjudication branch which is the FAB which is
18 separate from the district office. They
19 review that information. If they deem that it
20 merits return to NIOSH it will go back to
21 NIOSH. If it merits additional work of
22 development it'll be done. After all that's

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1 done then render the final decision. So
2 that's the distinction between a final and a
3 recommended decision.

4 Claims filed for cancer under Part
5 B. Potentially any cancer that's claimed
6 under Part B of the program, if it is
7 determined that the covered employee was a
8 member of the SEC and was diagnosed with a
9 specified cancer or it is determined from the
10 dose reconstruction conducted by NIOSH that
11 the employee's cancer was at least as likely
12 as not, which is 50 percent or greater, caused
13 by radiation exposure. And this is just the
14 bar chart of the decisions, 14,948 final
15 decisions for approval, 20,674 final decisions
16 for denial. Of those, you can see the
17 breakdowns. The primary one is the 12,441 for
18 Probability of Causation of less than 50
19 percent.

20 The special exposure cohort, the
21 SEC, the statutory one or the three diffusion
22 plants, gaseous diffusion plants, K-25,

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1 Paducah and Portsmouth, and certain nuclear
2 tests at the Amchitka site and then any other
3 new designations where we add or classes are
4 added to the SEC. Within that, or another
5 requirement of that is you have to have
6 specified cancers. Causation is presumed.
7 There's no dose reconstruction except for the
8 - obviously for the non-specified cancers or
9 the ones required for medical benefits for an
10 SEC case. And HHS recommends the SEC class
11 designations and as the process goes, if
12 Congress says - at the point that it goes to
13 Congress, if it does not object within 30 days
14 the facility becomes an SEC. The new SEC-
15 related cancers, the numbers here are 2,275
16 cases have been withdrawn from NIOSH for
17 review, 2,042 have final decisions issued, 84
18 of those have recommended but no final
19 decisions, 66 cases are pending and 83 cases
20 have been closed for a variety of reasons. So
21 we've got 92 percent of the SEC-related cases
22 have final decisions.

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1 This slide shows the status of
2 referrals to NIOSH. Twenty-eight thousand
3 three hundred and sixteen cases have been
4 referred to NIOSH, 21,000 of those - I'm
5 sorry, 21,757 have been returned from NIOSH.
6 And the breakdown that we show from our
7 database is 19,026 are at DOL with a dose
8 reconstruction, 30 are being reworked for
9 return to NIOSH - "rework" is probably not a
10 good word here because it doesn't have the
11 same connotation as the other rework, but
12 they're within DOL being reviewed - 2,701 are
13 withdrawn from NIOSH with no dose
14 reconstruction. The other part of that is
15 6,559 cases are currently at NIOSH according
16 to the information in our database. Of those,
17 3,597 are initial or original referrals and
18 2,962 are reworks or returns. This is the pie
19 chart for the status for dose reconstructions.
20 We're showing 19,026 cases at DOL with a dose
21 reconstruction. Of those 16,390 have a final
22 decision. That's 86 percent of the total.

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1 Twenty-one hundred ninety-three cases have a
2 recommended but no final decision. That's
3 primarily that they're at the final
4 adjudication branch in that portion of the
5 process and 443 cases are pending a
6 recommended decision by DOL. That is, they're
7 at the district office pending a, you know,
8 developing the recommended decision.

9 The case-related compensation
10 statistics or data are \$1.1 billion in
11 compensation. This is for NIOSH cases.
12 That's 11,356 payees in 7,432 cases. Of that,
13 \$887 million on dose reconstructed cases with
14 payments to 8,430 people in 5,934 cases, and
15 \$222 million on added SEC cases. Those are
16 the new classes. Payments to 2,926 people in
17 1,498 cases. And this is the pie chart for
18 that, for the breakdown of paid cases under
19 the program. This is both Part B and D and
20 the total is 34,796 cases. That breaks down
21 to 22,556 Part B cases and 12,240 Part E
22 cases. And the Part B cases break down to

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1 14,700 cancer payees, a little over 6,000 RECA
2 case payees and 1,848 other Part B case payees
3 which would be silicosis and some of the other
4 ones. So 43 percent of the payments under the
5 program are cancer cases.

6 This is just a quick summary of the
7 last four months of cases received and sent to
8 NIOSH. New Part B cases received by the
9 Department of Labor in August was 405,
10 September 354, 398 in October and 285 cases in
11 November of 2008. And then cases sent to
12 NIOSH by Department of Labor, 424 in August,
13 377 in September, in October it was 378 and
14 November it was 251. And I think these
15 numbers - obviously, they must include some
16 extent, and I don't know why they haven't
17 teased it out. It must include rework
18 statistics too there because obviously we're -
19 some of those numbers are bigger than the
20 receipt ones for each month. But I think
21 we'll try to tease that out next time, but I
22 think it had been asked in the past basically

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1 what was our baseline, or what level did we
2 seem to be moving towards as far as incoming
3 cases. And it's - I've always said it's
4 around 200, 250 kind of thing, and this is in
5 the general ballpark I think, or at least
6 cases being referred to NIOSH. So I think
7 that surplus is probably some - a reflection
8 of the rework number.

9 At every meeting we try to give a
10 little bit of information on what we perceive
11 or at least listed as the classes - or the SEC
12 classes that are going to be presented to the
13 Board. For Savannah River site this is a
14 summary to date as of, again, December 4. The
15 number of cases for both Part B and E, and B
16 and E are applied - I mean, E applies to DOE
17 facilities - 10,483 cases or 13,824 claims for
18 the Savannah River site, 2,529 NIOSH dose
19 reconstructions. We have final decisions on
20 the Part B side of 3,541 cases and on Part B
21 we have 1,178 approvals. Part E approvals
22 number 1,445 for total compensation for both

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1 Part B and D of \$264 million. For the
2 Metallurgical Lab at the - in Chicago we're
3 showing 65 cases or 106 claims, five dose
4 reconstructions, 20 final positions under Part
5 B, 17 Part B approvals, 10 Part E approvals
6 and compensation of \$3.6 million.

7 For Mallinckrodt Destrehan Street
8 we're showing 1,567 cases or 2,482 claims for
9 both Part B and E, 182 NIOSH dose
10 reconstructions, 520 Part B final decisions,
11 383 Part B approvals. The number of Part E
12 approvals were 226 and total compensation for
13 both Part B and D was \$77.6 million. For
14 vitro manufacturing in Mechanicsburg,
15 Pennsylvania we show 68 cases or 100 claims.
16 This is only Part B sites. We've got 10 NIOSH
17 dose reconstructions, 21 final Part B
18 decisions, six Part B approvals, the Part E
19 doesn't apply to this site and so total
20 compensation is \$825,000. And any questions?

21 CHAIR ZIEMER: Wanda Munn?

22 MEMBER MUNN: Jeff, do you have any

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1 information that would shed some light on the
2 discrepancy between the OIG's figures for DOL
3 and NIOSH?

4 MR. KOTSCH: I actually wasn't
5 involved very much or really at all in the
6 review of those numbers so I'd have to get
7 back to you. I have to admit I don't know the
8 origin or the discrepancy for our numbers and
9 NIOSH's numbers.

10 MEMBER MUNN: Well, it's large
11 enough to be a little disconcerting and any
12 information that you might be able to provide
13 would certainly be -

14 MR. KOTSCH: Yes, I'll go back and
15 check. I don't - I often blame our system
16 because I know it looks at numbers, or we
17 track things a little bit differently than
18 NIOSH, but I admit a difference that large is
19 -

20 MEMBER MUNN: Well, we never, at
21 least I personally never think too much about
22 a few hundred cases. I can see how the system

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1 alone would do that, but that - those figures
2 are significant in difference.

3 MR. KOTSCH: Yes, I agree.

4 MEMBER MUNN: And I was a little
5 concerned.

6 MR. KOTSCH: Let me look into that
7 and get something.

8 MEMBER MUNN: If the OIG is getting
9 information that's not accurate then in either
10 case it would certainly be beneficial for this
11 board to know where the problem is with the
12 reporting.

13 MR. KOTSCH: Okay. Yes, let me
14 report back.

15 CHAIR ZIEMER: Jeff, during Larry's
16 presentation it was mentioned that in the
17 Inspector General - was it the Inspector
18 General's report?

19 MEMBER MUNN: Yes.

20 CHAIR ZIEMER: Yes. That
21 communication be the sole responsibility of
22 the Department of Labor and Larry indicated

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1 that NIOSH certainly didn't agree with that.
2 I'm wondering if the Department of Labor has
3 any official position that you're aware of on
4 that same issue. And I think here we're
5 talking our - the NIOSH interactions with
6 claimants deals specifically with dose
7 reconstruction issues normally, but in any
8 event, is there a Labor position on that or is
9 it premature to ask?

10 MR. KOTSCH: I think - I don't want
11 to comment on that because I'm not sure what
12 the position is yet.

13 CHAIR ZIEMER: I was only asking
14 you if there was one.

15 MR. KOTSCH: Yes, I'm not aware of
16 it.

17 CHAIR ZIEMER: Okay, thank you.

18 MR. ELLIOTT: Is this on? If you
19 look at the Assistant Secretary for Labor's
20 memo in response you'll find there that she
21 disagrees with that. And I don't know if
22 that's the Department's position or not, but

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1 she does make that statement.

2 CHAIR ZIEMER: That is on the
3 record, yes. Okay, thank you, that's helpful.

4 Mark, did you have a question? Same as
5 Wanda's, okay. Other questions? It seems
6 that Dr. Melius has a question even not being
7 here. He did have to step out for a little
8 bit, so. If there are no further questions
9 then Jeff, thank you very much again for this
10 update. We want to make sure that the
11 discussion on the Metallurgical Lab occurs
12 very close to 11:00 because there may be
13 petitioners on the line, so I think we'll go
14 ahead and take our break at this point. We
15 can -- our breaks tend to take a little longer
16 than we plan on anyway, so let's all take a
17 break and then we'll resume shortly before
18 11:00.

19 (Whereupon, the above-entitled
20 matter went off the record at 10:20 a.m. and
21 resumed at 11:02 a.m.)

22 CHAIR ZIEMER: We are ready to

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1 reconvene. Let me check and make sure we have
2 a phone connection. Dr. Roessler, are you on
3 the line? Dr. Roessler, are you still on the
4 line?

5 MEMBER ROESSLER: I am. I was
6 doing my un-mute. I'm here.

7 CHAIR ZIEMER: Thank you, thank you
8 for being muted and un-muted. Okay, the next
9 item on our agenda is the - oh yes. A
10 reminder from our Designated Federal Official.
11 I'll let him do the reminder.

12 MR. KATZ: Just a reminder for the
13 people that are on the telephone to please
14 mute your phones, press *6 if you don't have a
15 mute button. Earlier in the day we could hear
16 someone breathing along with the discussions,
17 and I understand that some people on the line
18 had difficulty hearing some of the speakers so
19 we hope we fix that. We're going to have a
20 lavalier mic for the speakers. That should
21 take care of that. And I hope - let me know
22 right now if you can't hear me or the members

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1 of the Board well.

2 MR. MCKEEL: It's very weak.

3 MR. KATZ: It's very - I'm sorry, I
4 had a hard time hearing you.

5 MR. MCKEEL: This is Dan McKeel.
6 Your voice is kind of medium to low.

7 CHAIR ZIEMER: We're hearing you
8 better now Dan also. Can you hear me well
9 now, Dan?

10 MR. MCKEEL: Yes, I'd say it's
11 probably 80 percent of what normal should be.

12 CHAIR ZIEMER: Okay.

13 MS. KUNTZ: I hear Dan very well.
14 This is Lafern Kuntz.

15 CHAIR ZIEMER: Okay.

16 MEMBER ROESSLER: This is Gen. I
17 think the volume maybe could be a little
18 higher.

19 CHAIR ZIEMER: Maybe the local
20 person here will be able to - he's jacking
21 that up. Is that getting better now?

22 MEMBER ROESSLER: You sound good

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1 now.

2 CHAIR ZIEMER: Okay, good.

3 MR. MCKEEL: Yes, good.

4 CHAIR ZIEMER: I think we're there.

5 So then put your phones on mute so we don't
6 get that heavy breathing. I know this is an
7 exciting session, but no heavy breathing
8 allowed.

9 (Laughter.)

10 CHAIR ZIEMER: Let's proceed.
11 Metallurgy Lab which is an 83.14 petition.
12 The evaluation report will be presented by
13 LaVon Rutherford from NIOSH and then we will
14 have an opportunity perhaps to hear from the
15 petitioner by phone. Okay. Or no, Stu
16 Hinnefeld is playing the role of LaVon
17 Rutherford today.

18 MR. HINNEFELD: Right. Whenever
19 I've been an acting boss, I tell people I've
20 been acting my whole career so today I'll try
21 to act like LaVon. LaVon is sick. He called
22 me Saturday to let me know he was getting sick

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1 and warned me that he might not be able to
2 make the trip. So I said okay, being a good
3 guy I said don't worry about it, I'll give the
4 presentation, and didn't think another thing
5 about it. And then later on I realized I'd
6 just fallen for what he was leaving me, this
7 line that he was giving me. So I figured that
8 after learning that it worked so well I'm
9 looking at future agendas so that I can plan
10 my malady appropriately.

11 (Laughter.)

12 MR. HINNEFELD: Anyway, LaVon
13 actually is sick and couldn't make the trip so
14 I'll be presenting today the Metallurgical
15 Laboratory. Metallurgical Laboratory was part
16 of the University of Chicago and I think as we
17 go along you'll - a lot of this work will
18 sound familiar to you if you have some
19 knowledge of the history of the program.
20 Here's the petition overview. We evaluate the
21 petition in accordance with Part 83.14, that's
22 what we call it, a .14 petition. And this is

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1 the circumstance where the petition is
2 submitted by a claimant whose dose
3 reconstruction we could not complete. We
4 determined that it was not feasible for us to
5 do this person's dose reconstruction. We
6 informed them of that, sent them I think it
7 was a Type A petition or a Form A petition and
8 suggested that they sign that and send it in
9 to make the petition. The petitioner was
10 employed at the Metallurgical Laboratory from
11 1943 through the end of - or through 1952, and
12 I have to amend this slide. This slide's been
13 kind of overtaken by events. The current
14 covered period on the Metallurgical Lab
15 actually ends in 1946 and that has a change
16 that's been made very recently. That change
17 is reflected on the DOE's facilities database.

18 I looked this morning and the ending date of
19 1946 is reflected on that. And we encountered
20 that information in our research as we were
21 researching this petition. What happened was
22 the Metallurgical Laboratory became part of

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1 Argonne National Laboratory in 1946 and so the
2 work from 1946 on forward then would be
3 considered Argonne National Laboratory work.

4 Our determination upon evaluating
5 this class is that we're unable to complete
6 dose reconstructions for the claimant. And as
7 you can see, there are a handful of some 14
8 active claims in our hands who have employment
9 at the Metallurgical Laboratory. The
10 laboratory was located in Chicago, Illinois.
11 It's the predecessor to Argonne National
12 Laboratory. Its original classification as an
13 atomic weapons employer was from 1942 through
14 1952. That's what the original dates were
15 assigned to that. During our evaluation we
16 found this documentation indicating that the
17 Metallurgical Laboratory essentially ceased to
18 be as an entity in 1946 and became Argonne
19 National Laboratory. And the Department of
20 Labor has concurred with this, Department of
21 Energy has concurred with this and DOE has
22 changed their facility database to reflect the

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1 1946 ending date. They do not wait for a
2 Federal Register -- require a Federal Register
3 notice to change the dates. They use Federal
4 Register notices to add sites or to de-list
5 sites, but they don't require a Federal
6 Register notice to change the effective dates.

7 The University of Chicago was
8 involved in early uranium metallurgical work
9 in the -- way back during World War II, 1942
10 to '43. Started actually even before the
11 creation of the Manhattan Engineering
12 District. The predecessor government agency
13 to the Manhattan Engineering District who was
14 pursuing nuclear research actually originally
15 awarded the contract to the Metallurgical
16 Laboratory and that contract then was conveyed
17 over to the MED, the Manhattan Engineering
18 District when it came into existence in 1942.

19 The first self-sustaining nuclear
20 chain reaction occurred at this facility. The
21 University of Chicago, that was Enrico Fermi
22 and his colleagues, the first demonstration

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1 that a nuclear reactor could actually be
2 constructed, and the primary goal for the
3 people at Chicago was to develop methods for
4 the production and purification of plutonium.

5 You probably know that plutonium is created
6 by the neutron capture of uranium, uranium-
7 238, in order to make -- this had been
8 observed in laboratories where neutrons were
9 generated in fairly small quantities and very
10 small amounts of plutonium could be generated.

11 And in order to generate an appreciable
12 amount of plutonium they recognized that we're
13 going to need a fairly constant source of
14 neutrons and what if we can make one of these
15 things just run and make plutonium for us.
16 And they were successful in doing that.

17 There are a number of facilities
18 that were associated or that performed the
19 various kinds of work -- there were a number
20 of different kinds of work done -- at the
21 Metallurgical Laboratory for the MED. And
22 these facilities include the new chemistry

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1 laboratory in the Annex and the Ricketts
2 Laboratory. These were used for plutonium-
3 uranium research and these were demolished
4 after Argonne National Lab was established.
5 The West Stands which I believe are maybe the
6 west stands of the football field. There's a
7 squash court I think according to history is
8 actually what was taken over to build the
9 pile. CP-1 stands for I believe Chicago Pile
10 1, the first one, and that's where it was
11 constructed, the first sustained chain
12 reaction. It operated into 1943. It began
13 operation in 1942. I think it was in December
14 of 1942 when it actually achieved criticality.
15 Operated into 1943 when it was disassembled
16 and reconstructed with -- in a slightly
17 different configuration and some additional
18 material was added to it to make it slightly
19 bigger. It was moved into the Argonne Forest
20 -- this is the one outside of Chicago, not the
21 one I guess in France or wherever it is -- and
22 it was reconstructed and then called CP-2 or

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1 Chicago Pile 2.

2 Ryerson Physical Laboratory was
3 also used. They did research with radium
4 according to the information that we've
5 obtained. This was by -- actually, this was
6 not contemporary records that we saw, but
7 these were records that were generated
8 sometime later by the Argonne National
9 Laboratory re-survey group. Eckhardt Hall has
10 similarly performed a search with radium based
11 on those sources. Kent Chemical Laboratory,
12 research with plutonium, radium and uranium
13 again using the later source, and the Jones
14 Chemical Laboratory which performed research
15 with radium-226, again according to the later
16 source.

17 Our data capture efforts related to
18 this site include of course Argonne National
19 Laboratory, the DOE Legacy Management Office
20 and Archives, the Illinois Emergency
21 Management Agency, the National Nuclear
22 Security Administration (NNSA), NRC Agency-

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1 wide Document Access and Management, what they
2 call their ADAMS database, and other records
3 at the NRC, Washington State University -- the
4 part of Washington State University which is
5 the U.S. Transuranium and Uranium Registries,
6 Washington University Libraries in St. Louis.

7 The DOE opened that which is an OSTI
8 database. Internet searches, DOE's
9 epidemiology database, CEDR. I think that's a
10 comprehensive epidemiological data repository
11 I believe is what CEDR stands for. Hanford
12 DDRS which is some document record system,
13 declassified maybe? National Academy Press.
14 As you can see we tried quite a number of
15 avenues to learn what we could, learn
16 additional information about this work that
17 occurred at the University of Chicago.

18 We conducted interviews of the
19 claimants who have filed claims and from that
20 we can find information that would help us
21 very much in doing dose reconstruction. It
22 wasn't sufficient to complete dose

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1 reconstructions, the information we received.

2 We have such a small amount of data available
3 about personal exposures and radiological
4 conditions that we really despaired of
5 learning anything from additional interviews
6 and pursuing interviews, so we did not try to
7 go out and seek additional interviews to
8 either change the determination of our
9 feasibility determination or to limit the
10 class in some fashion.

11 The internal sources of exposure,
12 the people who have been exposed to -- it
13 would have been the plutonium, uranium,
14 fission-activation products and the radium
15 from the research. There was plutonium
16 research and separations were conducted at the
17 site and there were experiments conducted on
18 uranium ores and maybe other types of ores as
19 well, leach liquors and raffinates from other
20 sites. And so they had not only just refined
21 uranium, they also had materials that would
22 contain the uranium progeny in various -- and

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1 then the equilibrium among those things were
2 disturbed by various operations that were done
3 there. External sources of exposure would be
4 photons, neutrons and beta from the operations
5 involving the uranium, plutonium, the radium,
6 fission-activation products and then some
7 exposures from the reactor operations as well.

8 For internal monitoring data, we
9 have I think 15 radon breath samples from -
10 actually, we have samples from 15 workers in a
11 couple periods of time, 15 workers in February
12 of 1945 and three workers in May of 1945.
13 This is a bioassay technique for radium body
14 burden. We didn't really learn much about
15 interpretation technique for these results so
16 it's not entirely clear that we'll be able to
17 use these in any fashion and they certainly
18 would, given the small number they would
19 probably only be relevant to the actual person
20 that the sample was taken from. We've been
21 unable to build any kind of a coworker
22 estimate from that. There was some error

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1 sampling for one of the buildings, the New
2 Chemistry Laboratory at one time, but it
3 wasn't even comprehensive for that time
4 period. Hard to relate. We don't know of any
5 way we could relate those to actual breathing
6 zones that people were exposed to. And there
7 were some contamination surveys for brief
8 periods in that building as well. Again, not
9 so much we felt like that was characterized to
10 the extent that it could be useful for
11 determining individual exposures.

12 External Monitoring Data. We saved
13 some external dose records. I think we might
14 just have one. I think we have one of the
15 claimants who has photon exposure data. So
16 hardly a comprehensive lasting or a complete
17 listing. There are a few isolated radiation
18 surveys again from the New Chemistry
19 Laboratory. We don't know very much about the
20 medical X-rays. We think we can probably
21 reconstruct that using standard documents that
22 we use, complex-wide documents that we use.

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1 We have requested the dosimetry-
2 related information from the DOE for the
3 claimants. And like I said, in one case there
4 was a physicist who had some external gamma
5 dosimetry results. No neutron monitoring data
6 for anyone, no other external monitoring data
7 so we really didn't receive anything else with
8 respect to the claimants we have in terms of
9 their exposure, their external exposure.

10 Internal Exposures. We have the 18
11 radon breath samples, but as I said we don't
12 really know much about how the samples were
13 analyzed or the interpretation thereof. We
14 have no other personal bioassay data, no urine
15 results at all or fecal. There are
16 insufficient data from which to draw
17 conclusions regarding the potential magnitude
18 of internal doses from exposures to uranium
19 and progeny, plutonium, radium and any fission
20 products or activation products.

21 External Exposures. We have limited external
22 dose records exist. In other words, one

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1 claimant, that's pretty limited. No neutron
2 personal or area monitoring data.
3 Insufficient data from which to draw
4 conclusions regarding potential magnitude of
5 external doses and we believe we can
6 reconstruct medical doses using favorable
7 assumptions and complex-wide documents that
8 we've used in a number of cases. Now, if we
9 in fact have any personal monitoring data that
10 we do have or becomes available for employees
11 if in fact we have to do a dose reconstruction
12 for anyone, for instance if they were not
13 included -- if a class is added they're not
14 included in the class by reason of not having
15 an SEC cancer. Then if we have data for an
16 individual we will use it in that person's
17 dose reconstruction to the extent we're able
18 to.

19 So, a summary then of our
20 feasibility determination. We concluded we
21 cannot reconstruct internal or external doses,
22 well internal doses at all. Don't have

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1 sufficient data to reconstruct external gamma,
2 beta or neutron doses except in the one case
3 where we have the photon exposure for the one
4 person which we will utilize, and we do intend
5 to attempt to reconstruct medical X-ray doses.

6 Okay, if our health endangerment
7 determination evidence reviewed in this
8 evaluation indicates that some workers in the
9 class may have accumulated chronic radiation
10 exposures through intakes of radionuclides and
11 direct exposure to radioactive materials, and
12 consequently NIOSH is specifying that health
13 may have been endangered for these workers,
14 for the workers covered by this evaluation who
15 are employed for a number of work days
16 aggregating at least 250 work days within the
17 parameters established for this class or in
18 combination with other classes.

19 Our proposed class is all AWE
20 employees who worked at the Metallurgical
21 Laboratory in Chicago from August 13, 1942 -
22 that was the date of creation of the Manhattan

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1 Engineer District -- through June 30, 1946 for
2 a number of work days aggregating at least 250
3 work days occurring either solely under this
4 employment or in combination with work days
5 within the parameters established for one or
6 more other classes of employees in the SEC.
7 So our recommendation to the Board and for
8 consideration and our recommendation to the
9 director is that for the period of August 13,
10 1942, through June 30, 1946 we find that
11 radiation dose estimates cannot be
12 reconstructed for compensation purposes. And
13 our table indicates we do not believe the dose
14 reconstruction is feasible and we do believe
15 that health was potentially endangered for
16 people who worked there. So, I intended to
17 take longer at that. I apologize for speaking
18 so swiftly. Are there any questions?

19 CHAIR ZIEMER: Any questions for
20 Stu? Stu, this is a question that's more a
21 curiosity question. For the one individual
22 for whom you have external dosimetry, what was

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1 the nature of the dosimetry? Were they using
2 some sort of a film badge? Obviously this is
3 before the time of commercial film badges and
4 almost before the time of even badges that --
5 in other words, had the Manhattan District
6 developed their own device at that time?

7 MR. HINNEFELD: Well, I didn't
8 foresee that question over the weekend, Paul,
9 so I don't know. Now, I don't know if LaVon
10 is on by phone or not. If he's on and he
11 knows the answer he might want to speak up.
12 If he's on and he doesn't know the answer he
13 may want to say, you know, be quiet so we
14 assume he's not on. Oh, he's on.

15 MR. RUTHERFORD: This is LaVon, I
16 am on. And actually from the very beginning
17 when they were looking at CP-1 they looked at
18 using dentistry film, and they also had
19 developed ion chambers, pocket ion chambers.
20 So I do not know if it was pocket ion chamber
21 results or film results for that individual,
22 but they were using them at that early period.

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1 CHAIR ZIEMER: Thank you. And then
2 the other thing, and again it's not sort of
3 critical to this petition, but more out of
4 curiosity. Is this start date, the August '42
5 start date which is the official start of the
6 Manhattan District, is that before or after
7 the actual CP-1 critical experiment?

8 MR. RUTHERFORD: Again, this is
9 LaVon Rutherford. CP-1 started - went
10 operational on December 2 of 1942.

11 CHAIR ZIEMER: So this date
12 captures the actual Fermi experiment then,
13 which was in December, the critical date,
14 right?

15 MR. RUTHERFORD: That's correct.

16 CHAIR ZIEMER: Okay, thank you very
17 much. Wanda Munn.

18 MEMBER MUNN: I have one question
19 with respect to the 14 claimants. Are any of
20 those 14 claimants in a situation that you're
21 aware of where their 250-day employment period
22 would become an issue relative to their

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1 ability to be included in the claim?

2 MR. HINNEFELD: I don't know. I
3 don't know if LaVon knows or not.

4 MR. RUTHERFORD: No, I do not know.
5 I could check that out.

6 MEMBER MUNN: The other is a
7 comment for those who have great interest in
8 nuclear technology and any interest at all in
9 history. The people who constituted this
10 portion of the Manhattan Project are the men
11 and two women who constitute the shoulders on
12 which our entire basis is built in the United
13 States, and if there is any group anywhere
14 that deserves inclusion it is certainly the
15 individuals who worked in the Metallurgical
16 Laboratory under Enrico Fermi during those
17 very crucial years. The information that has
18 come out of their efforts has been the basis
19 for not only what transpired during World War
20 II and the following Cold War years, but also
21 for the entire science of health physics and
22 nuclear technology overall. So if -- when

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1 we've finished with questions I'd certainly
2 like to be the person who makes the motion
3 with respect to this petition.

4 CHAIR ZIEMER: Thank you. Dr.
5 Melius?

6 MEMBER MELIUS: Yes, I just have a
7 question. It may be more for Department of
8 Labor, but it's not clearly covered in the
9 report. But do you anticipate any problems
10 trying to identify who these workers were in
11 terms of eligibility? It would seem to me, I
12 mean one, you've got this long time period to
13 go back to, but secondly, would, you know, how
14 do you make a determination that people worked
15 in that particular department, and how do you
16 deal with other workers who might have also
17 been exposed? Security guards for example,
18 and in other -- I just have no idea how sort
19 of the personnel system was set up going back
20 that far to university.

21 MR. HINNEFELD: Well, I understand
22 your question and can frankly say that is in

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1 fact a DOL question. From our standpoint, I
2 mean, that determination is made before we're
3 even aware of a case, and we have no
4 involvement in a case until it is made known
5 to us by the Department of Labor. And so a
6 qualification of whether this employment was
7 at the Metallurgical Laboratory or not, I have
8 no particular knowledge of what's available to
9 do that, but that decision is made before we
10 have any involvement in the case.

11 MEMBER MELIUS: I mean, I don't
12 think you can deny responsibility for -

13 MR. HINNEFELD: I'm not trying to
14 do that.

15 MEMBER MELIUS: -- for that because
16 I mean our definition, class definition may
17 impact on that. I just want to make sure that
18 we, you know, that we have a sufficient class
19 definition. It may be fine. I have not
20 looked at the individual interviews and
21 there's some discussion in this report that
22 there's been discussions with DOL, but I'm

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1 just trying to get confirmation on that.

2 MR. HINNEFELD: Yes, our
3 discussions with the Department of Labor, at
4 least the ones conveyed in the report, had to
5 do with the end date for the Metallurgical
6 Laboratory. And that was based on our
7 research. It was fairly clear from our
8 research that the Metallurgical Laboratory
9 simply ceased to exist, or at least ceased to
10 exist as an AWE in 1946 and became Argonne
11 National Laboratory. So that was the extent
12 of our discussion with DOE. Certainly --

13 MR. RUTHERFORD: This is LaVon
14 Rutherford. I'd like to point out that this
15 is the -- under the DOE facility database, the
16 Metallurgical Laboratory is its own
17 designation by itself and so this covers the
18 whole facility, the whole Metallurgical
19 Laboratory. If there were individuals or a
20 group outside of this under the University of
21 Chicago that ultimately we determined were --
22 should be included that would end up having to

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1 be a separate designation, or a separate SEC
2 class in itself because you cannot have an SEC
3 class with more than one facility.

4 MR. HINNEFELD: Yes, from the
5 designation standpoint we can do one case at a
6 time. I think your question then probably
7 speaks to University of Chicago employees who
8 are exposed to these conditions.

9 MEMBER MELIUS: Right, yes.

10 MR. HINNEFELD: And we can
11 certainly talk to the Department of Labor
12 about that. You know, I don't know that Jeff
13 would be in a position to say anything about
14 that. We can certainly talk about that going
15 forward. I mean, it's clear to us that, you
16 know, these are not dose reconstructions that
17 are feasible for us to do, and we would -- I
18 don't think we would take any position about
19 excluding people because we've not found any
20 way to exclude people who work there based on
21 control of materials and the radiation
22 exposures were only here with only those

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1 people. We're not attempting to do any of
2 that and be exclusive at all. So to the
3 extent that it's within what is typically our
4 authority to make a decision on or render a
5 recommendation on, we make no distinction or
6 separation at all. With respect to the
7 question of who really is an employee of the
8 Metallurgical Laboratory, we would have to
9 approach the Department of Labor about that.

10 MEMBER MELIUS: Jeff, do you have
11 comments? I would just add, it also I think
12 makes a difference in terms of the outreach
13 that's done. If you tell people only if you
14 worked for a certain facility, you know, it's
15 defined and even though it was sort of, there
16 may have been other employees in those same
17 buildings or whatever, it is potentially
18 confusing. Now, I don't know enough about the
19 history there and when Argonne took over what
20 happened to employees and ancillary sort of
21 employees or other people that may have been
22 involved in that work.

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1 MR. KOTSCH: I specifically have
2 not looked at any Met Lab cases. I mean, all
3 I can say is that each one would be looked at
4 for the information that's provided, the
5 evidence of employment that's provided for,
6 you know, as being a Met Lab employee, or a
7 University of Chicago person that was working
8 at the Met Lab. And you know, the outreach
9 will be in that -- I don't know what form it
10 will take. It'll certainly be in that area as
11 well as -- I don't know where else they would
12 target. But you know, it's always based on
13 the evidence that's provided, or the
14 affidavits, or whatever, you know, information
15 is provided as far as employment goes.

16 MEMBER MELIUS: I just get worried
17 that as it gets farther down into the
18 bureaucracy, into your outreach centers that
19 if they're just focused on, you know, a narrow
20 class definition that somehow we lose the
21 potential to identify other groups which are,
22 again, I have no idea what the potential

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1 impact is here could be. And I just remind
2 that on the MIT-proposed evaluation that has
3 been withdrawn because of some of these
4 definitional issues that at one point the
5 proposal was to include the entire university,
6 and if an employee of the university is in the
7 class. Here we have sort of the other -- I
8 had concerns that may have been too wide a
9 group, and yet we narrow it down it may be too
10 narrow a group and we need to think about
11 we're going to be fair to the potential
12 claimants that we identify. Have some process
13 in place to identify and make sure that we
14 don't reject people inappropriately.

15 MR. KOTSCH: Understood.

16 CHAIR ZIEMER: I'll add a comment
17 to that, maybe two comments. One is that
18 universities are notoriously open for people
19 to roam around or as those connected with
20 academia know. On the other hand, this
21 project, the Manhattan Project was a highly
22 secret project at that time. I believe, I'm

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1 not certain of this, but one of the reasons
2 for using the stadium was I think they had
3 stopped playing football, Chicago -- that may
4 not -- it's immaterial right now, but that was
5 not - that was one of the locations that was
6 thought to be sort of isolated from other
7 things.

8 The other point I'd like to ask
9 LaVon is the CP-1 was simply an array of
10 graphite and uranium rods. Was there any
11 shielding on that? LaVon, do you recall?

12 MR. RUTHERFORD: Dr. Ziemer, there
13 was some shielding, but not a lot of
14 shielding.

15 CHAIR ZIEMER: They mostly used
16 distance, I believe.

17 MR. RUTHERFORD: Yes, they did.
18 There is actually some good pictures of CP-1
19 you can see on the site research database as
20 well as if you do the internet search there's
21 some pictures. There was some concrete
22 shielding that went around it, and then they

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1 did use distance in their approach. But when
2 they went from CP-1 to CP-2 in the
3 rearrangement they did add additional
4 shielding to the facility based on what they
5 learned.

6 CHAIR ZIEMER: Right. And then
7 Wanda, in connection with your question on the
8 250 days, I think we do know that a lot of
9 those folks at the original CP-1 event went
10 elsewhere. For example, the hatchet man, I
11 won't give his name although it's commonly
12 known, the one who held the hatchet to release
13 the boron if something went wrong and he was
14 going to cut the rope. That was the early
15 what we call a SCRAM system. Later I think
16 became the associate director of one of the
17 national labs. We know that another person in
18 that project became the head health physics at
19 another national lab. And so a lot of these
20 people went to other locations in the system
21 following that success of CP-1. They didn't
22 all stay at Argonne. Some did, but they would

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1 accumulate their days elsewhere. But the
2 reason I asked about the shielding is that to
3 some extent this looks like a criticality
4 event. I look at Dr. Melius because his group
5 is looking at that 250 day issue. And I know
6 in the pictures the group was all standing I
7 think at a balcony overlooking the pile. I've
8 often wondered what kind of doses they
9 received up there. Of course, they didn't
10 operate it very long, but it was a critical
11 event.

12 MR. RUTHERFORD: Dr. Ziemer, I
13 would say that if we did determine that, you
14 know, the potential was there for doses, you
15 know, consistent with a criticality accident,
16 that would be a separate class because we
17 would identify that as a separate class and
18 event that occurred, and so we would
19 ultimately end up with two classes for that.
20 Instead, you would have the chronic or long-
21 term exposure from 42 to 46 period where you
22 would need 250 days, and then you could look

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1 at adding a second class that would be
2 identified as CP-1 operations conducted, you
3 know, sometime during that period. So that
4 would be two separate classes. I would also
5 point out that the initial wattage I think was
6 two watts. So it was very low operations.

7 CHAIR ZIEMER: And I would not want
8 to characterize it as a criticality accident.

9 It was a controlled chain reaction, not an
10 uncontrolled one, so one would not expect the
11 kind of doses you might have gotten at, say,
12 the SL-1 accident in Idaho. Thank you. Other
13 comments or questions? Dr. Poston?

14 MEMBER POSTON: No comment -- no
15 question, but a comment. I think LaVon is
16 incorrect. There was no shielding at the CP-
17 1. What appears to be shielding are large
18 pieces of wood which were used to hold up CP-1
19 because it was actually built in a spherical
20 shape, and there's no shielding. In fact, if
21 you look at the pictures you'll see folks
22 standing on top of the reactor, you'll see

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1 folks standing beside the reactor to move the
2 rods. The rods were moved manually, not by
3 any mechanism, and there was no shielding
4 between the folks on the reactor and the folks
5 on the balcony.

6 CHAIR ZIEMER: Thank you. That's
7 helpful. Other comments or questions? Okay,
8 thank you Stu. Now, it would be in order to
9 have a motion. Or no wait, I'm sorry. I'm
10 ahead of myself. We may have a petitioner on
11 the line, I'm not certain. Is there a
12 petitioner on the line for the Metallurgical
13 Laboratory claims? I was told that there
14 would be.

15 MS. KUNTZ: Yes, sir. My name is
16 Lafern Kuntz.

17 CHAIR ZIEMER: Okay. And Lafern,
18 would you like to make any comments or ask any
19 questions?

20 MS. KUNTZ: Well, I was a little
21 confused. I'm 86 today, sir, and going
22 through the reports and locations of your

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1 exposure sites, and perhaps you named the
2 ones. I worked on the Bikini Atoll. At 57th
3 and Ellis used to be a storefront. There was
4 a young lady, [Identifying Information], who
5 later became a doctor. We all worked under
6 [Identifying Information], a physiologist who
7 was from the University of Southern Illinois.

8 He wrote a paper -- giving all of us credit,
9 the only doctor I know there at that time that
10 worked on radiation of dogs. Also, it wasn't
11 mentioned about the horse stable at 62nd and
12 University which was called Site B under
13 metallurgy. And I would be -- I was made
14 supervisor in 1945, then transferred to New
15 Chem. And you were speaking about radiation.

16 They had something, we used to be able to
17 check it once in awhile with our shoes and I
18 had to throw away a pair of shoes. I used to
19 do the blood work on those that were exposed.

20 You would hear "pthh" and the roof would be
21 gone and the men would go into a shower and
22 come to me, and I'd draw blood and they'd go

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1 right over to the hospital for other work.

2 I notice Ellis Street and Site B
3 wasn't mentioned. Perhaps in another forum, I
4 don't know. That was under [Identifying
5 Information] was the head hematologist and
6 hired me. And when I was first hired I was
7 working in outpatient laboratory in Billings
8 Hospital and I was hired there and worked in
9 Billings on rabbits on the third and fourth
10 floor. And then I would be sent to West Anne
11 where I worked on goats. We, a lot of us, all
12 of us should be put in that group for
13 exposure. We were pioneers. I was told not
14 to go on too much with talking, but I thought
15 it would be interesting. There were things
16 that I had seen and I'd like to write to you
17 about it, where two little puppies -- it took
18 me years to get over it -- their hind legs
19 were exposed, bones, and I found them in my
20 area where the rabbits were supposed to be.
21 And I got help for them and I collapsed.
22 Their little eyes were all over, their teeth

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1 were all over. Evidently the pregnant dog was
2 given radioactivity when she had conceived and
3 the puppies were distorted. And that was one
4 of the horrible things. I can't get that out
5 of my mind even today, but it's not too bad.

6 But I thought also in Germany a boy
7 came back from the Army when the war was over
8 and we saw pictures of men in the mountains
9 and they did scalp and removed their hair and
10 everything. And one foot would be a skeleton
11 and the other foot would be normal. Saw no
12 shoes by them. It was in the mountains. The
13 Army didn't know what it was. They were all
14 in Nazi uniforms and it turned out that's what
15 I saw on the two dogs about three or four
16 years later at Site B. Somebody did the same
17 experiment with the same chemical they gave
18 the men in the mountains in Germany. I
19 thought maybe you'd be interested.

20 But I do hope you put our group in.
21 Everybody was exposed. We traveled around.
22 And being a pioneer, you men have more

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1 knowledge today than they were trying to seek
2 and find in those days. Thank you.

3 CHAIR ZIEMER: Okay, thank you
4 Lafern. This sounds like some early
5 radiobiology experiments that might have been
6 carried out in conjunction with the project.
7 LaVon Rutherford, is this something that has
8 been looked at?

9 MS. KUNTZ: We did plutonium and
10 fission mixture, a lot of that.

11 MR. RUTHERFORD: There is
12 discussion in the site research database on
13 one document of some early biological, you
14 know, early experimentation on human beings,
15 actually.

16 MS. KUNTZ: Oh, yes.

17 CHAIR ZIEMER: Was this part of the
18 Manhattan Project, LaVon? LaVon Rutherford?

19 MR. RUTHERFORD: You know, Dr.
20 Ziemer, it's not clear if it was part of what
21 was -- if you looked at the report, the
22 Metallurgical Laboratory was doing a lot of

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1 research on personnel health and safety and
2 including looking at different methods of
3 monitoring techniques and so on and biological
4 effects. And there was some clinical
5 experiments that were done on what were
6 considered patients that were going to die due
7 to some, you know, illness. And it's not
8 clear if it was conducted there -- it's not
9 clear it was conducted at the metallurgical
10 facility from the document that I read.

11 CHAIR ZIEMER: Okay. Somebody
12 needs to mute their phone. We're hearing
13 about the Verizon wireless. Okay, maybe
14 they've done that. Okay, thank you. So, the
15 facility that Ms. Kuntz mentioned, LaVon,
16 sounded like a separate animal facility. Is
17 it uncertain as to whether that's part of this
18 project, or do we know that it is not, or?

19 MR. RUTHERFORD: There was animal
20 research that was done at the facility, and it
21 wasn't clear from the documentation we had
22 which one of the facilities under the Met Lab

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1 that that activity was included in.

2 MS. KUNTZ: Excuse me, yes it was
3 under the Metallurgy Lab, Fifth Army Corps of
4 Engineers. We spoke to and saw General Leslie
5 Groves constantly there and we worked there
6 for the University Army, Fifth Army period.

7 MR. RUTHERFORD: I wasn't saying it
8 wasn't part of the -- I just was saying it's
9 not clear where that activity -- from the
10 documentation we have it's not clear where
11 that activity was conducted.

12 MS. KUNTZ: Oh, at 57th and Ellis
13 Street. They tore that building down. And
14 Site B was at 62nd, used to be a horse stable.

15 Everybody around the university that's alive
16 today. I met some doctors that knew about 57th
17 and Ellis, and they weren't part of the
18 project. They were new medical students.

19 CHAIR ZIEMER: Well, as I look at
20 the definition for the proposed class, since
21 it's not defined in terms of buildings, but
22 rather defined in terms of employment with

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1 Metallurgical Laboratory, I guess that would
2 be covered. Am I correct on that, LaVon?

3 MR. RUTHERFORD: That is the way we
4 intended and that's the way it's been
5 practiced in the past. If you include the
6 entire facility and all employees then it
7 would include everyone.

8 CHAIR ZIEMER: So these buildings
9 listed in the evaluation report are there as
10 part of your evaluation, but there's no intent
11 to exclude people that were outside of those
12 named buildings?

13 MR. RUTHERFORD: That's correct.

14 CHAIR ZIEMER: Thank you. Other
15 questions? Dr. Melius?

16 MEMBER MELIUS: I just want to go
17 back to this class definition because I keep
18 hearing it interpreted differently. Are we
19 saying that you have to work for the
20 Metallurgical Laboratory, be an employee of,
21 or work at the -- if you worked at you could
22 have come in from other.

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1 CHAIR ZIEMER: It says "worked at"
2 right now.

3 MEMBER MELIUS: Yes, I know, I'm
4 saying --

5 CHAIR ZIEMER: It doesn't say
6 "employees" it says "worked at."

7 MEMBER MELIUS: Yes. So that's the
8 interpretation, but if -- so if you worked for
9 the University of Chicago but you were working
10 at the Metallurgical Lab are you covered or
11 not?

12 CHAIR ZIEMER: Yes. I see Stu is
13 shaking his head yes. I believe that's the
14 understanding. The intent is, I think as we
15 understand it here, sitting here, is that if
16 they worked at that. That would not be unlike
17 cases where people work at the test site and
18 were employed by someone other than the main
19 contractor, subcontractor, whatever. Now
20 actually, the Metallurgical Laboratory and
21 even Argonne, Argonne was operated by the
22 University of Chicago, so people who worked at

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1 Argonne or worked for Argonne were employed by
2 the University of Chicago. So I guess the
3 Metallurgical Lab was part of the university.

4 So these are all university employees. But
5 the worked at, would allow for cases where an
6 individual might have been an outsider,
7 visiting investigator. You see, I don't know
8 if Enrico Fermi worked for the university or
9 not, but it's beside the point. It's
10 whoever's there I believe is covered under
11 this. Is that correct? If they were in the
12 project, regardless of whose payroll they were
13 on, correct? Yes, thank you.

14 MS. KUNTZ: Sir, may I say
15 something?

16 CHAIR ZIEMER: Yes, you certainly
17 may.

18 MS. KUNTZ: This is Lafern. As you
19 gentlemen know, it was a highly kept secret in
20 our country, and the reason the University of
21 Chicago wrote our checks was they thought we
22 were all students there. We were all young.

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1 I was 21 when I was hired there. And it was a
2 big cover-up for us. It definitely was and
3 everybody in the Metallurgical Laboratory, if
4 you read their book, Their Day in the Sun,
5 that was written by two lady doctors from Oak
6 Ridge, Ruth Howes and Caroline Herzenberg, you
7 would see all the names of all the women, even
8 if they were doctors. We were given equal
9 titles that we had served our country, and
10 that's all I thought would help you.

11 CHAIR ZIEMER: Thank you. Other
12 comments or questions? Dr. Melius, another
13 question?

14 MEMBER MELIUS: No, I'm sorry.

15 CHAIR ZIEMER: Okay. So we have a
16 proposed class before us. We've also heard
17 the comments from the petitioner and let me
18 ask if there is a proposed action. Wanda
19 Munn.

20 MEMBER MUNN: I recommend that all
21 AWE employees who worked at the Metallurgical
22 Laboratory in Chicago from August 13, 1942,

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1 through June 30, 1946 as described in the SEC
2 petition be accepted as a segregate SEC for
3 all purposes, this board and its
4 deliberations.

5 CHAIR ZIEMER: Okay. You've heard
6 the motion. Is there a second?

7 MEMBER CLAWSON: Second.

8 CHAIR ZIEMER: Brad has seconded
9 it. If the motion carries we will have it
10 returned to us during our workday on Thursday
11 for the official wording that would go forward
12 to the Secretary which will be slightly
13 different than what was in the general motion
14 that Wanda just made. Is there discussion on
15 the motion? If the motion is passed then the
16 individuals so described would become a class
17 of the special exposure cohort. Are you ready
18 to vote, then? We will vote by roll call vote
19 and we will later obtain the votes of Mr.
20 Schofield and Dr. Lockey. So Ted, if you'll
21 call the roll call we'll do the voting.

22 MR. KATZ: Yes. Beginning, Ms.

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1 Beach.

2 MEMBER BEACH: Yes.

3 MR. KATZ: Mr. Clawson?

4 MEMBER CLAWSON: Yes.

5 MR. KATZ: Mr. Gibson?

6 MEMBER GIBSON: Yes.

7 MR. KATZ: Mr. Griffon?

8 MEMBER GRIFFON: Yes.

9 MR. KATZ: Dr. Melius?

10 MEMBER MELIUS: Yes.

11 MR. KATZ: Ms. Munn?

12 MEMBER MUNN: Aye.

13 MR. KATZ: Dr. Poston?

14 MEMBER POSTON: Yes.

15 MR. KATZ: Mr. Presley?

16 MEMBER PRESLEY: Yes.

17 MR. KATZ: Dr. Roessler on the

18 phone?

19 MEMBER ROESSLER: Yes.

20 MR. KATZ: And Dr. Ziemer?

21 CHAIR ZIEMER: Yes. The motion

22 carries. We will obtain the votes of the

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1 others as quickly as possible. I want to tell
2 you that it is our intent to, once we have the
3 formal motion at the end of this week, to move
4 that forward very quickly to Health and Human
5 Services, to the Secretary in the hopes that
6 he can push that forward before we get into
7 more of the transition and perhaps this class
8 can be added by the mid-January date when the
9 current Secretary will leave office and we
10 will have a new group coming aboard. And
11 that's -- not that we wouldn't want the new
12 group to handle it, but I think just to
13 expedite it so it's not behind the curve as
14 far as a lot of new people coming aboard. So
15 we'll do our best to move this out. The
16 official motion normally charges the chair to
17 do this within 21 days and I just want to tell
18 you that the intent would be to try to do this
19 yet this week if we're able to.

20 MEMBER MELIUS: We'll give you 21
21 hours.

22 CHAIR ZIEMER: Twenty-one hours

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1 would be a new record, but we will move it
2 forward very quickly. Thank you. Any other
3 comments? And thank you, Ms. Kuntz, for
4 joining us today. We appreciate your input on
5 this as well.

6 MS. KUNTZ: I thank you, sir. Only
7 in America could something like this be done.
8 God bless all of you.

9 CHAIR ZIEMER: Thank you very much.
10 We are approaching the lunch hour so we are
11 going to recess till 1:00 p.m. and we'll
12 resume our deliberations at that time. Thank
13 you all.

14 (Whereupon, the above-entitled
15 matter went off the record at 11:54 a.m. and
16 resumed at 1:22 p.m.)

17 CHAIR ZIEMER: We are now ready to
18 reconvene. I've instructed our Designated
19 Federal Official to modify tomorrow's agenda
20 so that we have a slightly longer lunch hour.

21 I think logistically it's been very difficult
22 for people to get their food and get their

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1 bills and back, so we'll extend that tomorrow
2 a little bit to accommodate. And our
3 apologies to those standing by by phone, but
4 logistically we're just not able to all get
5 back here within the hour timeframe.

6 The next item on our agenda is the
7 Department of Energy update. However, Dr.
8 Worthington was stranded halfway here due to
9 fog. That is, I think the fog was here and
10 she couldn't get here from Atlanta. But in
11 any event, she's on the plane now and en route
12 so we're going to delay the DOE update until
13 Dr. Worthington arrives. We're hopeful that
14 she will be here in mid-afternoon in which
15 case we will delay the official adjournment
16 time which is currently scheduled for 4
17 o'clock. It says adjourn, it would really be
18 a recess technically since the meeting will
19 continue after that with the public comment
20 period. But in any event, we'll plan
21 tentatively to hear the Department of Energy
22 update somewhere later in the afternoon after

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1 we complete the work on the Savannah River
2 petition.

3 Now we do want to keep the Savannah
4 River discussion at sort of a time certain
5 because there may be individuals by phone or
6 others who were planning to be here for that
7 that are planning to arrive around the 2
8 o'clock hour, so what we will do at the moment
9 is to move one item up from tomorrow's agenda,
10 and that is a report from the Board's
11 contractor, SC&A. It currently is on your
12 agenda for 2:15 tomorrow. It's called Review
13 Closeout Process. And so I've asked John
14 Mauro if he would present his comments at this
15 time and he's agreed to do that. So I'm
16 pleased to have Dr. Mauro come on behalf of
17 SC&A. He's going to talk about the closeout
18 process. And let me preface this by reminding
19 those who are here that at the present time
20 our contractor is perhaps what you would call
21 in limbo because we are in the process, that
22 is the Board is in the process of recompeting

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1 the contract, and the Board's work is done on
2 that and the agency, the federal agency that
3 assists us with this has done most of their
4 work but we're waiting for the final decision
5 on the selection of the contractor for the
6 next 5-year period. So until we know whether
7 or not that will be SC&A or some other entity
8 we are not in a position to officially proceed
9 with very much new work, but at least we have
10 some old work that has to be closed out by the
11 present contractor. And John Mauro is going
12 to talk to us a bit about the plans on moving
13 forward on the closeout process. John?

14 DR. MAURO: Thank you, Paul. Good
15 afternoon everyone. As Paul pointed out, John
16 Mauro. I'm the project manager for Sanford,
17 Cohen & Associates. We're the contractor to
18 the Board. We have been for the past five
19 years. And I'm going to summarize where we
20 are as of today. Our contract actually I
21 believe officially ends tomorrow, and what I'm
22 going to do is try to give a rundown. This

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1 very first slide is an attempt to capture the
2 story on one slide. I usually like to start
3 with the end of the story, and then we'll back
4 away and go into some of the details. The -
5 for all intents - you can think about the work
6 that we do for the Board as falling into two
7 categories. One is we prepare major reports,
8 and these are large documents that go and are
9 submitted to the Board, and they go up on the
10 Board's website and become available
11 eventually for everyone to look at. And then
12 once that work product is delivered to the
13 Board, then the Board usually authorizes a
14 work group which is a group of individual
15 board members where we meet together in
16 working sessions to discuss the issues that we
17 have raised as a result of the work we did.
18 And that's called a closeout process.

19 Now, the first item on this slide
20 here basically says, for all intents and
21 purposes, with the exception of one
22 deliverable which is still active, we have

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1 delivered all our work products to the Board.
2 They're large documents sitting on the shelf
3 or electronically. The single deliverable
4 that has not been delivered yet is a set of
5 dose reconstruction audits. There area 18
6 dose reconstructions that we were given to do
7 a review of, I guess about a month or so ago,
8 and we're pretty close to finishing that up.
9 But that particular work product will not be
10 delivered to the Board prior to the end of
11 this contract unless the contract is extended
12 a little further. So what that means is all
13 our work is done except for the closeout of
14 issues, and that's not a small thing. As we
15 have all experienced, as we deliver our
16 reports we find that we have many comments on
17 the work products prepared by NIOSH, and then
18 we meet and we discuss some of the concerns we
19 have. And Item Number 3 says well listen, if
20 you step back and look at all of the work that
21 was done over the past five years, you know,
22 where are we on closing out all the issues?

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1 And I think it would be fair to say that we're
2 about 50 percent complete. There's still a
3 lot of issues that have to be closed out.
4 It's going to take some time to address those
5 issues and close them out. The good news is
6 that even though the contract's coming to an
7 end and there's still a lot of closeout work
8 to do, there are a lot of resources left in
9 the contract. We estimate as of today we have
10 about \$400,000 left in our budget. That
11 translates to about 300 work hours. So in
12 effect we have some resources available that
13 will allow us - that's available to continue
14 the closeout process.

15 And what I did then is say, okay,
16 given that we have 300 work hours left in the
17 budget - I'm sorry, 3,000. Did I say 300?
18 Three thousand. What does that mean? That
19 means well, let's take a look at the work that
20 remains that needs to be done. The work that
21 needs to be done, I put them in what I
22 consider to be the priority, the things that I

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1 think are most important. Certainly the Board
2 may see it differently, but I thought it might
3 be helpful. I'll just lay them out. The
4 first item that I think is the highest
5 priority is the completion of the issues
6 resolution process on active SEC petition
7 evaluation report reviews, such as the
8 Savannah River site profile construction
9 worker SEC petition which is the discussion -
10 we'll be talking about that a little bit
11 later. And we estimate that in order to
12 complete all the SEC petitions evaluation
13 reports that are still before us, whereby
14 we've done the work and now we're in the
15 closeout process of those, we're going to need
16 about 1,650 work hours. And we go down the
17 list. The second item I put complete issues
18 resolution on procedures. We've reviewed
19 about over 100, maybe 130 procedures that are
20 used by NIOSH to do their dose
21 reconstructions. And we estimate that we've
22 completed the review, and we'll get into a

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1 little more detail on this, but about half of
2 those issues. There are a lot of issues,
3 hundreds of issues, but to finish that
4 closeout we're going to need about 350 more
5 work hours.

6 Moving down the row. There are
7 also - I mentioned earlier there's one set of
8 dose reconstruction audits that we were asked
9 to do as part of our existing contract that
10 ends tomorrow to review one set of cases. We
11 estimate that we're going to need about 300
12 work hours to finish up that work. And then
13 the next item down is - that would be to
14 actually do the dose reconstruction audits
15 themselves and put a report out, a piece of
16 paper that goes on a shelf. But then the next
17 item underneath that says complete issue
18 resolution on dose reconstruction reviews.
19 That's the process. Now once we finish doing
20 the dose reconstruction audits, we have all
21 our findings, then we go through the process
22 of resolving the issues. That's about 300

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1 work hours.

2 Now, you'll notice that those first
3 four items I put in bold. You add those up,
4 that's about - we basically have enough
5 resources left over from the previous contract
6 to do those first four items. Now, the three
7 items beneath that, well the two items beneath
8 that, sorry, we don't have enough resources to
9 complete. And I said complete issue
10 resolution on active site profile reviews.
11 There are several site profile reviews that
12 there are active work groups, we're attending
13 to the issues, but we still have work to do.
14 And we estimate that to finish that we're
15 going to need 550 work hours.

16 And finally, there's the issues
17 resolution on what I call the inactive site
18 profile reviews. There are a number of large
19 site profile review documents that SC&A has
20 issued that are sitting on the shelf that we
21 really haven't been able to get to. It wasn't
22 possible to form the Work Groups, to initiate

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1 the Work Group meetings and get the work
2 started. We estimate that'll require about
3 1,900 work hours to finish that work. So what
4 I'm really saying is we've got leftover 3,000
5 work hours in the bank so to speak that we can
6 draw upon, but we've got 5,050 work hours of
7 work to do. So the bottom line is that we're
8 basically coming up short in terms of getting
9 all our work done, the five years worth of
10 work that we did. It would have been great if
11 we could have said today, I could have come
12 before you all and said we're done. We
13 finished all the work, closed out all the
14 issues, you can go home. But no, the reality
15 is we still have work to do. We have - we're
16 going to need - basically to do that work it's
17 going to cost, projected shortfall is about
18 \$250,000, \$300,000, on that order. What does
19 that mean? That means the next contract is
20 going to be burdened with that. So whoever
21 your next contract is, we certainly hope it's
22 us, we haven't heard yet, but that contract

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1 will be burdened with not only doing its own
2 work the next fiscal year, but also with
3 closing out this work. And we think it's
4 going to burden that next year's work at a
5 cost of about \$250,000. I have to say that
6 that ain't bad. I mean when you think about
7 it, it was about a \$13 million contract.
8 We're effectively coming up short about
9 \$250,000. So that's the roll-up, that's the
10 end of the story. But now we're going to back
11 up a little bit and say how I got there.

12 We're first going to talk about -
13 everyone can see that? - the status of
14 closeout. This is the SEC. In other words,
15 this is the - if someone says what did you
16 folks do with regard to supporting SEC reviews
17 and supporting the Board. The first column is
18 a listing of all of the SEC petition and
19 evaluation reports that SC&A reviewed on
20 behalf of the Board over the past five years.

21 The next column over says the status of that
22 deliverable, the book that we delivered. We

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1 have delivered or are in the act of delivering
2 all of them. You'll notice that there are a
3 few that have asterisks next to them. The
4 last few, couple of asterisks. One of the
5 logistics problem that have emerged, and I
6 guess we're going to hear more about that when
7 DOE is here, is we have three documents, Santa
8 Susana, Pantex, Savannah River construction,
9 that have been completed and are on various
10 stages of review by the Department of Energy.

11 The Department of Energy likes to see all our
12 work products before they are released for
13 public consumption. So we like to think that
14 we've finished our work, but quite frankly it
15 still has that one last step to go. So I'd
16 like to say that we have delivered all our
17 work products or for all intents and purposes
18 have delivered all our work products, but then
19 the next column over says the status of
20 closeout. Now, completed means from our
21 perspective I think we've done all our work.
22 That is, we have done all the technical work,

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1 delivered our work to the Work Groups, to the
2 Board, and we believe our work is completed.
3 However, there are a number of active SEC
4 petition reviews and closeouts, and I've
5 indicted you'll see the word active. For
6 example, Fernald is active. And we believe,
7 based on as best we can tell, we're going to
8 require about 300 work hours to support the
9 closeout process for Fernald. And you can
10 see, that's our breakout of where we - on that
11 first slide if you remember I said it would be
12 about 1,650 work hours to support the closeout
13 of all the SEC petitions. Well, that's where
14 the 650 comes from. So that gives you - I
15 guess if you step back and say what is it we
16 have in front of us, we still have lots of
17 work to do on Fernald, we have lots of work to
18 do on Mound, NTS, LANL and Hanford.

19 You'll notice I have Blockson. I
20 know it's been a subject for a great deal of
21 discussion. We had some work right up until
22 last week, but I think by and large the work

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1 is complete. My experience is that very often
2 though we think our work is complete sometimes
3 there's always a little bit more to do. But
4 you know, for all intents and purposes that's
5 probably a fair representation of where SC&A
6 stands in terms of supporting the Board on SEC
7 petition reviews.

8 One of the other major activities
9 that SC&A took on over the past five years was
10 the review of procedures. On this slide we
11 indicate that there are about 101 procedures
12 that we reviewed. It turns out there are a
13 few more than that, but this is probably a
14 pretty good picture of where we stand. Those
15 of you involved in the procedure work group
16 meetings are very familiar with these
17 different categories of status. For example,
18 we have found a way of sorting all - think of
19 each procedure, each of the 101 procedures has
20 a certain number of findings. They could have
21 10 findings, 15 findings, and then we meet
22 with the Work Groups and we - the Procedures

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1 Work Group under the direction of Ms. Munn and
2 we one by one close out the issues as best we
3 can. Bottom line is you'll see if you go down
4 that list a little bit, the number of closed -
5 out of the total number of findings, 485, 215
6 have been closed which, means that's it, we're
7 done. We've come to an agreement of some
8 sorts. Either SC&A has agreed no, we were
9 wrong, NIOSH is right, we'll withdraw our
10 finding, or NIOSH says no, I think you're
11 right, we better fix that. And they fixed it.

12 There's another category called in
13 abeyance, and you'll see the number 63. This
14 means that SC&A and NIOSH have come to an
15 agreement on the solution to the problem,
16 except that the actual procedure that
17 implements it has not yet been revised. So
18 when you add those two up, the 215 to 263,
19 that's why I say I think we're - that's 260.
20 That's close to 260, 273, 278 out of 485.
21 We're more than halfway home. And by the way,
22 this does not reflect - Steve Marschke's in

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1 the room. Steve runs our procedure review
2 program. That doesn't reflect the fact that
3 we just recently had a very good procedure
4 review meeting where we closed out a whole
5 bunch. So we're in even better shape than it
6 appears on here.

7 Okay. Really, the - when all is
8 said and done, I think one of the main roles
9 of SC&A in supporting the Board has been
10 reviewing dose reconstructions performed on
11 behalf of individuals. You'll see that there
12 have been, every so often the Board would give
13 a group, a package of dose reconstruction
14 audits to us to review. They usually come in
15 chunks of 20 cases, sometimes they come in
16 larger numbers than that, but if you add them
17 all up I think we're at about 240. So over
18 the period of five years we've audited about
19 240. For every single audit we have a number
20 of findings. The next column over, for
21 example, Row Number 1, it says Set Number 1,
22 there were - we reviewed 20 of these cases.

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1 These are real people dose reconstructions.
2 Out of those 20 cases we had 79 findings. The
3 places where we had some point of concern
4 related to that dose reconstruction. And
5 you'll see the next column where it says
6 percent of findings closed. That's 100
7 percent. So for the first set of 20 all
8 issues have been resolved. So if you go down
9 that row you'll see that each set, a lot of
10 them we really closed everything out for all
11 intents and purposes right up through the
12 sixth set of 20 cases. We're at right now,
13 under the direction of Mark, where's Mark?
14 There he is. We're still working real hard on
15 the seventh, eighth, ninth set, and the tenth
16 set as I mentioned before hasn't even been
17 delivered yet. It probably won't be delivered
18 till February. That's the way things are.
19 But you can see that, when you look at the
20 grand scheme of things, we're about halfway
21 home again on the procedure reviews. But we
22 still have work to do.

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1 Okay, now we're moving into the
2 site profiles. This is the area where I guess
3 we still have lots to do. I'll just put this
4 much on. The left-hand column lists every
5 site profile that we reviewed. The next
6 column over is whether or not we delivered our
7 site profile review document to NIOSH and the
8 Board. All of - the answer is we've delivered
9 them all. I believe they're all sitting on
10 the Board's website. Anyone who wants to go
11 online could go and see what we have to say.
12 They're usually about 200-page reports. The
13 next column in terms of status of closeout is
14 where we are, as best I can tell, which ones
15 are closed out. That is where we've met,
16 we've sat together with the Work Group and
17 we've resolved all the issues to the
18 satisfaction of those concerned. And other
19 areas you'll see, the items which say active.
20 That means we currently have an active work
21 group that's meeting periodically to put to
22 bed the issues that we are dealing with. And

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1 you'll also see items, and unfortunately there
2 are a number of them, that say inactive. What
3 this means is these are site profile reviews
4 that SC&A has completed, but unfortunately it
5 really wasn't possible for a work group to
6 form and to meet, to engage the issue. So
7 there are a lot of inactives. And then
8 there's another category that I call SEC
9 active, and this is important because very
10 often we'll do a site profile review, and then
11 somewhere along the line an SEC petition would
12 be issued. A good example would be at the
13 Pantex plant. Another good one would be the
14 Savannah River. You know, these are places
15 where we transitioned from doing a site
16 profile review. Out comes an SEC which of
17 course is of great interest to many, many
18 people. And we transition into the review of
19 the SEC petition. But very often we'll
20 complete the SEC petition review process, some
21 judgment will be made on behalf of the Board
22 regarding granting, denying a portion of or

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1 all of an SEC petition, but there still very
2 often are issues that are residual that we
3 call - they're not SEC issues, but they are
4 still some technical issues that need to be
5 resolved. So even though we may end up
6 closing out and resolving the SEC issues,
7 there may still be some site profile issues.
8 And I put down the number of work hours next
9 to each one of the active sites. So you get
10 an idea of what I think it's going to take to
11 finish up the work.

12 And I think that tells the story.
13 I'll go back to the first slide just so that
14 you can get that bird's eye view again on
15 where we are. Again, the bird's eye view is I
16 think we finished all our major deliverables
17 except for one, the tenth set of cases. I
18 believe that we are 50 percent home in terms
19 of closing out all issues that were raised all
20 in the last five years. I believe a lot - we
21 still have resources left on the order of
22 about \$400,000 that can go toward resolving

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1 the remaining issues, but still we're going to
2 need a little bit more resources than that to
3 finish all of the open items. And that
4 concludes my presentation. I welcome any
5 questions anyone might have.

6 CHAIR ZIEMER: John, can copies of
7 this be made available for our work session on
8 Thursday?

9 DR. MAURO: Yes, and I believe that
10 -

11 CHAIR ZIEMER: Or do we have them
12 already?

13 DR. MAURO: I think they might
14 actually have been put out on the back. I was
15 talking to Zaida. She mentioned that she
16 didn't have copies.

17 CHAIR ZIEMER: Are they on the
18 disk? Oh I'm sorry, I didn't even look on the
19 disk to see if it was there. Good, thank you.
20 Dr. Melius, question?

21 MEMBER MELIUS: That was actually
22 my first question as he started to present was

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1 trying to see where we had, because I didn't
2 want to write down all those numbers. I'm
3 having a little trouble figuring out what to
4 make of this because I think I need an update
5 on the status of the contract award to sort of
6 know where we are. And I think it also
7 affects our ability to make assignments and
8 sort of how we conduct the rest of this
9 meeting.

10 CHAIR ZIEMER: Ted, give us an
11 update on that.

12 MR. KATZ: Yes, so the status of
13 the contract is, as I think Dr. Ziemer
14 mentioned earlier, all of the technical work
15 has been done for the making of an award, and
16 it is going through a sort of policy review
17 process at CDC before the award can be made,
18 and we don't have exact timing on when that
19 award will be made. I would also mention that
20 because of the situation, I believe it's
21 already been done or it's in the process of
22 being done is the SC&A contract has been or is

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1 being extended to the end of December to cover
2 whatever the reality is in terms of the timing
3 of that award.

4 CHAIR ZIEMER: Let me add to that
5 though, however. There is nonetheless money
6 for a lot of closeout work, and I would
7 anticipate that if some sort of announcement
8 isn't made, David Staudt I believe is willing
9 to continue - perhaps I shouldn't speak for
10 him, but he certainly indicated earlier that
11 in fact, even if there were a different
12 contractor that closeout activities could take
13 place under this.

14 MR. STAUDT: Dr. Ziemer?

15 CHAIR ZIEMER: David, are you on
16 the line?

17 MR. STAUDT: Yes sir, that's me.

18 CHAIR ZIEMER: Oh okay. I don't
19 want to speak for you, David.

20 MR. STAUDT: Yes, two things. I
21 did want to reinforce the fact that Ted is
22 correct. We're in the final stages of getting

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1 the contract award and any delay, the slight
2 delay was based on my part alone, so I
3 apologize to the Board. I should have had it
4 awarded by now, but I expect it to be done
5 very, very shortly. But aside from that I
6 would recommend that we extend the current
7 SC&A contract probably through at least
8 January based on John's comments on the level
9 of funding and the number of hours. I did
10 want to get his feedback on that, assuming
11 that SC&A was or was not successful on how far
12 that would take them because I'd be more than
13 happy to extend the current contract to take
14 care of that function.

15 DR. MAURO: David, this is John.
16 Yes. Right now the way I see it is we have
17 3,000 work hours or about \$400,000 left
18 beginning today. We're trying to make our
19 best estimate right up as current as we can.
20 We've been operating at a pace of about
21 \$300,000 a month. So that means we'll get
22 through this month and we'll probably be able

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1 to go through next month. So I would say
2 coming toward the end of January we will run
3 out of money.

4 MR. STAUDT: Okay, well I'm working
5 on your modifications right now, so if you
6 think that's your best estimate right now we
7 can easily extend it, you know, into February
8 if you want, but that's really kind of, you
9 know, your call right now and your best
10 advice.

11 DR. MAURO: I would say we will
12 make it into January. Someplace -

13 MR. STAUDT: Okay, well right now,
14 take an exception, I'll extend the base
15 contract and the asset task orders through
16 January 30.

17 DR. MAURO: That would be fine. It
18 would be cutting it close. Sometime toward
19 the end of January we will run out of money.

20 MR. STAUDT: Okay, that's what I'll
21 do for now if that's okay with everybody.

22 MEMBER MELIUS: Can I just ask

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1 another question?

2 CHAIR ZIEMER: There may be others
3 running out of money by then too. Go ahead,
4 Jim.

5 MEMBER MELIUS: What does this mean
6 in terms of assignment of new work? Because
7 frankly some of the new work could have a
8 higher priority than the old work.

9 CHAIR ZIEMER: Yes. I think we're
10 going to return to that, but let me make a
11 comment. It seems to me that, and we can
12 deliberate this as we go forward in the next
13 couple of days. It seems to me that the Board
14 should be doing two things at this meeting.
15 One is to see what closeout things have high
16 priority from the list that John presented,
17 but we should also identify new work and have
18 that basically identified and saying as soon
19 as a contract is released we want this new
20 work to start. I don't believe we're in a
21 position to assign much new tasking to - under
22 the current contract.

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1 MEMBER MELIUS: I agree, that's why
2 I'm trying to figure out -

3 CHAIR ZIEMER: But I don't believe
4 that should stop us from identifying the tasks
5 that we want done so that as soon - I'm
6 optimistic that there will be a contractor
7 named before we meet again.

8 MR. STAUDT: Dr. Ziemer, I don't
9 see any reason why this will not be awarded by
10 the new year.

11 CHAIR ZIEMER: Okay, but you know
12 David, you told us last -

13 MR. STAUDT: I know, I know, there
14 was some other thing that came up.

15 CHAIR ZIEMER: I understand.

16 MR. STAUDT: But as of right now
17 the way it's sitting there's no reason why I
18 don't see this awarded by the new year.

19 CHAIR ZIEMER: Okay, but in any
20 event I think we should go ahead and in
21 essence define the tasking so that it's ready
22 to go.

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1 MEMBER MELIUS: Okay. I just
2 wanted to make sure we had - we'll probably
3 have to be a little - the scheduling may be
4 difficult, but at least we'll have something.

5 CHAIR ZIEMER: The scheduling may
6 be difficult and the Work Groups may have
7 problems because we have a number of work
8 groups with ongoing things that involve SC&A,
9 and to the extent that work groups need to
10 schedule meetings in the next six weeks this
11 could be problematical. So we need to do as
12 much as we can on the closeout, identify the
13 new items, and in a sense we would proceed as
14 if everything is normal and we have a
15 contractor. And then we will wait for the
16 word that will come to us.

17 And John, I don't know if you want
18 to do it now, but you also have some ideas on
19 new work and you could share those either now
20 or - it may be best done during the work
21 session of the Board. John Mauro, right.

22 DR. MAURO: Yes, we can wait for

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1 the work session. That would be fine.

2 CHAIR ZIEMER: Because we're
3 getting close to the 2 o'clock hour here
4 anyway. Okay, Brad, you have a question here?

5 MEMBER CLAWSON: I just want to
6 make sure because this is kind of hamstringing
7 us as work groups at a point, because we've
8 got certain ones that we have to set out far
9 in advance because of their special
10 uniqueness, and we're hamstrunged on this.

11 CHAIR ZIEMER: Yes, and I think at
12 the moment what we're going to need to do is
13 go ahead and schedule because announcements
14 have to be made and the usual sort of red tape
15 has to be taken care of. It'll be easier to
16 cancel if we have to, and I'm hopeful that we
17 don't, but I think we go ahead and plan as if
18 things are going to fall into place. Other
19 comments or questions for John right now?
20 Okay John, thank you very much. That's very
21 helpful for us as we look forward.

22 We have on the agenda a break. I

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1 don't know if we really need one this soon
2 after lunch. We'll just pause a minute if
3 anyone needs a comfort break and we're going
4 to begin the deliberations on Savannah River
5 here right at 2 o'clock. So just going to
6 take about a 5-minute - don't go far. We'll
7 take just a 5-minute recess so everybody is
8 ready at 2 o'clock.

9 (Whereupon, the above-entitled
10 matter went off the record at 1:54 p.m. and
11 resumed at 2:00 p.m.)

12 CHAIR ZIEMER: We're ready to
13 reconvene the meeting if you'd all have your
14 seats. Thank you very much. I'd like to
15 check the phone line. Dr. Roessler, is the
16 phone line open for your hearing?

17 MEMBER ROESSLER: I'm here.

18 CHAIR ZIEMER: Very good, thank
19 you. We're going to now move to the agenda
20 item which is called Savannah River SEC
21 Petition. There are a number of individuals
22 who will be making presentations. We're going

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1 to begin with our Designated Federal Official,
2 Ted Katz, who's going to outline for us all
3 what the SEC process is all about, give us
4 kind of an overview of that. Then we will
5 hear from Tim Taulbee representing NIOSH and
6 he will present the evaluation report on the
7 petition representing NIOSH's evaluation. We
8 will then hear from a number of petitioners
9 from the Savannah River site, and then we will
10 also have an opportunity to hear from our
11 board contractor, SC&A, on their review of the
12 petition. So a number of items before us
13 dealing with Savannah River. So let's begin
14 then with Mr. Katz who will give us an
15 overview of the process.

16 MR. KATZ: Thank you, Dr. Ziemer.
17 Before I do that though let me - since we're
18 starting a session where there's quite a bit
19 of public presentation and input, I need to
20 let you know about a policy of the Board with
21 respect to transcripts. I think as you've
22 noticed this meeting is being transcribed.

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1 There will be a verbatim transcript and that
2 transcript gets posted to the NIOSH website
3 where it's available for all to see. We have
4 a policy with respect to that which is if you
5 come up and speak you don't have to give your
6 name if you don't want to, but if you do give
7 your name generally speaking we will not
8 redact your name so that will appear in the
9 transcript. You will be identified in the
10 transcript. And if you discuss for example
11 medical conditions that you have or such those
12 would generally appear in the transcript too.
13 If you discuss, however, a third party,
14 another person, that information about a third
15 party will be removed from the transcript. It
16 will be redacted. The other thing to note of
17 importance is if you would like to speak with
18 the Board, present information to the Board
19 but you don't want to do it in public then
20 contact me and we'll arrange something if
21 you're not willing to do that. Last point
22 about this is the policy that we have about

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1 redaction which I've just discussed should be
2 available where you sign in to speak and it's
3 also available on the NIOSH website with the
4 agenda for this meeting. So if you want to
5 look at that in detail.

6 Now, just to give you then - we
7 thought it'd be useful to give an overview of
8 the SEC process, not so much for the
9 petitioners who I think probably at this point
10 have a pretty good idea of how that process
11 works, but for other people from Savannah
12 River who may not be so familiar and don't
13 know where this, today's events come into the
14 process and what goes forward. So I'll try to
15 be very brief about that. But it's about a 7
16 or 8 step process all in all depending on how
17 you count, but it begins all with a petition.

18 NIOSH needs a petition before the Secretary
19 can consider adding a class to the cohort.
20 And a point I just want to make about the
21 petitioning process is that there can be more
22 than one petition from a site, and a site as

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1 big and with as long a history as Savannah
2 River may have in the end of the day many
3 petitions addressing particular classes.
4 Right now we are considering one today, but
5 there is I believe another petition that's
6 already been received by NIOSH and there could
7 be more. I'd just make that point.

8 The second step in the process is
9 to qualify the petition and that's just in
10 effect to say that it meets certain basic
11 requirements to get the full consideration of
12 NIOSH and the Board and the Secretary of
13 Health and Human Services, the Director of
14 NIOSH and so on. The third step is that NIOSH
15 evaluates the petition and prepares a report.

16 And in the case of Savannah River site it's
17 done that. I think the Board received that
18 report a month ago or so. And the fourth step
19 then, which is where we are today, is the
20 Board takes up the petition for consideration.

21 And to say something about the Board's
22 consideration of a petition, it can be brief

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1 as you heard this morning in a case that's
2 very simple, and it can be very extensive in a
3 case like with big sites and covering many
4 years that you may have with Savannah River
5 site. It begins typically with the
6 presentation of a NIOSH evaluation report and
7 following that the petitioners are given the
8 opportunity to speak to their petition and
9 also speak to the NIOSH evaluation report
10 their view of what's found in that evaluation
11 report. From there then a number of things
12 occur. The Board of course has a lot of
13 dialogue, but the Board may need to assign a
14 work group. In this case there is already a
15 work group focusing on Savannah River site
16 that may continue the work beyond the Board
17 meeting to go into details about this. And
18 you just had a presentation from SC&A. They
19 may be brought into the picture as well to do
20 a detailed technical review of issues. And in
21 this case with Savannah River site with a
22 construction petition they've already done

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1 what they have termed a paper review which is
2 sort of the initial step in how they go about
3 their work for the Board in investigating
4 issues in detail. All of this goes on until
5 the Board has come to a point where it has
6 sufficient confidence that it understands the
7 issues and can make a recommendation, and it
8 makes a recommendation to the Secretary of
9 Health and Human Services as to whether or not
10 to add a class to the special exposure cohort.

11 At that point then the director of NIOSH will
12 receive all this information, including - and
13 it's very important, it's not just the
14 information that the petitioners provide and
15 SC&A and so on, but also information that's
16 provided by members of the public, members in
17 this case of Savannah River site who come to,
18 for example, a public comment session and may
19 provide information that may be important to
20 that petition as well. The director of NIOSH
21 considers all this information and makes a
22 recommended decision as to whether the class

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1 should be added. That's step five. Step six
2 is the Secretary of Health and Human Services
3 makes a final decision. And then important to
4 you again, step seven is if the Secretary of
5 Health and Human Services makes a decision
6 that's adverse to adding part of the class or
7 the whole class, denies adding part of the
8 class, then there's the opportunity for the
9 petitioners to appeal that decision. But in
10 quick, that's the whole process and here we
11 are starting with the Board's first
12 consideration of this petition. Thank you.

13 CHAIR ZIEMER: And Mr. Katz, if I
14 might add, if the Secretary does recommend a
15 class be added, that recommendation goes to
16 Congress and Congress then has, I believe, 30
17 days to either revoke that, or if they take no
18 action then it stands as a recommendation and
19 takes effect.

20 MR. KATZ: Right, and the record to
21 date is that Congress has never sought to
22 revoke any designation by the Secretary.

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1 CHAIR ZIEMER: Okay, thank you very
2 much. Let's proceed then to hear the
3 evaluation report from NIOSH on the Savannah
4 River petition. And that petition for the
5 record is Petition SEC-00103 and the
6 presentation will be given by Mr. Taulbee, Tim
7 Taulbee, and he will give details on both the
8 petitioner and the site and the recommendation
9 of NIOSH.

10 MR. TAULBEE: Thank you, Dr.
11 Ziemer, and for this opportunity to present
12 the Savannah River site special exposure
13 cohort. Can everyone hear me okay? Okay.
14 And thank you members of the Board for your
15 attention during this evaluation.

16 To give a little bit of an overview
17 of this petition, we received it November 11,
18 2007. The petitioner proposed the class
19 definition of construction workers and all
20 other workers in all locations at the Savannah
21 River site in Aiken, South Carolina, from
22 January 1 of 1950 to the present. On March 4

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1 of 2008 we qualified the petition for
2 evaluation for construction and building
3 trades workers only. And when I indicate
4 building trades and construction workers
5 you'll hear me refer to those interchangeably
6 throughout my presentation. Sometimes I'll
7 just refer to construction trades. What I'm
8 talking about here are the pipefitters, the
9 laborers, the carpenters, the electricians,
10 the general trades and crafts that are used
11 for construction. Also millwrights that would
12 work as mechanics within the facilities, et
13 cetera. All of these are lumped together in
14 what we call construction and building trades
15 workers.

16 On March 10 of 2008 a Federal
17 Register notice was published identifying that
18 we had qualified this petition for evaluation.

19 Because we only qualified the construction
20 and building trades workers for evaluation,
21 two of the petitioners who were not
22 construction building trades workers requested

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1 an administrative review on April 24 and April
2 25. And this administrative review is
3 conducted by an independent group within
4 NIOSH, not part of OCAS, the group that I work
5 in, where they look at what the petitioners
6 provided to us as far as information as to
7 whether we restricted the class too narrowly.

8 The administrative review panel presented
9 their findings to the director of NIOSH on
10 June 25 of 2008 and the administrative review
11 panel concluded that the petitioners did not
12 provide sufficient information to extend the
13 class definition beyond the Savannah River
14 site employees classified as construction
15 workers. As a result of this finding we
16 continued on with our evaluation of all
17 construction workers - and again I'm adding
18 building trades in there - who worked in any
19 area at the Savannah River site during the
20 period of January 1, 1950, through December
21 31, 2007. The initial petition if you recall
22 said through present. Unfortunately present

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1 is a moving target within our evaluation time
2 periods so we needed a hard date that we could
3 look at against. In July of this year, July
4 17, we notified the Advisory Board that we were
5 not going to make the 180-day time period and
6 this was due to data access issues, and over
7 the period of April and May into the first of
8 June we worked through the data access issues
9 with the Savannah River site and we were able
10 to get onsite and review the records that we
11 needed in order to conduct this evaluation.
12 The evaluation report was issued on November
13 14 of 2008.

14 So I want to talk a little bit
15 about the petition basis for this petition,
16 and the main basis came as to why we qualified
17 this petition was due to external monitoring
18 of unmonitored workers - or unmonitored
19 workers, their external dose. What the
20 petitioners provided to us that qualified this
21 petition was a study conducted by the Center
22 for the Protection of Worker Rights, or CPWR,

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1 in which they compared building trades workers
2 2,335 construction workers. And what they
3 indicated in this report was that based on the
4 Health Protection Annual Radiation Exposure
5 History Database, or HPAREH as you'll hear me
6 refer to it, of radiation monitoring records
7 from the Savannah River site, it appeared that
8 the underlying dose data were deficient for 50
9 to 90 percent of the construction workers
10 employed at the Savannah River site. This was
11 the information that we didn't have when we
12 had been doing our other information, and so
13 by the petitioners providing it to us, this
14 qualified the petition for evaluation. In
15 addition to this, the Advisory Boardsite
16 contractor SC&A in their site profile review
17 indicated as one of the issues that Dr. Mauro
18 was talking about that no effort had been made
19 to evaluate the completeness of the HPAREH
20 file used in the development of the external
21 coworker model. So these two are closely
22 related. It's using the same database. So

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1 this is the fundamental basis that qualified
2 the petition for evaluation.

3 For unmonitored workers also there
4 is an internal dose component. The
5 petitioners indicated that in regards to the
6 Savannah River site profile, all nuclides that
7 workers were potentially exposed to are not
8 identified in the site profile. Unfortunately
9 they didn't provide any evidence of which
10 radionuclides for us to go and evaluate, so in
11 and of itself this would not have qualified
12 the petition for evaluation. The Advisory
13 Boardcontractor had also indicated this, that
14 the impact of internal and external exposure
15 to radionuclides from special campaigns are
16 not analyzed and included in the technical
17 basis document. There are a subsequent set of
18 technical information bulletins that we use
19 that do discuss many of these radionuclides in
20 the special campaigns, but what we had not
21 done to date was to go through and look at the
22 individual campaigns and see if there was

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1 monitoring data covering that exact time
2 period that those campaigns were being
3 conducted. So we added this into the
4 evaluation report and you'll see that within
5 the report that we issue.

6 Some additional concerns raised by
7 the petitioners regarding the site profile are
8 that radiation incidents are not included in
9 the site profile. This is really the case in
10 all of our site profile documents. We
11 generally don't include these unless it was a
12 major incident at the particular facility.
13 However, when we look at a dose reconstruction
14 and we get information from the site,
15 information about radiological incidents we do
16 receive and so when we're doing a dose
17 reconstruction we can incorporate information
18 from that incident into our dose
19 reconstructions. Another concern was that the
20 site profile was skewed towards production
21 workers. Again, virtually most of the site
22 profiles fall along that line, that's why we

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1 have a separate technical information
2 bulletin, OTIB-52, that addresses and
3 specifically concerns construction and
4 building trades workers. Also, I mentioned
5 the 1990 Tiger Team assessment. I'm not going
6 to go in that here today, but it is covered
7 there in our evaluation report.

8 Another concern was that work in
9 non-radiological areas later found to be
10 contaminated. They were unmonitored in these
11 particular areas and that there was some
12 cover-up of incidents along those lines. When
13 you consider the incident data, the important
14 critical component for dose reconstruction is
15 that whether or not there's bioassay data
16 available as one would expect in order to
17 allow us to estimate the internal dose. We
18 don't necessarily have to have all of the
19 details of the incident as long as there's
20 some monitoring of the individual after the
21 accident or at the time of the incident so
22 that we can assess the dose.

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1 Some additional concerns raised by
2 the Advisory Board contractor, SC&A, was
3 special tritium compounds. This is being
4 handled in a separate OTIB because it affects
5 more than just the Savannah River site and so
6 we have not addressed it within the evaluation
7 report. Another concern that was raised by
8 the Advisory Board here was the early worker
9 monitoring data and I'll go into more detail
10 about that shortly. Early worker neutron
11 monitoring, specifically this would be NTA
12 film, and then neutron to photon ratios, and
13 then dosimetry uncertainty. The dosimetry
14 uncertainty is covered in the evaluation
15 report but in the interest of time please read
16 about that.

17 The sources of available
18 information. What we started with was the
19 site profile or the technical basis document
20 for the Savannah River site. We also had for
21 our team technical information bulletins and
22 procedures on how we do dose reconstruction

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1 for the Savannah River site. We conducted
2 interviews with current and former employees
3 and conducted a worker outreach meeting to try
4 and get additional information. The site
5 research database in March of 2008 when we
6 qualified the petition we had about 600
7 technical documents in that database. This
8 past summer in working with the Savannah River
9 site and going through their archives and
10 their indexes we've captured an additional 500
11 documents. In reality this is many more than
12 500 because other than just documents we
13 captured individual records, radiation survey
14 sheets, air sampling information, neutron
15 surveys, et cetera. So I don't call those
16 individual documents so the volume is rather
17 large.

18 In addition, we obtained the
19 quarterly dosimetry reports from the Savannah
20 River site since 1958. This is all of the
21 monitored workers are on these quarterly
22 reports. These are all in hard copy at this

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1 time. We also obtained the bioassay log books
2 since the startup of the facilities and the
3 site special hazards investigation reports.
4 This is a detailed discussion of all of the
5 major incidents onsite, the Class 1, Class 2
6 incidents, as categorized by the site. We had
7 the Health Protection Annual Radiation
8 Exposure History Database, or HPAREH. We
9 added to that the Health Protection Radiation
10 Exposure Database, or HPRED. This is more of
11 the contemporary bioassay information covering
12 time periods post-1992 up until 2007. We also
13 had documentation provided by the petitioners.

14 These were all affidavits that gave us some
15 insight as to the monitoring that was going on
16 at the site, and we had of course the claims
17 case files within the NIOSH OCAS claims
18 tracking system, or NOCTS.

19 Within the claims tracking system,
20 and this is as of October 1, 2008, some of the
21 information that Mr. Elliott provided this
22 morning is more update for the Savannah River

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1 site, but I wanted to keep this consistent
2 with the evaluation report that is available
3 there on the back table and that the Board has
4 reviewed, or has seen anyway. As of October 1
5 we had 3,264 claims submitted to NIOSH.
6 Claims that would meet the definition, our
7 broad definition of building and construction
8 trades workers, almost 1,800 of them or over
9 half would fall into that category, of the
10 claims that we have received to date. For
11 dose reconstructions we've completed over
12 1,300 of them and of those, 1,700 that meet
13 the class definition, 1,400 of those claims
14 contained some internal monitoring data. In
15 other words, we have some bioassay information
16 or whole body count data on those individual
17 workers. From external dosimetry it's
18 slightly better, we have a little bit more,
19 but in general it's 82 percent of all of the
20 claims we have to date that we have received
21 from the site we have some monitoring data.
22 If you recall, the initial petition was for

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1 unmonitored workers and our ability to
2 reconstruct their doses by using a coworker
3 model. So in reality this method that is
4 being - that has caused some concern, causing
5 us to do the evaluation is affecting 18
6 percent of the claims.

7 I want to briefly go over the
8 Savannah River site operations. Some of the
9 Board members attended a tour yesterday so
10 this is a bit of a repeat, but others there in
11 the audience might not be as familiar with the
12 site. The primary mission was to produce
13 materials for nuclear weapons, specifically
14 plutonium and tritium at the site. A
15 secondary mission was to manufacture tritium
16 reservoirs to be used in nuclear weapons. A
17 third mission was isotope production, and
18 these were the special campaigns that the
19 Board had indicated needed to be reviewed
20 more, and these were for the production of
21 heat sources, plutonium-238, irradiation
22 sources, cobalt-60, transplutonium isotopes

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1 such as americium, curium and californium.
2 The final mission that I want to talk about
3 here briefly is the research and development
4 at the Savannah River Laboratory. Within that
5 facility this is all the research development
6 that would go into the site production
7 operations. It has since changed with the
8 closure of many of the site facilities to
9 where now it's Savannah River National
10 Laboratory and they do other research, not
11 just in connection with the production
12 operations.

13 At the Savannah River site there
14 are five main areas at the site. The 100
15 area, this would be the reactors of R, P, L, K
16 and C. This is the startup sequence of how
17 they came online. The 200 area is the F and H
18 canyons, and include the tank farms. The 300
19 area is the fuel and target fabrication area.
20 The 400 area is the heavy water production
21 and the 700 area is the research and
22 development, or Savannah River Laboratory.

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1 So I'm going to walk a little bit
2 through the startup history at the site. And
3 the reason for this is the Board had indicated
4 some concern about early monitoring data. And
5 when you look at the number of workers
6 monitored in 1952 versus the number in 1955
7 there's a big difference between them, and it
8 corresponds with the startup of the
9 facilities. Construction actually began at
10 the site in February of 1951 and the first
11 normal assay uranium arrived from the Fernald
12 site in June of 1952. So the evaluation
13 period covers January 1 of 1950, but the first
14 radioactive materials arriving onsite would
15 have been June of 1952. In September of 1952
16 the graphite test pilot achieved criticality.

17 In January of 1953 full-scale operations of
18 the 300 area commenced. By December of that
19 year the R reactor achieved criticality, and
20 in June of 1954 the first irradiated fuel was
21 withdrawn from the reactor. November of 1954
22 is when the isotope separation begins in the

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1 200 area, specifically with F canyon. So what
2 you can see here is we started with the 300
3 area. Then as you add each of the reactors
4 you're going to have more people monitored
5 over time until you get to November and that's
6 when they start monitoring in the 200 areas.
7 So this is the reason for the ramp-up of
8 monitoring data that you see in the records.

9 December of 1954 was when the first
10 high-level waste tank was placed in service.
11 March of 1955, the last reactor achieved
12 criticality. July of 1955 radioisotope
13 separations begins in the H canyon. Started
14 with F. About a year later is when H canyon
15 began to be operable. October 1955 is when
16 tritium was first recovered from the 200 area.

17 In June 1956, the tritium facility 232 began
18 operation. By March 1957, the 200 F
19 operations were suspended for an upgrade.
20 They upgraded the FB line to the JB line on
21 the roof, and so when you look at some of the
22 neutron monitoring you'll see some cyclic

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1 information as to whether people are being -
2 you know, when people are being monitored.
3 And the reason is these operations were
4 suspended for about a 2-year period. They
5 resumed in 1959 and in 1961 neptunium
6 reprocessing began. 1961 also F and H canyons
7 began an alternating work schedule which also
8 affects some of the monitoring data that we
9 see. And then 1963, 235 F switched from
10 neptunium to curium fabrication, and then 1964
11 the first U-233 separation with thorium begins
12 there onsite. And I'll talk a lot more about
13 that later. 1965 is when simultaneous
14 operations of F and H canyon resumed. So
15 we've got about a 4-year period where they
16 were alternating, and the rest of the time
17 period they were running simultaneous. 1965
18 is THORAX separations. And many of you heard
19 yesterday about PUREX operations in the
20 canyons. They also had a THORAX operation
21 where they were separating out the uranium-233
22 from irradiated thorium. The final THORAX

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1 campaign was completed in 1969.

2 So before we begin to get into the
3 feasibility of dose reconstruction, one of the
4 things that we feel is necessary is to look at
5 how good is the data that we're using as the
6 fundamental basis for our evaluation. So from
7 internal dose data, NIOSH obtained the
8 bioassay log books from the Savannah River
9 site this summer. There were 146 log books
10 from 1954 to 1992. 1992 is when the HPRED
11 database picked up with everything being
12 electronic. Each of these log books is about
13 300 pages in length and there's about 20
14 workers on each of the pages. So you can see
15 there's a large volume of bioassay monitoring
16 that was conducted there at the site and now
17 we have this information in hard copy format.

18 Within the NOCTS database we went through and
19 coded all of the information the site had sent
20 us previously. This got started back in May
21 of this year before we had any information
22 from the site, and there were over 380,000

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1 bioassay samples that we coded from within the
2 NOCTS database. Most of these were tritium,
3 over 300,000 of them. So, the vast majority
4 of it is tritium. However, as I go through my
5 presentation you'll see the numbers that we
6 have for some of the other radionuclides.

7 The data quality or the pedigree of
8 it. We went through several log books and
9 extracted 200 original entries and we reviewed
10 them. Of the 200 names there within the log
11 book, 62 of them were claimants that we had in
12 the NOCTS database. Fifty-seven of those we
13 had the data that was in the log books, or
14 greater than 92 percent. So the information
15 that we were receiving from the site on
16 individual claims we use that in dose
17 reconstruction and have been since the startup
18 of the program. Three of the claims had
19 bioassay information in the log books that
20 were not received from the site in the NOCTS
21 database, and two of the claims were new and
22 we just hadn't received the submittal back

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1 from the site. So we're looking at better
2 than 90 percent of the data we receive on a
3 routine basis from the site in order to
4 conduct dose reconstructions.

5 From the external dose data; this
6 is the issue that qualified the petition, was
7 the use of the HPAREH database and its
8 validity in reconstructing coworker doses. We
9 knew there were some limitations in it when we
10 first started using it. The limitation is
11 that if you were employed onsite in 1979
12 you're included in this particular database.
13 If you terminated prior to 1979 and didn't
14 come back, your data is not in this database.

15 So we knew there was a limitation associated
16 with it based upon numbers between Taylor
17 which is a site document and the - comparing
18 an annual basis of the data. For most workers
19 we were looking at greater than 50 percent of
20 the data per year. So to change an annual
21 dose distribution we felt the coworker model
22 was pretty robust when you've got 50 percent

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1 of the data. What changed here was that CPWR
2 went through and said for construction workers
3 you might only be looking at 10 percent of the
4 data, and so that's what we wanted to evaluate
5 to see if this might change some of our
6 distributions with regards to construction and
7 building trades workers.

8 We obtained the quarterly dosimetry
9 reports from 1958 in hard copy and we compared
10 the annual dose distributions between these
11 reports to HPAREH for four years, 1960, '65,
12 '70 and '75. If you look at the number of
13 monitored workers in the yellow that you see
14 there, that comes from the Taylor document as
15 to how many people were monitored onsite in a
16 given year. And that very early time period
17 here - let's see if I can get this thing to
18 work. This is the ramp-up that I was talking
19 about earlier, and then you see that there was
20 approximately 5 to 6,000 workers monitored on
21 the site in these early time periods. When
22 you compare it to the data and number of

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1 workers monitored in the HPAREH database,
2 that's the red bars here, it follows quite
3 nicely until you get prior to 1979 and that's
4 where it begins to fall off, that those
5 workers are not included in the database used
6 to develop the coworker model. It's only for
7 the coworker model. All other workers that
8 were monitored during this time period that
9 are not in HPAREH, we receive that information
10 when we do dose reconstruction. So we've been
11 getting it all along from the site at early
12 doses. It's only in the development of dose
13 distributions applied to unmonitored workers.

14 We went through and coded the hard copy
15 quarterly reports, and you'll see we got
16 slightly more workers in 1960, '65 and '75.

17 So how does this compare for
18 construction and building trades workers?
19 Within HPAREH in 1960 there were only 202
20 workers in the HPAREH data system. In the
21 fourth quarter summary reports when we coded
22 them there were 747. So the study conducted

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1 by CPWR in looking at, they were correct. We
2 were only looking at about 25 percent of the
3 data based upon this particular analysis. So
4 the big question was does this affect the
5 annual dose distribution? You don't
6 necessarily have to have all of the data in
7 order to develop an annual dose distribution,
8 you just have to have enough of it such that
9 it doesn't change, it's more stable. So that
10 was the next step. And one other point here
11 I'll make is that as you increase in time and
12 get closer to that 1979 time period the fourth
13 quarter dosimetry reports begin to approach 50
14 percent. So it's more of a problem in the
15 very early years than it was as you begin to
16 approach the latter years.

17 So how did the annual dose
18 distributions compare? And this is all
19 workers there at the site. And this is from
20 our fourth quarter summary with the green
21 bars, and the red is what is HPAREH. And what
22 you'll see is they match quite nicely. For

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1 those not familiar with the box and whisker
2 plots, this is just a way of looking at the
3 dose distributions. The lower portion of the
4 box is the 25th percentile where 25 percent of
5 the data in say the case in 1970 is greater
6 than 10 millirem of the data that we have.
7 The bar is 50th percentile, or the median, and
8 from this case it's about 55 millirem. The
9 upper tail is 75 percentile. The upper
10 whisker here is 90th percentile and the dot is
11 the 95th percentile. And what you'll see is
12 that the 95th percentile for both all of the
13 coded people and those in HPAREH didn't change
14 much based upon our analysis. In fact, it
15 slightly decreased. So our conclusion based
16 upon the all monitored workers is that even
17 though we weren't seeing or we weren't using
18 all of them for the development of these
19 distributions, it wouldn't change much if we
20 included all of the workers from this
21 standpoint. Now, this is all workers.
22 Looking at just the construction workers, and

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1 this is where we had that 202 versus 747. We
2 do see more - a larger swing here among some
3 of the construction workers here, but HPAREH
4 again typically appears to be higher. The
5 exception is 1970 where the actual monitored
6 workers that are in the hard copy records is
7 greater than what is in HPAREH. Now, when you
8 think about how we apply this for dose
9 reconstruction, we would actually apply the
10 all-worker model for 1970 and in this case if
11 you were to use the 95th percentile you'd be
12 looking at about a 2 rem exposure per year
13 that we would be assigning. And for building
14 and construction trades workers we would take
15 this data and multiply by 1.4 per the OTIB-52
16 methodology. So when you take the two from
17 this particular all-worker model multiplied by
18 the 1.4 you end up with somewhere right around
19 3, 2 and a half to 3 type of rem dose. If you
20 look at the 95th percentile, when it exceeded
21 in 1970, we're still overestimating what the
22 dose would be. So even though we're looking

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1 at a limited data set, we're still
2 overestimating what would be applied to
3 building and construction trades workers.

4 Now, one of the concerns that we
5 had was we used the fourth quarter results
6 within our coding. We went through and
7 totaled them all up. We know building and
8 construction trades workers are more transient
9 and so they might not have been there through
10 the whole year, and if they were there working
11 in the fourth quarter we would have had their
12 data. So we went back for 1960 and looked at
13 the first, second and third quarter, and sure
14 enough it illustrates that there were about
15 1,400 monitored construction workers onsite in
16 1960. The dose distributions continue to
17 decrease. These are annual dose
18 distributions, and these are workers that
19 would only have been there for a fraction of
20 the time, so you would expect that the dose
21 distributions would decrease. So for these
22 workers the application of the HPAREH database

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1 which is based on an annual dose, applying
2 that factor that we, you know, that I talked
3 about a minute ago we feel is claimant-
4 favorable and a bounding external dose
5 estimate for these workers.

6 So from the dose reconstruction
7 standpoint, the feasibility. Again, 82
8 percent of the claims that we have received to
9 date have monitoring data, both external and
10 internal. So this would apply to the 18
11 percent that are not monitored that we don't
12 have any data on. Some of our tools are the
13 site profile that I mentioned. We do have
14 OTIB number 1 which is the average high
15 exposure for a bounding coworker dose. This
16 is where we assign multiple radionuclide
17 intakes from accidents and incidents that have
18 occurred at the site over time and we'll
19 assign them all to an individual worker. So
20 instead of just a uranium intake, if they
21 worked in the 300 area they'd get a uranium,
22 plutonium, americium, a large intake that

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1 would be assigned. So this is kind of a
2 bounding coworker estimate. For external
3 coworker model there's OTIB-32 and then for
4 construction and building trades workers we
5 have OTIB-52. Now, one of the things that
6 we're currently developing is what we call the
7 SRS internal coworker model. This would be a
8 best estimate case and not a bounding estimate
9 type of case. And this is where we're working
10 with - or looking at using the data that's in
11 the NOCTS database and Dr. Wheaton is going to
12 talk more about this during the science
13 session tomorrow. And so this is kind of how
14 we plan on developing this database. We
15 expect it to be available in the spring of
16 this year.

17 So when we did our feasibility
18 determination - and for those of you who might
19 be following along, this would be Section 7 of
20 the evaluation report - the first thing we did
21 was look at the source term. For internal
22 dose it's the radionuclide of concern, for

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1 external it's photons and neutrons. What we
2 looked at was the exposure location and the
3 time period, what personal monitoring method
4 was being used by the site for that time
5 period, and then the data availability. Okay,
6 we've got information about where the work was
7 going on and now personal monitoring data,
8 what was the method of analysis and is this
9 data available. These latter three here is
10 what plays into our feasibility determination.

11 With regard to tritium doses,
12 exposure location and time period, the
13 reactor's separations and both of these are
14 from basically startup and the first
15 operations with tritium. The 1992 here
16 actually extends out because there is some
17 additional storage of fuels at one of the
18 reactors. So the heavy water facility, you'll
19 see it starts up in December of 1957. It was
20 actually running before that, but it wasn't
21 until December that they started recycling
22 some of the moderator coming from the reactors

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1 and re-purifying it. So the first tritium
2 exposure would occur in December. Savannah
3 River Laboratory basically from startup until
4 present. The monitoring methods used for
5 urinalysis, this was for tritium, prior to
6 1958 was an off-gassing technique and then
7 post-1958 it was via liquid scintillation.
8 The sensitivity of both of these methods is
9 about the same. In latter years liquid
10 scintillation improved even more and the
11 sensitivity decreased. As I mentioned in the
12 NOCTS database we have a tremendous number of
13 tritium bioassay samples, over 300,000
14 samples. In the site profile and OTIB-14 we
15 have methods to estimate the doses due to
16 tritium based upon detection limit and then
17 the modeling when we have the monitoring data.
18 So overall we feel the tritium dose
19 reconstruction is feasible at the Savannah
20 River site.

21 The uranium dose reconstruction.
22 Primary areas were the fuel and target

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1 fabrication area, the 300 area. And then
2 Savannah River Laboratory, the 700 area from
3 1952 forward. Then the reactors from 1953,
4 about a month prior to startup of the R
5 reactor separations, November 1954.
6 Monitoring method was a fluorometric method
7 for depleted and natural uranium, and they did
8 alpha counting for the enriched uranium. In
9 our NOCTS database we have 3,700 results from
10 1953 to 1992. Keep in mind post 1992 we have
11 electronic database so there's a lot more data
12 in that particular one. And then enriched
13 uranium, another 3,000 samples. And post 1994
14 we have about 800 alpha spectroscopy samples
15 which will give us an isotopic breakdown of
16 the uranium, the various uraniums. So overall
17 based to the availability of this data that we
18 have we feel that uranium dose reconstruction
19 at the Savannah River site is feasible.

20 For plutonium dose reconstruction
21 the primary areas of exposure were the
22 separations in the Savannah River Laboratory

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1 from November of 1954 to 2007, and the fuel
2 and target fabrication area from 1959 to about
3 1985. This is where they worked with
4 plutonium aluminum targets in order to create
5 transplutonium isotopes.

6 And so this work was conducted in
7 the fuel and target fabrication. The
8 monitoring method, there was a separation
9 process on the urinalysis and alpha track
10 counting was used prior to '64. '64 - that
11 should not be 1981, sorry about that. Solid
12 state surface barrier detectors. And then '81
13 to 2000, we have alpha spectroscopy which will
14 give us the isotopic breakdown. In the NOCTS
15 database there is, between 1954 and 2006,
16 there's over 10,000 plutonium bioassay sample
17 results that we have that we can use to
18 develop an internal coworker model. So we
19 feel that plutonium dose reconstruction is
20 feasible.

21 Neptunium dose reconstruction.

22 This is the fuel and target fabrication area,

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1 from 1958 to 1986, and then the separations
2 area in the Savannah River Laboratory from
3 1961 to `86. Again, this was kind of an
4 intermittent depending upon campaigns that
5 were being conducted. Same as before, alpha
6 track counting, solid state surface barrier
7 and then alpha spectroscopy. Now, in NOCTS we
8 only have 304 neptunium sample results from
9 1960 to 2004, so this is an order of magnitude
10 lower than what you've been seeing in the
11 others. However, keep in mind that we do have
12 access now to the Savannah River log books,
13 where we have all of the data, and we can
14 certainly code all of that data in order to
15 create a more robust model for neptunium dose
16 reconstructions. Because the log books are
17 available, we do feel that neptunium dose
18 reconstructions is feasible.

19 Americium, curium and californium.

20 We lump all these together, primarily due to
21 the chemical separations methodology. There
22 were multiple campaigns conducted. The first

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1 in the production of americium, curium,
2 californium, you start with the plutonium-239
3 target. So in 1959 when these targets were
4 put into the reactor, there wasn't any
5 americium, curium and californium. It was
6 being made by neutron bombardment within the
7 reactors. From 1959 to 1963, when the fuel
8 elements came out of the reactor they were
9 allowed to cool and then they were sent to the
10 separations area. However, the only isotope
11 that was extracted from those fuel elements
12 was the plutonium. The americium, curium and
13 californium were still combined with all of
14 the fission products and those were shipped
15 off-site to the Oak Ridge National Laboratory.
16 Starting in 1963 in the 200 area, Savannah
17 River began to do the first separations of
18 these particular radionuclides, and this was
19 to generate higher level transplutonium
20 isotopes. So it wasn't until 1963 that there
21 was really a major potential for exposure to
22 these, although there was some irradiation

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1 activities going on prior to that. There's
2 also the research and hot cell work in the
3 Savannah River Laboratory. It started again
4 in 1963. We did have an end date here, but
5 what we found out is that the end date is
6 before the bioassay sampling that we have, so
7 there might be an operation there that we were
8 not aware of yet. But they were still doing
9 sampling beyond that time period.

10 For personal monitoring, prior to
11 '63 as I indicated, there's minimal potential
12 for exposure. '63 to '71 it was alpha track
13 counting, and then surface barrier detectors.

14 They did some radiochemical separations of
15 each of these in the 1990s, and then they
16 started doing alpha spectroscopy. The data
17 available in NOCTS is there's about a thousand
18 total results for these particular
19 radionuclides, and again I want to emphasize
20 that we have the log books so that we can
21 supplement this. This data is just what we
22 have already coded in an electronic format.

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1 There's many more samples in the log books
2 that would have to be coded. Based upon the
3 availability of the information we do feel
4 that americium, curium and californium dose
5 reconstructions are feasible.

6 Thorium dose reconstruction. When
7 we started this particular evaluation report,
8 we were looking at these special campaigns,
9 and campaigns generally are more of a short-
10 term type of an operation and don't extend
11 over many years. What we found though, is
12 that thorium work at the Savannah River site
13 was of major greater magnitude than what we
14 had anticipated as far as with what you all
15 had done out there at the site. And so this
16 is really expanded from beyond what we had
17 initially anticipated. From August 1954 to
18 1959 there was thorium metal canning in the
19 300 area. This is all part of the uranium-233
20 production campaigns, is what this is from.
21 When I say most of the canning was conducted
22 at Sylvania, to give an example, it will be

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1 200 slugs canned within the 300 area, and
2 2,000 at Sylvania. So it was about an order
3 of magnitude larger, but there was significant
4 canning operations going on within the 300
5 area during this time period. There was also
6 metallography work being conducted in the 700
7 area with regards to thorium. All of the
8 thorium from 1954 to 1959, after it was
9 irradiated, when it came out of the reactors,
10 was sent to the Oak Ridge National Laboratory,
11 or Oak Ridge site at that time. Starting in
12 1961 to 1969, the U-233 production campaigns
13 changed. Instead of sending it offsite for
14 separation, the separations were conducted on
15 the Savannah River site in the 200 area. This
16 is the THORAX process that I mentioned a few
17 minutes ago. In 1964, there was canning of
18 thorium, which was in a powder form and there
19 was compaction going on. So again, here you
20 have a potential for airborne contamination.

21 The personal monitoring methods
22 prior to 1960, all that was available was

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1 urinalysis. For members of the Board who had
2 been working with the thorium issues, as you
3 know the urinalysis has a very low sensitivity
4 for thorium, and doing dose reconstructions is
5 quite difficult in using this data. Post 1960
6 through 1969 of thorium operations, there was
7 whole body counting and chest counting. Whole
8 body and chest counting actually extends all
9 the way out to modern time periods, but just
10 for the thorium within this time period. As
11 far as data availability, there's 224
12 urinalysis for 168 workers from 1955 to 1956.
13 We also have whole body and chest counting
14 data. This data we just captured here on the
15 Savannah River site last week. We had a team
16 down here trying to address this particular
17 issue. And so as a result of the ongoing
18 investigations we're doing, we're reserving
19 thorium dose reconstruction at this time for
20 prior to 1960. This is during the urinalysis
21 time. Post 1960 there is whole body count
22 data. We have captured the in vivo counts for

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1 these 168 workers, and we don't know what
2 fraction of them yet we have data on. So
3 that's an ongoing analysis. We expect to have
4 a decision by March of 2009. However, we do
5 feel due to the whole body counting
6 methodology and chest counting post 1960 we
7 can do dose reconstruction. And the reason
8 for this is when you look at the whole body
9 counting section of each of the monthly
10 reports, they'll indicate that there will be
11 30-some odd people counted in the whole body
12 counter and about a third of them, 10 or 11,
13 were counted specifically for thorium. And
14 that is indicated there within those reports.

15 Fission product and induced
16 activity dose reconstruction. Again, the
17 reactor separation Savannah River Laboratory
18 pretty much from startup to present.
19 Monitoring method was a direct plating of the
20 urinalysis data, and then there was whole body
21 counting data. Within NOCTS we have over
22 4,700 sample results from 1954 to 2004, so we

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1 do feel that fission and activation product
2 dose reconstruction is feasible.

3 Kind of in summary here, this is
4 probably hard to read for people there in the
5 back, but what we have here is the major
6 isotope that I just went through, and then the
7 bioassay underneath it. And what you see is
8 that in general in these areas the bioassay
9 methodology covers these specific campaigns.
10 It appears as if this americium, curium and
11 californium is not covered, but as I indicated
12 those irradiated materials were sent offsite.

13 The first separations started in 1963, which
14 corresponds with the bioassay conducted
15 onsite. The exception here is this thorium
16 out here in this early time period, and this
17 is what we're continuing to evaluate here
18 onsite.

19 Photon dose reconstruction. This
20 would be for all of the areas, fuel and target
21 fabrication, basically again since startup.
22 The personal monitoring method from '51 to

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1 1970 was film badges. And from our review of
2 the procedures and documentation, all workers
3 entering radiologically controlled areas were
4 required to wear a film badge dosimeter.
5 There are some exceptions to that, and let me
6 talk briefly about those. One exception was
7 detailed in DPSOX-254, and that was from
8 November of 1953 through July of 1955. This
9 exception was written in due to the startup of
10 the facilities. All of the film badges were
11 issued at the gatehouses, and some of the
12 gatehouses had not been built yet, and so
13 there wasn't a way to issue them to workers
14 coming in. The requirement on the monitoring
15 was only natural assay uranium could be worked
16 with in the area. Otherwise, if they were
17 working with anything else, they had to badge
18 everybody coming in. This continued on, this
19 exception rule, until July of 1955 when all of
20 the construction operations were complete.
21 There are some other exceptions that were
22 pointed to us during the worker outreach

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1 meeting. Sometimes workers would go into an
2 area and the day before it was posted as a
3 radiation area, and the day that they went in
4 it was not posted as a radiation area anymore.

5 And what happened, as we found within the
6 radiation surveys, is that the Savannah River
7 site would set up an exclusion zone around so
8 the construction trades workers could come in
9 and do their work. Around the perimeter from
10 these radiation survey reports, we have
11 dosimeter readings where the site would
12 position dosimeters all around the work
13 environment to monitor, to ensure the
14 radiation doses were less than the 100 mrem
15 per year requirement at the time. So although
16 there are these exceptions that did occur over
17 time, based upon our review of information
18 this summer, we don't find any scenarios where
19 there weren't any monitored data, or there
20 wasn't monitoring going on in areas that there
21 should have been.

22 Thermal luminescent dosimeters were

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1 used from 1970 to the present. For data
2 availability, as I indicated, we have all of
3 the quarterly dosimetry reports. We've
4 compared those to HPAREH. We've shown that
5 this HPAREH is claimant-favorable. Therefore,
6 the use of HPAREH for OTIB-32 for unmonitored
7 workers, we feel is a bounding estimate. For
8 construction trades workers we multiply by an
9 additional 1.4. Based upon all of this, we
10 feel that photon dose reconstruction at
11 Savannah River is feasible.

12 Neutron dose reconstruction. The
13 exposure location time periods, the fuel and
14 target fabrications, the reactors,
15 separations, and then the 700 area. Again,
16 the fuel and target fabrications is due to the
17 plutonium aluminum targets that were being
18 made there. Personal monitoring method-- and
19 this is something that's a little different
20 from some of the other sites that we have
21 worked at, in that Savannah River only
22 required monitoring in areas where the neutron

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1 dose rate exceeded 1 mrem per hour. They did
2 this monitoring by issuing NTA badges from '54
3 to 1970, and then thermal luminescent neutron
4 dosimeters from 1970 to 2007. We know with
5 NTA film there's an energy response limitation
6 associated with it. However, at the
7 changeover from NTA film to the thermal
8 luminescent dosimeters, the Savannah River
9 site conducted some special studies in which
10 they - in the workplace, in the plutonium
11 facilities. They positioned the Bonner Sphere
12 as well as the thermal luminescent dosimeter
13 and the NTA film. So we have the comparison
14 of how much the NTA film under-responded, and
15 it was by about a factor of 3.9. So with this
16 under-response for the NTA film, there needs
17 to be a correction factor applied to it-- to
18 the NTA data in order to use that for dose
19 reconstruction.

20 As far as data availability, we
21 have neutron survey data, and these are on the
22 Radiation Survey Log Sheets, or the RSLs.

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1 They're at the site. These are both fast and
2 slow neutron measurements, and the very first
3 one that we have is in January of 1954, about
4 two weeks after the R reactor started up. We
5 have some of these measurements. NTA
6 monitoring from 1954 to 1970. Even though the
7 requirement of 1 mrem per hour was there.
8 Prior to 1962, there's actually limited NTA
9 monitoring or limited neutron monitoring among
10 the workforce. Post 1962 to 1970, there's
11 much more routine. We see hundreds of samples
12 within the H area and F area.

13 So from feasibility and validity of
14 the neutron to photon ratio, what is currently
15 in the site profile that we use is the data
16 based upon the thermal luminescent data post
17 1970 and we extrapolate back in time. We felt
18 with - at this time we don't have any evidence
19 that the current NP ratio is not valid. We
20 compared some of these early measurements that
21 we see on these radiation surveys. They show
22 about 10 percent around the reactor areas.

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1 This is the value. I think it's 13 percent in
2 the site profile. However, given the
3 additional data-- and now we know the
4 correction factor for the NTA-- we do feel
5 that we can validate and evaluate this earlier
6 time period instead of extrapolating as we
7 have been doing. What we propose to do is use
8 the pre-1962 radiation survey data, because in
9 that time period the NTA monitoring was
10 limited. And this is the same method that we
11 have applied to the single pass reactors at
12 Hanford and we issued a report a couple of
13 months ago about that. In 1962 to 1970, we
14 feel we can use the NTA badges, energy-
15 corrected, multiplying by this factor of 3.9
16 and compare that with the photon data and then
17 do our comparison there on the NP ratio.
18 Based upon this information, we do feel that
19 neutron dose reconstruction at the Savannah
20 River site is feasible.

21 I want to talk briefly now about
22 the radiation monitoring program that was

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1 being conducted at the site, and this is from
2 1956 to 1960. These were some numbers that we
3 had readily available. One of the things that
4 I hope to illustrate here is that even though
5 the data that we have is more of a sampling at
6 this point, there is large volumes of data
7 that we have identified that we can go to
8 pretty much validate any of the values within
9 the site profile. Savannah River site was
10 monitoring about 6,000 workers per year during
11 this time period. There were between 8,000 to
12 9,000 workers onsite. This is post the major
13 buildup of construction. During that time
14 period there was 30,000 to 40,000 people
15 onsite prior to 1955, but once the
16 construction operations finished or were
17 finishing up, the number of actual workers
18 onsite decreased significantly.

19 Internal monitoring. Non-tritium
20 analysis. These would be uranium, plutonium,
21 during this time period. You're looking at
22 greater than 8,000 samples per year. This is

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1 the information that's in these log books that
2 we have obtained. You add in the tritium
3 analysis, and you're looking at an additional
4 20,000 samples per year. Workplace
5 monitoring. These are the radiological
6 surveys that I was talking about. There's
7 over 140,000 of them per year. These are in
8 records boxes in the Federal Records Center.
9 Savannah River site retrieved a number of
10 these boxes for us. I think we had them pull
11 about 50 boxes back this summer. We went
12 through them to see what kind of condition,
13 whether they are usable and what information
14 was on them. In addition, there's the air
15 samples that were being conducted throughout
16 the site, where you have over 80,000 air
17 samples conducted per year. And again, this
18 time period is 1956 to 1960. These records
19 are available for 1960 all the way up and
20 through 2007, if we want to go and get them
21 and detail them from that standpoint. But I
22 just want to give a feel for-- there is a very

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1 large radiological monitoring program being
2 conducted at the site during these time
3 periods. So we feel our evaluation at the
4 Savannah River site was monitoring workers who
5 were exposed to radiation is a pretty good
6 assumption, or a conclusion based upon this
7 large-scale monitoring.

8 Normally during one of these--
9 during an SEC evaluation we will present dose
10 reconstructions to the Advisory Board of how we
11 do dose reconstruction. The advisory board--
12 you all have already reviewed a number of the
13 Savannah River cases, the first 100 that Dr.
14 Mauro was talking about earlier that all of
15 the issues have been closed out. Nineteen of
16 them were Savannah River cases, 14 were from
17 operations personnel, five were from
18 construction trades workers, and the findings
19 of these first 100 reviews have effectively
20 been closed out. Now, dose reconstructions
21 for some of the best estimate in a category we
22 called "Unmonitored but should have been

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1 monitored workers" have yet to be completed,
2 because we haven't completed this internal
3 coworker model. Once we complete this, then
4 we'll certainly present to the Board, if you
5 desire, how we do dose reconstruction with
6 this new coworker model.

7 In conclusion here, the evaluation
8 report has been evaluated. NIOSH has
9 evaluated the petition using the guidelines of
10 42 CFR 83.13 and we submit to you all the
11 summary of our findings in the petition
12 evaluation report to the Advisory Board and to
13 the petitioners. We issued this report on
14 November 14. The evaluation process is a two-
15 pronged test. First, we evaluate whether it
16 is feasible to estimate the level of radiation
17 dose to individual members of the class with
18 sufficient accuracy, and two, is there a
19 reasonable likelihood that such radiation
20 doses may have endangered the health of
21 members of the class. NIOSH has found that
22 the available monitoring records, process

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1 descriptions and source term data are adequate
2 to complete dose reconstructions with
3 sufficient accuracy for the evaluated class of
4 employees. The exception at this point in
5 time is pre-1960 thorium exposures at the
6 Savannah River site primarily in the 300 and
7 700 areas. This is still reserved, and we
8 will be doing further follow-up and report
9 back to you all. The health endangerment
10 determination is not required, because we feel
11 we can do dose reconstruction at this time.

12 In summary - this is the table that
13 you're all used to seeing - for tritium,
14 uranium, plutonium, americium, curium,
15 californium, neptunium we all feel that we can
16 do dose reconstruction. The thorium in this
17 earlier time period is reserved. We're not
18 sure yet whether we can actually bound the
19 doses. Thorium post-1960, we feel we can
20 bound the doses based upon the whole body
21 count and chest count data. And fission
22 products, we also feel that dose

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1 reconstruction is feasible. For external
2 dose, the photon and gamma, beta and neutrons
3 and occupational medical X-rays we do feel are
4 feasible. And with that I'll be happy to
5 answer any questions that people may have.

6 CHAIR ZIEMER: Okay, thank you.
7 Thank you very much, Tim. Board members, do
8 you have questions right now for Tim? John
9 Poston.

10 MEMBER POSTON: Tim, thanks for
11 your detailed presentation. I noticed that in
12 your discussion of neutron dose you gave some
13 disadvantages or some weaknesses in the NTA
14 film, and it appears that you've tied it to
15 the TNLD data, but you didn't mention any
16 weaknesses in that system, and I wondered how
17 you took that into account, because that's not
18 a perfect system.

19 MR. TAULBEE: No, it's not, however
20 --

21 MEMBER POSTON: And further, the
22 fields at Savannah River are so different,

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1 depending on where you go, that it's a
2 difficult system to calibrate and to use
3 properly.

4 MR. TAULBEE: Yes. One of the
5 things that we did compare with the TLND data
6 for the report that we are looking at at the
7 plutonium facility. They also had Bonner
8 Sphere, hand survey measurements as well as
9 the TLND. Those two results matched quite
10 closely within about 10 to 15 percent of each
11 other, whereas the NTA was under-responding by
12 almost a factor of four.

13 CHAIR ZIEMER: Additional questions
14 at this time, board members?

15 AUDIENCE MEMBER: I have a
16 question. I have been to several meetings -

17 CHAIR ZIEMER: Well, if you would
18 hold off till the comment period. You'll have
19 an opportunity. This right now is just the
20 Board members. Okay. Mark?

21 MEMBER GRIFFON: Tim, can you - I'm
22 just trying to clarify. I'm listening to the

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1 presentation and throughout the thing it
2 seemed to me in the evaluation report too the
3 entire focus is on operational data and
4 operations exposures, and then at the very
5 last paragraph you seem to conclude that
6 therefore we can bound construction worker
7 doses. I didn't hear much mention of what the
8 construction workforce did at Savannah River
9 specifically, and the other part of my
10 question is why was the production clause in
11 this excluded in this SEC evaluation report.
12 In other words, the original petition called
13 for all workers, and I think you separated it
14 out just to focus on construction workers.

15 MR. TAULBEE: Okay. Those are two
16 questions there, thank you. To address the
17 first one, as far as our focus especially on
18 the internal of the monitoring data of the
19 production workers, our goal was to evaluate
20 whether it was feasible to reconstruct doses
21 for those workers and then apply OTIB-52,
22 which has the transference from production to

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1 construction workers here onsite. We can,
2 from the log book data that we have, go back
3 and identify individual construction workers
4 that were monitored within those areas. We
5 can identify them. Within the NOCTS data
6 system, you know, if you looked at our initial
7 component of what we were looking at, over
8 half of the claims would meet the construction
9 worker definition. So by us looking at the
10 NOCTS data we're actually incorporating
11 construction worker doses from using that
12 bioassay data that would meet that class.

13 On the second issue with regards to
14 whether the - I'm sorry, could you repeat
15 that? Repeat your question? Oh, why we
16 excluded. Okay. And the primary reason was
17 that in order to for a petition to qualify,
18 petitioners have to provide some evidence that
19 a dose - that we cannot do dose
20 reconstruction, and so what was presented from
21 the petitioners that supported the
22 qualification process was the CPWR study. In

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1 the other cases there wasn't any evidence that
2 was provided to us that would indicate that we
3 could not. Does that answer your question?

4 MEMBER GRIFFON: I guess. I mean
5 sort of, although it seems like any areas that
6 we left for further research, neutrons,
7 thorium, it would seem that those I think if
8 not self-identify those areas beyond the
9 petition we've always in the past, you know -
10 NOCTS had the liberty to add that in or
11 include that, even if it's not specified in
12 the petition.

13 MR. TAULBEE: Right, and we will in
14 this particular case. If we determine that
15 thorium doses cannot be reconstructed, then we
16 would expand the class basically for all
17 production and construction trades in the area
18 where the thorium was worked on. You're
19 absolutely right, we would do that.

20 CHAIR ZIEMER: Board members,
21 additional questions? Then we want to hear
22 from the petitioners next, and I have a list

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1 of four individuals. Who is going to speak
2 first for the petitioners? Okay, gentlemen,
3 here. And if you would for our court reporter
4 when you give your name also spell it for him.

5 MR. ROWE: Thank you. Good
6 afternoon. My name is Henry Gordon Rowe. I'm
7 a petitioner on the Savannah River special
8 cohort petition. I want to thank you all for
9 the opportunity to address this board this
10 afternoon.

11 I am an electrician by trade. I
12 first worked at SRS in 1952. I worked on and
13 off at Savannah River plant for 17 years,
14 until I retired in 1995. The evaluation
15 report that just was presented to - about the
16 SRS petition that was presented to this board
17 is very disappointing to me and to all the
18 workers, the other workers that worked at SRS.

19 We have had only a short time to study this
20 evaluation report, but much of it does not
21 make sense to me based on my actual experience
22 as a worker at Savannah River. I was also

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1 very disappointed with the information I heard
2 on the tour of SRS yesterday. Quite frankly,
3 there were a lot of lies told about
4 construction workers. The tour presented this
5 board with a pretty picture of SRS, but I
6 worked there. I know, and it was just not that
7 way.

8 Mr. Tim Taulbee briefed us on this
9 report about a week ago, but he did not like
10 to be challenged about it, so we did not get
11 good answers from him. He did say, though,
12 that NIOSH assumed that if a worker did not
13 work in a radiation area, the worker could not
14 have had any exposure and therefore did not
15 need to be monitored. That's a joke, and it
16 is one example of how NIOSH has ignored
17 everything that the workers have told them.
18 We have helped organize NIOSH meetings for the
19 past 10 years. I personally have been
20 involved, and there's been lots of stories
21 given. I remember one story that was reported
22 by a construction worker in the May 2008 focus

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1 group for NIOSH. He told about a group of
2 construction workers and a group that was not
3 dressed out, a group of production workers
4 that was fully dressed out. There was a rope
5 separating the two groups of individuals.
6 There were jokes told and everything, and we
7 were told that the rope is where separated the
8 contaminated area from the clean area. That
9 rope had to be a magic rope to stop the
10 radiation. One little thin rope don't stop
11 radiation.

12 One of the things that NIOSH has
13 been told was about missing records and log
14 books being stolen, wearing monitors that have
15 someone else's ID on it, a number of them,
16 monitors that went off consistently but had
17 someone else's number, and they went off
18 consistently, and it was explained by "there
19 was a power surge," or "you must have bumped
20 it," or "they just weren't working properly."

21 If these devices weren't working properly,
22 how can SRS and NIOSH know if how much

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1 contamination these workers received? In
2 1989, after DuPont and the subcontractors left
3 the site and Bechtel and Westinghouse took
4 over, there were six crews of laborers that
5 spent about 10 weeks shredding documents,
6 records, time cards, log books, monitoring
7 records, everything. I saw this with my own
8 two eyes. I know this happened, and SRS can
9 say it didn't happen, but I saw it. The law
10 says that if records were destroyed or
11 missing, the SEC petition should be applied.
12 It all came down to numbers. The construction
13 workers shared that if the site or project
14 would register or read three, they would
15 rotate people in and out every few minutes,
16 few hours, depending on the situation, to keep
17 the monitoring records low so that they would
18 not have to report to Wilmington of the
19 findings and explain what had happened. It's
20 apparent that these supervisors or HP
21 technicians, they knew the rules, they knew
22 the regulations, but they knew how to adjust

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1 things to keep the records clean. Records that
2 NIOSH seems eager to accept today because it
3 will help them make sense in what they're
4 doing. They say this is a science they are
5 doing. That's wrong. I know it, and I feel
6 that you all know it too. NIOSH believes that
7 the records, even though they are incomplete
8 and unreadable-- because there is nothing else
9 to use. What about what the workers have said
10 over the years? At this time-- at the time
11 that NIOSH had a workshop in Cincinnati-- I
12 attended the workshop because I was on this
13 petition-- NIOSH stated that DOE at Savannah
14 River site had finally agreed to send records
15 to them. But they said that -- NIOSH said
16 that the records were not complete. But this
17 report says that they had -- that NIOSH had
18 all the records that they needed. I find that
19 inconsistent. This evaluation report on Page
20 29 says that there is no evidence of
21 documentation of any incidents that would have
22 resulted in very high exposures. Of course

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1 there's no evidence. SRS wanted it kept that
2 way for their records, for their safety
3 procedures so to speak. And NIOSH has not
4 been listening to all the incidents that they
5 have been told over the years. They have
6 chosen not to consider any of these things.

7 On Page 18, the report says that R
8 reactor started in 1963 and shut down in 1964
9 when demand for plutonium and tritium
10 decreased. That is not true. R reactor was
11 shut down because of a meltdown. There was
12 also a meltdown of one of the fuel rods in K
13 reactor also. On Page 26 of this report,
14 NIOSH talks about the Navy fuels manufacturing
15 facility operating from 1985 through 1989.
16 That is wrong also. Navy fuels never
17 operated, never made any Navy fuel. It
18 malfunctioned on the initial startup. The
19 entire building was crapped up and all the
20 workers in the building. Since then, many of
21 the workers that was working in Navy fuels at
22 the time have died of cancer. The report says

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1 that closure of this facility is currently
2 underway. That is also wrong. The building
3 was completely tore down a few years ago, and
4 there's nothing left there now. There is a
5 parking lot where the building stood, so this
6 is wrong. It is not currently under
7 demolition. You members on that tour
8 yesterday, there was no mention of any of
9 these buildings that was tore down. There was
10 concrete slabs that we saw on lots of places,
11 where all of these hazardous buildings have
12 since been decommissioned, decontaminated and
13 tore down, but that is not - nothing about
14 that is in this report.

15 What about the affidavits that were
16 submitted with this petition? If you haven't
17 seen them-- if you members of the Board
18 haven't seen the affidavits, I would encourage
19 you to get them and read them. A security
20 worker had access to the entire site and
21 spasmodically wore a badge. He worked at SRS
22 for nine years. He was a nonsmoker, he had no

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1 family history of cancer, but he died at the
2 age of 30 to lung cancer. His claim has been
3 denied because his dose wasn't 50 percent.
4 But I might note that it has recently been
5 sent back to NIOSH for rework. There was
6 another worker that sent in an affidavit, told
7 about working in 221 H Building Room 410
8 South. When personnel opened the doors, the
9 barn doors as they were called, it resulted in
10 plutonium spreading airborne from the glove
11 boxes in 410 North where the workers had to
12 work in fully respirated, fully closed out,
13 fully suited out areas. This contamination
14 spread into 410 South where workers did not
15 operate in this area. They were not dressed
16 out. There was a HP man came running in and
17 told them to get the hell out, that the area
18 had gotten crapped up. The workers that were
19 in there, they were given a nasal smear by the
20 HP personnel, but there was no incident ever
21 made of this report. The HP personnel,
22 [Identifying Information], insisted that he

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1 make a report, that he log this, but his
2 supervisor was very adamant about not entering
3 these events in the log book because it would
4 look bad on his shift. Vern's log book was -
5 he entered it anyway because his conscience
6 dictated that he enter the accident report.
7 But later doing his - he was away from the
8 plant on military leave, National Guard duty,
9 his log book was taken out of his desk and
10 became missing.

11 Another worker told about working
12 on the H platform. She stated that she worked
13 repeatedly in the area without a dosimeter
14 badge. That was the case for other workers as
15 well. She explained since there were several
16 different occasions when the TLD badges had
17 placed on a board in front of the area by the
18 guard gate, would be gone the following day
19 when they came in. They were told that a
20 radioactive tanker truck delivering materials
21 had leaked materials on the road. The truck
22 was carrying radioactive materials and they

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1 leaked on the road, so therefore it wiped out
2 all the badges and they would get new badges,
3 to go on and go to work. Some of them didn't
4 get badges until late that afternoon, some of
5 them got badges the next day. But from the
6 evaluation report that NIOSH has given, these
7 missing records or all of this stuff don't
8 matter.

9 Another worker told of his work
10 from 1961 to 1964 as a operator in C reactor -
11 excuse me, he was a C operator in 221 F and
12 221 H Buildings. Most of his work was
13 decontamination or cleaning. They were told
14 that what chemicals were involved at all was
15 marked high radiation. While cleaning and
16 repairing the huge mess he inhaled chemicals
17 while repairing and adjusting them. One
18 incident occurred when while removing plastic
19 covers from a hot railroad car and a lot of
20 spill water on the plastic cupboard completely
21 wet his work clothes. He stated that most of
22 his jobs were done without health physics

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1 personnel around or supervision, and there was
2 no records recorded of lots of incidents. The
3 workers were used to working on weekend
4 Saturday and Sunday without any monitoring
5 badges any monitoring equipment because they
6 were not available. But he stated that the
7 work continued as usual even though they
8 weren't monitored.

9 Another worker stated that he
10 worked with crossties on the railroad and
11 going between the areas on Savannah River
12 site. He worked from 1987 to 1995. In 1995
13 when crossties in the crosstie pit in F area
14 were found to be contaminated, the cross ties
15 on the mainline were contaminated all, and
16 then after they found the contamination in F
17 pit the workers would have to dress out to
18 remove the contaminated crossties on the
19 railroad.

20 There is a lot of stuff that NIOSH
21 says that they got - that NIOSH says that
22 means that the workers got a high dose

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1 recorded when they experienced that that's
2 claimant-favorable. They would say it's just
3 another indication that the monitoring record
4 lacked integrity and cannot be tested. That's
5 what workers testified to. There was a
6 contractor Electric Motor Service, a
7 subcontractor that came in in 1990. Their job
8 was to cut down the bubble towers in 400 area.
9 They were told that all they had to do was
10 cut down the bubble towers, load it on
11 railroad cars, cut it up, load it up, get in
12 and get out. There was no HP monitoring,
13 there was no HP on the area, there was no
14 protective clothing, nothing. And there was -
15 since some of these workers have infected
16 cancer. Now, we found out that Electric Motor
17 Service paid no income taxes, they paid no
18 Social Security for these workers that worked
19 on this mission. It was a short period of
20 time, probably about a month I would say,
21 somewhere around a month they worked on the
22 job. And there is no record of Electric Motor

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1 Service ever being onsite. This is some of
2 the instances and things that went on at
3 Savannah River site.

4 There are hundreds of stories that
5 has been told like this. There's no point in
6 telling them over and over again. NIOSH says
7 that their science seems to trump anything
8 that the workers told them, anything that we
9 the construction workers have said that we
10 knew about. We might only be construction
11 workers, but we know what we saw, we know what
12 we experienced.

13 Another thing. NIOSH says on Page
14 35 that they were able to get complete lists
15 of all construction workers for 1960. I find
16 that hard to believe considering
17 subcontractors were in and out of that site on
18 an everyday basis. SRS didn't keep records of
19 that. So how did SRS come up with all the
20 records that NIOSH needed to do the dose
21 reconstruction? There was one situation where
22 laborers had filled a water can from a barrel

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1 used to catch leaking water from a heat
2 exchanger on -20 level in one of the 100
3 areas. The water was then used to spray the
4 drilling area to lessen the dust generated.
5 Since the barrel had not been roped up,
6 everyone was contaminated when they used the
7 water coming from this barrel. In a
8 supposedly clean area in 221 H a worker was
9 working and he was found to be contaminated.
10 His shoes and pants were taken, but it was
11 supposed to be a clean area. Another worker
12 in an office in F area at the 717 building
13 where they had a problem with the dosimeters
14 and film badges left in the racks. The
15 monitors would be set at zero at the end of
16 the shift and the next morning they would have
17 a reading of 50 or more due to the night shift
18 work alone, work being done in the building
19 that involved X-rays. Someone should explain
20 that. NIOSH will say that that means the
21 workers got a higher dose recorded than they
22 really experienced, and that is claimant-

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1 favorable. I would say it's just another
2 indication that the monitoring program lacked
3 integrity and cannot be trusted.

4 I appreciate your time today, and
5 the time that you put on this board to keep
6 NIOSH and dose reconstruction straight, but
7 let's cut the bull. Dose reconstruction for
8 construction workers regardless of what the
9 TIB-52 says is still just a guess, and it's
10 not even an educated guess. Our federal
11 government has spent too much money on this
12 NIOSH boondoggle. NIOSH should be ashamed of
13 what they're doing. And one last thing.
14 NIOSH and DOE will have more meetings than any
15 other one I know. For NIOSH to be spending
16 hundreds of thousands of dollars going around
17 the country telling workers about the SEC
18 process and leading them on to file petitions
19 is a sham. For DOL to have meetings and not
20 include NIOSH and other workers groups in
21 them. I don't understand how the government
22 has all the money that is being wasted.

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1 Workers have shared stories and
2 they speak clearly to the fact that workers
3 safety was not taken seriously on this site,
4 at least when it came to the construction
5 trades workers. The attitude of the site was
6 if you can do it safely, do it, but if you
7 can't, do it anyway. That's how it was
8 operated. I think that all the construction
9 workers in attendance today should speak their
10 mind, should tell their stories. There's
11 going to be a public comment time starting at
12 5 o'clock today that you can all tell what you
13 experienced at Savannah River site. I want to
14 thank the Board for listening to me. I hope
15 you will consider the things that I have said.
16 I would like for you to use them in your
17 evaluation. I have an advisor, that if it's
18 all right I would like to speak now. Mr. Don
19 Elisburg, an advisor of mine would like to say
20 something.

21 CHAIR ZIEMER: Thank you very much,
22 Mr. Rowe, and we'd certainly be pleased to

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1 hear from Mr. Elisburg. Don, welcome.

2 MR. ELISBURG: Good afternoon. My
3 name's Don Elisburg. I am a consultant to the
4 building and construction trades department of
5 the AFL-CIO. I have over 46 years experience
6 in administrative procedures in occupational
7 safety and health and workers compensation,
8 including having served as Assistant Secretary
9 of Labor for the Labor Standards
10 Administration, Employment Standards
11 Administration where the EEOIC is housed back
12 in 1977. I've also been involved with issues
13 surrounding worker health and safety at the
14 DOE since approximately 1986 when I was
15 Director of the Occupational Health Foundation
16 and we began to see large numbers of workers
17 with occupational illnesses due to exposure to
18 radiation and toxics at the nuclear weapons
19 facilities. As a matter of fact, I feel that
20 Chairman Ziemer and I are the last living
21 graduates from having been involved in this
22 for so many decades now. I was also a

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1 consultant to the National Academy of Public
2 Administration during its study of the DOE
3 safety and health programs 10 years ago. I
4 was a consultant to the Environmental
5 Management Advisory Board at DOE with respect
6 to worker safety and health issues for several
7 years during which the EMAB was developing
8 what is now the integrated safety management
9 systems programs at DOE. And I was a member
10 of the Department of Energy's EEOIPCA advisory
11 committee appointed under this initial
12 statute. I am an attorney by training and
13 work experience. I do not represent
14 individual claimants under this program.

15 The building trades departments has
16 been very reluctant to pursue SEC petitions.
17 Despite the department's objections to the
18 approach NIOSH proposed to take when it
19 established its dose reconstruction program,
20 the building trades department stated it would
21 give NIOSH the benefit of the doubt. Over
22 time this doubt about NIOSH's ability to

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1 achieve a fair result has grown steadily. As
2 we and my colleagues have testified before
3 this board in the past regarding NIOSH's
4 unwillingness to change course and its
5 administrative resistance to provide effective
6 responses to our request. We're now faced
7 with the situation where one arm of OCAS as
8 Gordon pointed out said it can do dose
9 reconstructions wherever and whenever, while
10 another arm of NIOSH is going around the
11 country urging workers to file SEC petitions.

12 It's particularly galling to claimants that
13 NIOSH is devoting resources to its contractors
14 and consultants to fly around the country
15 encouraging workers to file petitions on the
16 one hand, only to have NIOSH make the
17 determinations against these petitions on the
18 other hand. We've also seen a huge volume of
19 claims being returned to NIOSH by DOL for,
20 quote, "reworking," unquote, which has further
21 undermined what NIOSH's - whatever NIOSH's
22 credibility was with the claimants and

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1 constituents.

2 The building trades department has
3 repeatedly asked NIOSH to develop an approach
4 to construction workers dose reconstruction
5 that would take into account the unique
6 employment pattern and unreliable dose
7 monitoring with respect to these workers.
8 After five years of nagging NIOSH finally
9 agreed that there were problems with
10 performing dose reconstruction for unmonitored
11 construction trades workers and released this
12 OTIB-52 in August of 2006. Both the Center to
13 Protect Workers Rights and the Board's
14 contractor SC&A expressed concerns about the
15 bounding methodology incorporated into that
16 document. It does not appear that NIOSH has
17 made any changes to it, nor has the Board ever
18 reviewed it. On November 28, 2007, NIOSH
19 issued the OCAS PER-014 which contained an
20 analysis of the number of construction trades
21 workers claims for which the estimated dose
22 could be materially altered as a result of

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1 applying OTIB-52. It concluded that a total
2 of 977 claims which had already been awarded
3 at PoC of at least 36.8 percent, 29 percent at
4 Hanford, and that needed to be evaluated. We
5 believe that this may be a significant
6 underestimate for two reasons, applying a
7 wrong adjustment factor and not identifying
8 all the construction trades workers in NIOSH's
9 database.

10 OCAS applied an adjusted multiple
11 of 1.4 to extrapolate dose from environmental
12 adapt on coworkers. We believe that
13 multiplier is too low for the following
14 reasons that were established in a joint
15 Center-NIOSH working meeting in July of 2005.

16 It appears that NIOSH has compensated for the
17 higher breathing rate among construction
18 workers, but has not demonstrated that it has
19 compensated adequately for the greater
20 variance and exposures among construction
21 workers.

22 We performed an assessment of how

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1 complete the search terms identified in PER-
2 014 using three comparison files of terms the
3 Bureau of Labor Statistics standard of
4 occupational classification terms,
5 construction and extraction operations. The
6 building and construction trades department's
7 jurisdictional definition of building
8 construction trades and terms gleaned from
9 work history interviews with 3,200 former SRS
10 construction workers conducted by the Building
11 Trades National Medical Screening Program.
12 This comparison is in Exhibit A which I will
13 furnish to the court reporter, however that
14 works. We found extensive omissions of
15 important search terms in this PER-014 list,
16 which most likely would lead NIOSH to miss
17 substantial numbers of construction trades
18 workers at SRS and any other DOE site when it
19 performs a retrospective search of its claims
20 database. For instance, the trade of roofer
21 was omitted entirely and large numbers of key
22 sub-trade terms were also missing such as

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1 floor layer, or hazardous materials, or waste
2 removal worker. "Security" is not used by
3 NIOSH as a search term even though 10 percent
4 of the workers interviewed said a major task
5 they performed was security duty. This
6 demonstrates our view that both the NIOSH
7 staff audit and its contractor are severely
8 lacking in knowledge of construction work and
9 construction workers.

10 As the building trades have
11 continued to lose faith in NIOSH's
12 performance. They have relied on this board to
13 protect claimants from the administration -
14 the arbitrariness of procedures that NIOSH has
15 adopted. However, we must say that faith is
16 also eroding. The building trades has asked
17 for several years for an independent quality
18 assurance evaluation of all construction
19 worker claimant dose reconstructions. As yet
20 this has not been done. The building trades
21 has also asked for several years that the
22 Board undertake a statistical analysis of dose

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1 reconstruction outcomes, comparing
2 construction worker claimants to other
3 workers. This has also not been done. In
4 short, there's no evidence to support this
5 board's reliance on the integrity of NIOSH
6 dose reconstruction process as it applies to
7 construction worker claimants. I'd like to
8 underscore that point.

9 Let me address for a couple of
10 minutes the handling of the SRS petition. In
11 November of 2007 the petition was filed,
12 contending that workers at the SRS site were
13 inadequately monitored between January 1 of
14 1950 and December 31, 2007, and they should be
15 accepted as a special exposure cohort under
16 the provisions of Section 36.26 of the
17 statute. That petition was accepted for
18 review in March of this year. The section
19 states that the Board shall accept classes of
20 workers as a member of the SEC if, one, it is
21 not feasible to estimate with sufficient
22 accuracy, the radiation dose that the class

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1 received, and two, there is a reasonable
2 likelihood that such radiation dose may have
3 endangered the health of the class. I think
4 that's the last slide, next to last slide on
5 Tim's presentation. NIOSH then developed
6 procedures for designating classes of
7 employees as members of the SEC. NIOSH in its
8 evaluation report regarding the SRS SEC
9 interprets this to mean that both the statute
10 and 42 CFR Part 83 required NIOSH to evaluate
11 qualified petitions requesting that the
12 Department of Health and Human Services add a
13 class of employees to the SEC. The evaluation
14 is intended to provide a fair, science-based
15 determination of whether it is feasible to
16 estimate with sufficient accuracy the
17 radiation doses of the class of employees
18 through NIOSH dose reconstructions.

19 We take exception to this. We do
20 not believe the evaluation was either fair or
21 science-based. We believe NIOSH's procedures
22 continue to be replete with conflict of

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1 interest and a lack of standards, lack of
2 standards for determining its findings.
3 Presumably the science-based approach that
4 NIOSH refers to can be found in the standard
5 NIOSH applies to determine "with sufficient
6 accuracy" which is in 42 CFR Section 313,
7 radiation doses can be estimated with
8 sufficient accuracy if NIOSH has established
9 that it has access to sufficient information
10 to estimate the maximum radiation doses for
11 every type of cancer for which radiation doses
12 are reconstructed that could have been
13 incurred in plausible circumstances by any
14 member of the class, or if NIOSH has
15 established that it has access to sufficient
16 information to estimate the radiation doses of
17 members of the class more precisely than an
18 estimate of the maximum radiation dose.
19 Translated, the building trades have objected
20 to this provision from the time it was
21 established. This standard simply says
22 sufficient accuracy is whatever NIOSH decides

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1 it should be. There's not a shred of science
2 incorporated into this standard. In Table 4.1
3 of the evaluation report NIOSH has identified
4 1,798 construction trades claims out of a
5 total of 3,264 claims for its SRS. It gives
6 no methodology for how these claims were
7 identified, but it presumably used a text
8 search of occupational terms. We assume that
9 it used the same methodology as detailed in
10 OCAS-PER-014. Nevertheless, there is no
11 reference to that document in this evaluation
12 report, and given the deficiencies in NIOSH
13 delineation of construction trades workers
14 occupations as noted above in my prior few
15 minutes ago, we believe this evaluation report
16 is so highly deficient and incomplete that it
17 is seriously flawed.

18 We have reviewed Section 5 of the
19 evaluation report in some detail. It lists
20 the radiological operations relevant to class
21 evaluated by NIOSH, i.e., the construction
22 operations from 1950 to 2007. This including

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1 the list of Savannah River site events
2 chronology in Attachment A of the report is
3 not at all an accurate characterization. This
4 is a general listing of site events that is
5 lacking in construction-specific information.

6 In other words, it is not specific to or
7 particularly relevant for the class evaluated.

8 We have reviewed our own site history
9 information and have found very serious gaps
10 in the history. We have included a list of
11 missing construction activities with
12 significant potential for radiation exposure
13 which you may find useful as you consider this
14 report, and we will submit that as Exhibit B.

15 This lack of understanding further
16 compromises the NIOSH evaluation report.

17 Section 6 of the evaluation report
18 focuses on whether the radiation dose records
19 at SRS are adequate to make a retrospective
20 dose reconstruction, including when used to
21 extrapolate exposure history when such records
22 may be missing. NIOSH asserts that it could

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1 perform this work using two types of records,
2 the so-called HPAREH electronic database of
3 annual radiation dose summary data for any
4 worker who has a termination date after
5 January 1, 1979, or paper dose records for any
6 worker terminated before 1979, or visitors to
7 the site before or after 1979. There are
8 specific examples not cited in the NIOSH
9 evaluation report which contradicts this
10 assertion. Construction workers have
11 witnessed in their affidavits that massive
12 amounts of paper records were destroyed when
13 DuPont ceased to be the operator of Savannah
14 River. That would significantly impact on the
15 integrity of records available to document
16 exposure for workers who terminated before
17 1979. NIOSH has not addressed this concern.
18 In 1988 the K reactor was shut down for a
19 total of 265 days. During this shutdown the
20 reported average radiation dose for
21 construction workers was 2.8 times greater
22 than for day reactor operators. So for these

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1 workers, extrapolation from coworker data
2 would not be valid. And even if the
3 adjustment factor of 1.4 allowed for in OTIB-
4 0052 is applied, the extrapolation would
5 understate actual exposure by a factor of 1.
6 To reiterate, during a significant period of
7 time for a significant number of workers the
8 measured exposure for construction workers was
9 twice the level for production workers. And
10 if your coworker extrapolation model is
11 applied to these construction workers for this
12 period of time it would understate actual risk
13 by 50 percent.

14 In summary, we have documented that
15 there are critical flaws with NIOSH's
16 understanding of construction occupations and
17 critical flaws in its undertaking of
18 construction operations at the SRS. NIOSH
19 agrees that it has to use coworker
20 extrapolation for many if not most
21 construction worker claims. This process is
22 extremely suspect and should lead any

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1 reasonable person to conclude that any attempt
2 by NIOSH to use coworker extrapolations to
3 bound doses for unmonitored construction
4 trades workers should be considered too
5 unreliable to be used in any standard of
6 administrative review. That concludes my
7 statement, Mr. Chairman, but I wonder if you
8 would give me an additional minute.

9 Like I said, I've been at this work
10 since 1986 and it's undisputed in all of the
11 hearings and documentation that all of these
12 sites did not have appropriate safety and
13 health programs to protect the workers. There
14 is no dispute. Every Secretary of Energy
15 since Admiral Watkins has conceded that. It's
16 not surprising then that there are a number of
17 sick workers, and it's also a matter of
18 history that the normal workers compensation
19 programs that should have assisted these
20 workers simply failed because of the nature of
21 the secrecy and the occupational exposures
22 that those systems simply couldn't handle.

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1 This law was designed to pay the workers who
2 became sick. The system is not working. It
3 was not - the way this process is going is not
4 what was intended. I feel that those of us
5 who have made the effort and supported the
6 movement of this program from the Department
7 of Energy to the Department of Labor and
8 NIOSH, that we have failed these workers and
9 there's got to be a better way than
10 demonstrating how many years it's going to
11 take to get a claim resolved. And then you
12 have a group of workers that meet all the
13 requirements of employment and illness, and
14 somehow two-thirds of them don't qualify when
15 you get the dose reconstruction. It seems to
16 me that we need to think about not Larry's
17 chronology of how long it takes to process a
18 case, but the fact that this statute went into
19 effect in 2001 for workers who had been
20 suffering for the previous decades. It failed
21 in its mission at the Department of Energy and
22 Congress amended this in 2004. It is now 2008

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1 and many of these people who have been waiting
2 on line are still waiting, and that's the
3 dilemma that I think we have to understand,
4 that the people who are represented in this,
5 claimants in this room and all over the
6 country have a right to have their problems
7 resolved in a reasonable and speedy time, and
8 having to wait decades for this kind of
9 redress because they're still looking for
10 records that don't exist and creating
11 extrapolations out of whole cloth is simply
12 inappropriate. I apologize for putting this
13 burden on the Board, but in the 46 years that
14 I have been working with workers and their
15 problems, this is by far the most frustrating
16 experience that I have ever had, and I'm sure
17 those of you who have been working in this
18 process feel equally frustrated. And I just
19 wanted to make that personal statement for
20 your record here. Thank you.

21 CHAIR ZIEMER: Thank you very much,
22 Don, for participating with us here today. I

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1 believe that petitioners have one or two
2 others. Mr. Rowe, were there others? Yes,
3 okay. We have an individual who is
4 representing someone who could not be here
5 today and he will identify himself.

6 MR. WARREN: My name's Bob Warren.
7 I'm a lawyer from Black Mountain, North
8 Carolina. My address is Post Office Box 1367
9 and I am appreciative of the stand here
10 because my Parkinson's is a little shaky and I
11 hope you can bear with me a little bit. I've
12 been working since the mid-1970s for Savannah
13 River workers at the Savannah River site, and
14 since January of 2002 I've been representing
15 claimants with EEOICPA claims at Savannah
16 River and at weapons plants around the
17 country. Tonight - this afternoon, I'm
18 representing [Identifying Information] who is
19 one of the petitioners in this SEC petition.
20 He is with his gravely ill wife at the
21 hospital now and wanted me to make sure we
22 covered some things in his petition.

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1 When we looked at the SRS needs
2 assessment Phase I, that assessment said we
3 were unable to make an independent
4 determination about which hazards employees
5 were most likely to be exposed during their
6 employment at SRS because of the uncertainty
7 and gaps in the monitoring data. And we also
8 pointed out that [Identifying Information]
9 worked in 221 F and 221 H where film badges
10 were not regularly worn at the time he was
11 working there and without health physics being
12 present. He particularly cited as an example
13 the badges were taken up on Friday and they
14 were brought back on Monday. Well he worked
15 on the weekends. There was no badge to
16 monitor for the whole time he worked on the
17 weekend. And these are the workers that NIOSH
18 says they're going to use those records to
19 calculate the construction trades workers. If
20 you don't have good data for one thing, how
21 can you use that record to justify others?
22 Also, in [Identifying Information] petition we

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1 cited many workers that were performing jobs
2 that would be considered construction or
3 construction support but were employed under a
4 classification of operations or production
5 that did not have a construction title. And
6 we listed numerous jobs, crane operators,
7 backhoe operators, power and reactor
8 operators, riggers, maintenance workers,
9 mechanics, inventory workers, truck drivers
10 hauling waste, radioactive and non-
11 radioactive, to construction sites, delivery
12 drivers, surveyors, workers who cruised or cut
13 timber, workers who escorted construction
14 workers - these were called escort services
15 workers - where they would extort the
16 construction worker into and out of
17 radioactive area, and then they would remain
18 there with the construction workers until the
19 job would be done. Those workers aren't
20 included as construction workers. We cited
21 laundry workers who cleaned radioactive
22 clothing. Cleaning personnel, instrument

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1 repair workers, workers who serviced vending
2 machines in hot areas where construction
3 workers were working. Particularly the things
4 we cited were administrative and lab
5 personnel. There were about 2,200 females
6 that were listed as administrative personnel
7 and NIOSH classifies them as saying they were
8 expected to get 30 mrem in their entire work.

9 When they went out into construction areas
10 and delivered or collected mail, they brought
11 checks or test samples from the construction
12 workers, and they weren't monitored. They had
13 visitor badges when they would go in there and
14 then the visitor badge records were not valid.

15 So NIOSH has just conveniently overlooked all
16 of these.

17 There were other similar jobs in
18 the areas where construction was working for
19 operations and production. Then we had
20 submitted that review and we were informed
21 that the NIOSH director would appoint three
22 Department of Health and Human Services

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1 personnel to conduct an independent review of
2 the proposed findings. We had [Identifying
3 Information] and others participating in these
4 May meetings, May 2008 meetings. There are 29
5 pages of minutes that aren't considered in the
6 NIOSH evaluation. They list in there saying,
7 one, DOE - it's not accessible by DOE and the
8 other they had it accessed by DOE but hadn't
9 taken that into account. This is not only the
10 May meetings, but we and people in this room
11 have been to numerous meetings down here where
12 they cite instances where they're not
13 monitored, where there are crapped up people
14 and workers that have no records on all of
15 that, yet NIOSH says give us some evidence and
16 then they say we haven't produced the
17 evidence. In a letter dated June 27, Dr. John
18 Howard informed [Identifying Information] that
19 the appointed panel had reviewed the materials
20 in the petition, stated that petitioners had
21 not provided sufficient information to extend
22 the class definition beyond SRS workers

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1 classified as construction workers. Dr.
2 Howard in his letter did not mention the
3 minutes of the May meeting that was
4 specifically convened by NIOSH to get the
5 information that would support the petition.
6 So they ask us for the information, don't look
7 at it and then say we haven't provided
8 sufficient information. After seeing that Dr.
9 Howard's panel did not review the May meeting
10 minutes, this petitioner then asked that NIOSH
11 rescind Dr. Howard's decision and either
12 extend the class definition to all SRS
13 workers, or have another panel review the
14 findings after having access to all relevant
15 information. We also asked for minutes,
16 notes, other material given to or made
17 available to this panel, including a
18 preliminary or final report to Dr. Howard.
19 This request was made in July. As of today
20 nothing has been provided to [Identifying
21 Information].

22 Sometime in late September 2008

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1 NIOSH did put the minutes of the May meeting
2 on its website, but didn't send the minutes to
3 the meeting copies of everybody who signed the
4 meeting roster although at the meeting they
5 were told that if you didn't have access to
6 the web they would be made available to these
7 people that participated. That hasn't been
8 done. On or about November 17, [Identifying
9 Information] received the evaluation report
10 from 94 pages. In the report, NIOSH not only
11 recommended disqualifications of construction
12 workers, but also did not recommend expanding
13 the class to all other workers. Instead of
14 utilizing these statements at the May meeting
15 or at other meetings, NIOSH discounts the
16 worker's evidence on having no monitoring or
17 external radiation exposure. Mainly they
18 didn't look at it. On Page 72 of the report
19 NIOSH found that a forestry worker who was not
20 monitored during his employment with the
21 Forest Service onsite, but then concludes that
22 this Forest Service worker's radiation dose

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1 can be calculated by environmental and dose
2 conversion factors. This conclusion
3 conveniently overlooks what this worker told
4 at the May meetings regarding exposure to high
5 levels of radiation without any protective
6 clothing or equipment. This worker also
7 explained his exposure to railroad ties and
8 trees that were eventually found to be
9 contaminated after years of working in close
10 proximity to these ties and trees. Tree sale
11 was canceled, trees were burned by an outside
12 contractor because they were radioactive,
13 while the ties were taken to the burial ground
14 onsite.

15 [Identifying Information] came to
16 the May meeting, told about working on
17 weekends without wearing a film badge, of
18 having plutonium and other radioactive
19 substances show up in his records after he had
20 a whole body count when he terminated his
21 employment. Others at the May meeting told of
22 having no protection or monitoring devices in

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1 radiation zones. Instead of looking into
2 whether or not DOE had records on the
3 individuals that we presented at the May
4 meetings and at others, NIOSH concludes that
5 the records for another class of workers
6 exists that would provide coworker doses for
7 any worker that was not monitored. We give
8 the evidence, give the NIOSH tracking number,
9 they don't even look at the records in that
10 individual's file. The phantom data on
11 coworkers apparently suddenly appeared without
12 any connection to the reality of construction
13 and non-construction workers having the same
14 problem, not being monitored when they left
15 their badges outside the radiation zone or
16 having radiation monitors that did not work.
17 The NIOSH method apparently ignores examples
18 of workers who were sent home with a raincoat
19 and plastic shoes after being required to
20 leave all of their clothes at the site, all of
21 their money, wallets, and then there are no
22 records of those individuals. We give NIOSH

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1 the worker's name, we give them all the
2 information and they say we're not looking at
3 those records, we've got other records. I
4 wonder if in this room the people that have
5 filed claims that haven't gotten 50 percent,
6 if you all would just stand just so we'd see
7 where we are in this. If you had a claim that
8 didn't get 50 percent. And if any of you had
9 insufficient monitoring records, if you would
10 stay standing. Thank you. I think the panel
11 saw that there was a substantial number.

12 [Identifying Information] asked
13 this panel to have an SEC at Savannah River
14 site for all workers, or in the alternative to
15 have an audit of NIOSH's methods so that we
16 could get the correct information to the panel
17 so they all can make an informed decision.
18 Thank you.

19 CHAIR ZIEMER: Thank you, Mr.
20 Warren. The chair is going to suggest a 10-
21 minute comfort break. We will continue with
22 the presentations from the petitioners, but

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1 let's all take a 10-minute break and then
2 resume our deliberations.

3 (Whereupon, the above-entitled
4 matter went off the record at 4:10 p.m. and
5 resumed at 4:22 p.m.)

6 CHAIR ZIEMER: We are continuing
7 our discussion of the Savannah River SEC
8 petition. I have on my list the name of one
9 additional petitioner who indicated she wished
10 to speak, and I'm not allowed to say who that
11 is unless she identifies herself. Was there
12 one additional petitioner here who wished to
13 speak to the assembly? Okay. Perhaps if she
14 comes in later she can speak at the public
15 comment period.

16 Now we are going to hear briefly
17 from the Board's contractor SC&A. At its last
18 meeting the Board tasked its contractor SC&A
19 to do an initial paper review of the
20 evaluation report. Now, a paper review really
21 means it's sort of a preliminary review, an
22 early review, not an in-depth review because

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1 of the time factor, the evaluation report
2 having been issued very recently, and our
3 contractor also being on sort of an - almost a
4 day-to-day basis right now because of the
5 ending of their contract. So this, I guess
6 I'll characterize it as a kind of preliminary
7 review, but it will help the Board at least
8 get underway in its evaluation of the NIOSH
9 report and considering its path forward. So
10 on behalf of SC&A we have Steve Marschke and
11 Steve is going to give us a brief summary of
12 the preliminary findings or comments from our
13 contractor.

14 MR. MARSCHKE: Thank you, Dr.
15 Ziemer. Can you hear me? Thank you, Dr.
16 Ziemer. I don't have a fancy PowerPoint slide
17 presentation. I have a Word document here,
18 but I think we can work our way through it.
19 Maybe.

20 The first thing is just the title
21 page from the document. As Dr. Ziemer said,
22 we were given this assignment in September, at

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1 the September board meeting and at that time
2 the evaluation report was not available to us.

3 So what we did was we took a look at the
4 petition itself which is something that SC&A
5 usually does not do. We usually focus on the
6 evaluation report and make our comments on the
7 evaluation report. So, and the other thing I
8 want to say is, at this point we have a report
9 which has been completed. Our review of the
10 evaluation is not complete, but this first
11 step paper study is completed and it's
12 currently being reviewed by the DOE and after
13 they get done with their review it should be
14 made available to the Board and NIOSH and
15 anyone who is interested in it.

16 The second slide that I have here
17 is just kind of a ground rules slide of what
18 the petitions were and the NIOSH determined
19 the proposed class when they did their
20 qualification of the petition. And you can
21 see basically, as Tim mentioned earlier, NIOSH
22 has restricted the petition to construction

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1 workers. We did not review the process that
2 NIOSH undertook to revise the petitioner's
3 proposed class to their class. The other
4 thing that hasn't been really talked about is
5 that there is in fact two petitions, or it's
6 been explained to us that there are two
7 petitions. We've talked primarily about SEC-
8 00103, but there's also a second petition,
9 SEC-00104, which, if you look at the bottom
10 here, is totally encompassed by SEC-00103. So
11 it was merged for - I think NIOSH merged it
12 with SEC-00103 in their evaluation report.
13 And again, we didn't undertake any review of
14 either the merging of these or the re-
15 definition of the proposed class.

16 This is just a list of some of the
17 - attached to each of the petitions are
18 documentation. And this is a list of the
19 documentation that was attached to SEC-00103.

20 There were 13 affidavits. There were four
21 attachments and most of them came from the
22 Center to Protect Workers Rights, and the

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1 third attachment itself had an attachment
2 which was the - this one right here - the best
3 estimate for daily ventilation rates. SEC-
4 00104 had three attachments to document it.
5 One of them was, the first one was a dose
6 reconstruction and another one was a
7 consultation results and a request for non-
8 radiological information. Our approach was
9 to, again, since we didn't have the evaluation
10 report, our approach was to look at each one
11 of these pieces of documentation and do a
12 review on each of those. Again, that's -
13 really you can see here, our first question we
14 asked ourselves was how well do the affidavits
15 and attachments supplied with the petition
16 support the petition's claim to the
17 availability and quantity of dosimetry data
18 for SRS construction workers. That was the
19 first question that we asked ourselves. And
20 to do that what we did was we looked at each
21 of the 13 affidavits, and in the report you'll
22 see we have summarized each of the affidavits,

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1 and then we give a little - our opinion of its
2 applicability. And then after - I have not
3 presented that here because that's a little
4 bit too much detail for this presentation, but
5 what we did then was we stepped back and
6 looked and said what are these 13 affidavits
7 trying to tell us in total. And we felt that
8 the affidavits were trying to say was a
9 monitored worker dose under-recorded. And
10 these are four kind of examples of where the
11 affidavits indicated that such doses may have
12 been under-recorded. Mr. Rowe and
13 [Identifying Information] I think have touched
14 on each of these four areas. Dosimetry is
15 going off scale and no apparent action taken,
16 working on off-shift hours when dosimetries
17 were not available, and so on and so forth.
18 We feel that follow-up investigations are
19 necessary to determine the extent or the
20 impact of these concerns on the SEC.

21 The other item that we have
22 indicated here is there's been a lot of

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1 discussion today about HPAREH and we feel that
2 a follow-up investigation is also necessary to
3 ensure that HPAREH faithfully reflects the log
4 books. Regarding SEC-00104, as I mentioned in
5 the previous slide, there was a dose
6 reconstruction attached as one of the
7 documentations, as part of the documentation,
8 and we weren't quite sure why it was attached,
9 but we undertook a review of that dose
10 reconstruction and we felt that - in our
11 review we looked at it and we felt that there
12 was - adequate monitoring was provided for
13 that particular dose reconstruction. However,
14 we haven't reviewed this individual case to
15 see how it relates to the reconstruction of
16 all members in the proposed class. And so
17 that's work that remains yet to be performed.

18 The second question we asked
19 ourselves when we were reviewing the SEC was
20 since NIOSH has in place methodologies for
21 performing dose reconstruction and has in fact
22 performed a number of the dose

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1 reconstructions, how well do those
2 methodologies address the availability and
3 limitations in the quality of the SRS worker
4 dosimetry data. And what we did for that was
5 we undertook a review of a number of NIOSH
6 documents, including the site profile
7 document, OTIB-32, OTIB-52 and PER-14 for
8 external exposures. The site profile document
9 again for internal exposures, OTIB-1 and OTIB-
10 52 again for internal exposures, and the site
11 profile review for medical and environmental
12 exposures.

13 Our preliminary results, and again
14 I stress that all these results are
15 preliminary results, is that documents - all
16 the documents that we listed above have been
17 previously reviewed by SC&A, and there are a
18 number of outstanding issues associated with
19 each one of them. What we did was we
20 revisited the previously raised issues and
21 determined their applicability for
22 construction workers.

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1 When we did that review for
2 construction workers, again there are a number
3 of technical issues out there, but we look at
4 them from the determination of whether or not
5 any of them were unique to SRS construction
6 workers, and we could not identify any of the
7 outstanding issues that would be unique to SRS
8 construction workers. That being said,
9 assuming that the HPAREH is relatively
10 complete and reliable, the coworker model set
11 forth in OTIB-52 appears to be generally
12 scientifically sound and claimant-favorable.
13 We've reviewed OTIB-52 elsewhere and we found
14 that there are some exceptions to this rule.
15 Sometimes pipefitters would be an example who
16 tend to have exposures which are not bounded
17 by the OTIB-52, or in some cases are not
18 bounded by OTIB-52. Hence we need to - this
19 issue needs to be revisited in an SEC context
20 which requires the reconstructed dose to be
21 bounded.

22 Then the next slide is - this is a

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1 slide which kind of - I don't know what this
2 is saying here. This is a slide which when we
3 say OTIB-52 methodology is bounding generally,
4 this is an indication of what we mean here.
5 This is a plot of the HPAREH dose records
6 versus the OTIB-52 methodology. What we did
7 each blue dot is a construction worker and the
8 doses are their total - the sum of all their
9 HPAREH records. And we compared that to what
10 their dose would be if we used the OTIB-52
11 methodology to calculate their dose. And if
12 you take this individual here you can see that
13 in his working history at Savannah River site
14 he received a total - he or she received a
15 total of about 34 rems. If he were to take
16 that same individual and calculate his or her
17 dose using the OTIB-52 methodology you would
18 see you get about 55 rems. So that's what
19 we're saying is - that's why we say that we
20 believe the OTIB-52 methodology to be
21 generally claimant-favorable. You can see
22 that anything that is below this diagonal line

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1 here would mean that the OTIB-52 methodology
2 would result in a higher dose than what was
3 recorded in the HPAREH. You can see that
4 there are some individuals over here which
5 fall on the non-claimant favorable side of the
6 line.

7 On November 14 the evaluation
8 report was published by NIOSH. And I should
9 point out that we were trying to get our
10 report out, our paper study out by December 1,
11 so that didn't give us a lot of time to
12 evaluate the evaluation report or to review
13 the evaluation report. So what we did was an
14 initial limited review of the evaluation
15 report; and, our main concern was that the
16 evaluation report does not address the
17 concerns expressed by the petitioners,
18 specifically those four items that we
19 discussed on the previous slide. We believe
20 that the petitioners did raise some valid
21 concerns that bear on the completeness and the
22 reliability of the database upon which the

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1 cworker models are based. What we're saying
2 is, again, the workers were potentially
3 exposed to radiation which was not recorded in
4 their dose records. So therefore it can't be
5 reflected in HPAREH even if there was a good
6 agreement between HPAREH and the log books
7 because it's really not in the log books. So
8 a review of the petition and the evaluation
9 report requires considerable further work,
10 including interviews with the petitioners, a
11 data completeness and adequacy review, an
12 internal dose method review, adequacy of
13 incident coverage and whether HPAREH reflects
14 actual work experience. And that's all I have
15 prepared. If there are any questions?

16 CHAIR ZIEMER: Thank you very much,
17 Steve, for at least that initial look at the
18 petition and the evaluation report. Board
19 members, questions for Steve right now? Now,
20 what we will be doing, and much of this will
21 occur during our work sessions later in the
22 meeting, taking into consideration the

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1 petition, the evaluation report, our
2 contractor's preliminary report, this board
3 will need to decide what the path forward will
4 be. It's the sense of the chair that we are
5 not close to a position where we would wish to
6 make a formal recommendation at this point.
7 There's a lot more work that clearly needs to
8 be done, but the path forward we'll have
9 opportunity to define, and we'll of course
10 very shortly have the opportunity to hear from
11 many more of the folks onsite. Mr. Griffon?

12 MEMBER GRIFFON: I think we are in
13 a little different position with this one
14 because we've assigned SC&A to review the
15 evaluation report as well and bring it back to
16 the Work Group.

17 CHAIR ZIEMER: Right.

18 MEMBER GRIFFON: So we're already
19 kind of -

20 CHAIR ZIEMER: Right, so -

21 MEMBER GRIFFON: - our path
22 forward, yes.

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1 CHAIR ZIEMER: Part of the path
2 forward is defined. We do have a work group
3 which Mark is chairing, and they will be
4 meeting and looking at all of these issues,
5 but if there's any additional tasking that's
6 needed we will have the opportunity to do that
7 as well.

8 MEMBER GRIFFON: Can I just say one
9 more thing?

10 CHAIR ZIEMER: Yes, you bet.

11 MEMBER GRIFFON: As the chair of
12 the Work Group on Savannah River, we haven't
13 convened this work group in awhile and part of
14 the reason we started out reviewing the site
15 profile, and we still have a number of
16 outstanding issues on the site profile which I
17 think will overlap with some of the issues
18 identified in the petition and in the
19 evaluation process. So we have to continue on
20 those. We sort of put it on hold because we
21 knew this petition was coming down the line
22 and it didn't make sense to use our efforts to

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1 go forward without waiting for the petition
2 and looking at that. Having said that, I also
3 am concerned. Several of the items that NIOSH
4 brought up in their presentation look like
5 we're still pending some data. Data exists
6 and while I understand that NIOSH's hurdle
7 sort of is to show that data exists to be able
8 to sufficiently calculate doses, our board
9 procedures, I'll remind all of us that we have
10 a little bit of a higher hurdle that we've put
11 in place which is to look at the data validity
12 as well as the proof of principle, and several
13 of the items that Tim, Dr. Taulbee outlined in
14 his presentation mentioned that they have data
15 or they're in the process of entering this
16 data. It hasn't all been QC'd yet. I think I
17 heard one of the TIBs is going to be available
18 in the spring. So I just am a little
19 concerned that all these tools and things are
20 in place fairly soon and we can have
21 everything we need to evaluate on this work
22 group. But given that, I think we're going to

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1 - I did talk to NIOSH earlier and we plan
2 certainly on getting this work group back
3 onboard in full force in early next year now
4 that we have the evaluation report in place
5 and everything. So.

6 CHAIR ZIEMER: Thank you, Mark.
7 Wanda Munn? You have on this topic?

8 MEMBER MUNN: One brief correction
9 for the record.

10 CHAIR ZIEMER: Oh, okay.

11 MEMBER MUNN: It was stated earlier
12 that this board had not even looked at OTIB-
13 52. I wanted to point out that OTIB-52 has
14 been very thoroughly debated in our procedures
15 group, that since 2007 we've had a total of 16
16 items that we have addressed specifically with
17 respect to this procedure which is entitled
18 Parameters for Processing Claims for
19 Construction Workers. So it is actively being
20 pursued. There are still -

21 CHAIR ZIEMER: Still some open
22 issues yet.

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1 MEMBER MUNN: There are still some
2 open issues but it has been reviewed in great
3 length.

4 CHAIR ZIEMER: Right, and is still
5 in process. Thank you. And Jim?

6 MEMBER MELIUS: Perhaps the
7 procedures work group could update the whole
8 board on that at some point?

9 CHAIR ZIEMER: Well, they will be
10 reporting.

11 MEMBER MELIUS: The members of the
12 Board have not heard this.

13 CHAIR ZIEMER: Right.

14 MEMBER MELIUS: Second, my question
15 to Mark was in your discussions do we have a
16 timeframe for SC&A to review the evaluation
17 report and present something?

18 MEMBER GRIFFON: I didn't know if
19 we were going to talk about that here or in
20 our path forward discussion.

21 CHAIR ZIEMER: Well, we'll talk
22 about it in the tasking. I think we may have

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1 already tasked them to do this and I'm trying
2 to recall from the last meeting.

3 MEMBER MELIUS: That's why I asked.
4 My understanding -

5 MEMBER GRIFFON: But John Mauro is
6 shaking his head no, so I think -

7 CHAIR ZIEMER: Okay. There was
8 only the paper review perhaps that was tasked,
9 but.

10 DR. MAURO: Let me help out a
11 little bit. When you were tasked during the
12 Redondo Beach meeting it was recognizing that
13 in the near future the evaluation report would
14 come out. And so at that time we were tasked
15 to look at the petition itself. However, we
16 were also in communication with Mark
17 regarding, listen, you know, we know the
18 evaluation report is going to come out. I
19 also spoke to Ted about it. I said listen,
20 once the evaluation report comes out what do
21 you think we should do here? I mean, we're
22 sort of in a gray area. Normally our initial

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1 process is to read the evaluation report in
2 conjunction with the petition. So I guess, in
3 consultation with Ted he said listen, please
4 review the evaluation report to the best of
5 your ability in anticipation of this meeting
6 so that you could have at least some initial
7 findings. But I guess formally at the meeting
8 itself in Redondo Beach we really weren't
9 formally tasked with that.

10 CHAIR ZIEMER: Okay. So we need to
11 do formal tasking at this meeting. And as I
12 indicated before, I think we're going to have
13 to be in the position of tasking our
14 contractor, whoever it may be. And we could,
15 we could ask that priority be given to getting
16 something underway. I think we have at least
17 till mid-January, but in one sense we would
18 have to think about the funding. I believe
19 all of the funding that's available right now
20 is earmarked for closeout. Since this would
21 be a new task and I think we could talk about
22 whether or not new tasking could be done. We

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1 could talk with David Staudt about that. But
2 it's certainly the chair's sense that we're
3 going to task somebody to do the review.
4 Whether it's SC&A or another entity we will
5 have a contractor that's going to have to do
6 that. So.

7 I don't know if David will allow us
8 to assign new tasks, but Ted, we should ask
9 him about that, David Staudt. We have to
10 follow whatever the federal rules are on some
11 of these things, but we've been given fair
12 flexibility in moving the money between tasks.

13 MR. KATZ: I'm sure there's no
14 limitation between spending it on closeout
15 versus on new task.

16 CHAIR ZIEMER: So we may have some
17 flexibility that would allow us to get a good
18 start on the in-depth review of the report.
19 So we'll talk about that further. Thank you.

20 We have a little time before the public
21 comment session, and Ms. Munn has asked for
22 the floor and I will recognize her.

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1 MEMBER MUNN: Thank you, Dr.
2 Ziemer. If we could beg the indulgence of the
3 claimants who are here from the local site,
4 we'd like to take care of a small item of
5 administrative importance to the members of
6 the Board here. We have Mr. Green with us
7 this evening who has not been with us in the
8 last few months, and if it pleases the Board I
9 would like at this time present a resolution
10 to you.

11 CHAIR ZIEMER: That would be in
12 order. The chair will recognize you for such
13 a motion, a motion directed toward our prior
14 court reporter Ray Green as I understand it.

15 MEMBER MUNN: Correct. The
16 resolution reads, "To all before whom these
17 present letters may come, know that we the
18 Advisory Board on Radiation and Worker Health
19 individually and in group assembled do resolve
20 and say, whereas this body has existed since
21 the year 2001 AD, and whereas our charter has
22 required an extensive and accurate record of

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1 our deliberations, and whereas such record
2 necessitated verbatim transcriptions of each
3 meeting of the Board, together with all public
4 comments made therein as well as of all
5 subcommittee and work groups meeting either
6 face to face or by teleconference, and whereas
7 the topics and participants in these
8 activities have been numerous and complex, and
9 whereas these proceedings have been recorded
10 and reported verbatim with great precision and
11 accuracy by our award-winning court reporter,
12 be it therefore resolved that for his
13 outstanding service, professionalism,
14 friendship and devotion to the work of this
15 board we extend our sincerest appreciation to
16 Steven Ray Green. By this document we do
17 hereby express our recognition of his valuable
18 contribution to the work of this body and as
19 he leaves our service convey upon him our
20 warmest wishes for continued success and
21 distinction in every aspect of his life.
22 Signed at Augusta, Georgia, December 16,

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1 2008."

2 CHAIR ZIEMER: Thank you for that
3 motion. The chair is aware that all the Board
4 members have actually signed it so the motion
5 passes, but for the record all in favor say
6 "Aye."

7 (Chorus of ayes.)

8 CHAIR ZIEMER: And Ray Green, if
9 you would come forward.

10 (Applause.)

11 MEMBER MUNN: This is one thing you
12 won't have to transcribe personally.

13 (Laughter.)

14 CHAIR ZIEMER: Ray, if you would
15 just pose there with Ms. Munn who was
16 responsible for generating this and we'll get
17 a picture. And Ray, if you would come up
18 here?

19 MEMBER CLAWSON: Ray, could you put
20 something over your mouth?

21 CHAIR ZIEMER: Yes Ray, we don't
22 recognize you with your full face. And Ray,

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1 you're not restricted like board members to
2 receiving gifts, so on behalf of the Board let
3 me also present you with this, a token of our
4 appreciation, and maybe I should read for you
5 what is on it as well, or you can read it.
6 Let me read the inscription for you. This is
7 heavy. It looks like it's filled with marbles
8 but we want to make sure you do have all your
9 marbles.

10 "In appreciation to Steven Ray
11 Green for seven years of outstanding service
12 to the Advisory Board on Radiation Worker
13 Health , August 2008," and below that is a
14 symbol of an atom, a very accurate symbol for
15 you here to study as you leave us.
16 Congratulations.

17 (Applause.)

18 CHAIR ZIEMER: And board members
19 one thing further. For Ray we know he wants
20 to remember all your mugs very well, so if
21 you're agreeable after the public comment
22 session we'll get together as a group with Ray

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1 and give him a lasting remembrance of this
2 board with mug shots. Ray, thank you so much.

3 MR. GREEN: Do I get to say
4 something?

5 CHAIR ZIEMER: Well, the 10-minute
6 limit is on you.

7 MR. GREEN: I've been waiting seven
8 years to talk. I did just want to say that I
9 can sincerely say the seven years with NIOSH
10 was the best working experience of my career
11 ever, and that may sound like it's convenient
12 because I'm standing in front of you all, but
13 it's the truth, it truly is. And not only
14 have I loved the Board members, but the people
15 at SC&A, the people at OCAS have been
16 absolutely fantastic. Everyone at NIOSH from
17 Dr. Howard to Cory, LaShawn and Zaida and
18 everyone in between has just been wonderful to
19 work with, and I tell all my colleagues it's
20 so wonderful working with the CDC. I actually
21 do have some other entities within the CDC and
22 they're very nice too, but I've got to say the

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1 best was NIOSH. And then there's the
2 peripheral people that I've met through
3 working here like [Identifying Information]
4 and [Identifying Information], and all the
5 wonderful spouses, and it's just been
6 absolutely fantastic. And I won't say goodbye
7 because we all have emails and we can keep in
8 touch, and some of you have been and I really
9 appreciate that. So I'm still listening to
10 you all every day working on this backlog to
11 get your transcripts caught up so it's not
12 like I've missed you very long yet.

13 (Laughter.)

14 MR. GREEN: But I did love it and
15 I'm not going to say goodbye. I think there
16 still may be a future for us, so if you're
17 ever in Atlanta give me a call and we'll hook
18 up for a cup of coffee or something. Thanks a
19 lot.

20 (Applause.)

21 CHAIR ZIEMER: Now we're going to
22 have about five minutes before we start the

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1 public comment period, so if any of you need a
2 quick break, a comfort break, why this is the
3 time. And we'll reconvene right at 5 o'clock.

4 (Whereupon, the above-entitled
5 matter went off the record 4:54 p.m. and
6 resumed at 5:05 p.m.)

7 CHAIR ZIEMER: Okay folks, if you'd
8 please take your seats we're going to
9 reconvene for our public comment session.
10 Just a few housekeeping items before we
11 actually begin the comments. We have - the
12 Board has a 10-minute limit on comments, the
13 reason for that being to give everybody an
14 opportunity because - and I always add that
15 that 10 minutes is not necessarily a goal to
16 be achieved. That's an upper limit. If you
17 can keep your remarks briefer that will be
18 fine because if everybody who has signed up
19 takes 10 minutes we have about two hours ahead
20 of us. So I'll just give you that as
21 guidance. And that's fine, we will be here as
22 long as needed to hear the comments, but to be

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1 fair to those who are at the end, those early
2 on the list need to be cognizant of the time.

3 Also, in general the public comment period is
4 not one where the Board is here to answer
5 questions per se. We're mainly here to hear
6 what you have to say. If there's some
7 particular item like you need to know who to
8 contact about some issue we'll try to help
9 with that, but mainly we just want to hear
10 what you have to say.

11 Now, Mr. Katz is going to repeat
12 the redaction policy. We're required to make
13 sure you're aware of this. This has to do
14 with what will or will not appear in the
15 public record in terms of personal information
16 because often in the public comment periods
17 individuals share details about perhaps their
18 own claim and sometimes about the claims of
19 other individuals, and there are some Privacy
20 Act issues that come into play when this is
21 done. So Mr. Katz will fill us in on the
22 ground rules for that as far as the public

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1 record is concerned.

2 MR. KATZ: Thank you, Dr. Ziemer.
3 So the policy is we have a verbatim transcript
4 so that your comments will be taken down
5 exactly as you say them. You do not have to
6 give your name if you do not wish to, you can
7 simply give your comments. But if you do give
8 your name, your name with your comments will
9 remain in the record, and if you give personal
10 information, for example, medical information
11 and so on, that may remain in the record too.

12 Ordinarily it will. But as Paul implied, if
13 you give information about a third party,
14 someone else, that information will be
15 redacted, their name and their identifying
16 information which might be quite a lot of the
17 information that you provide about them. That
18 would be removed from the record. The other
19 points I would just make is if you - let's
20 see, what else. Well, the only other point I
21 need to make is if you wish to address the
22 Board but you don't wish to address the Board

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1 in public we can try to make arrangements for
2 that. And the full policy for redactions is
3 available where you signed in and it's also
4 available on the website where the agenda of
5 this meeting can be found.

6 CHAIR ZIEMER: Now, as we proceed I
7 actually have to call you by name in order to
8 have you come and give your comment. So if
9 you have signed the roster and do not wish to
10 have your name identified in the record I need
11 to know that right away and you can just come
12 up here before I get started and indicate
13 which one you are, or let me ask it in a
14 different way. Are there any of you who
15 signed for public comment that do not wish to
16 have me call you by name?

17 (No verbal response.)

18 CHAIR ZIEMER: Okay. So I will be
19 calling you to come to the mic by name, so
20 understand that. So your name therefore goes
21 into the public record. You're free to use
22 the mic here. Makes it easier for the Board

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1 to see you, but if you prefer to use the
2 podium or have some materials that you need,
3 you know, some support for you can use the
4 podium if you wish. Whatever you're most
5 comfortable in doing. My plan is to go down
6 through the list in the order that you signed
7 up. After we complete the list that I have
8 here for those who are locally present I will
9 also give opportunity for folks who are on the
10 phone lines that may wish to make public
11 comment to do that as well. So those of you
12 who are on the phone, we will get to you after
13 we hear from the local folks here, most of
14 whom are affiliated in some way or another
15 with the Savannah River site, although that's
16 not 100 percent true. But in any event, we'll
17 go down through the list here. First is Donna
18 Hand.

19 MS. HAND: My name is Donna Hand.
20 I'm with the Pinellas Plant Workers. Mine's
21 going to be very brief because it's going to
22 be followed by a letter to the Board itself.

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1 I want a clarification of the law when it
2 pertains to cancer and the wounds, and how to
3 treat with the wounds. The problem is that
4 you, HHS, has exclusive control of the cancers
5 and decides which are cancers. The only non-
6 radiogenic cancer so far in the law is CLL.
7 However, neoplasms, carcinomas are not used,
8 even though the law says they will be treated
9 as if they're malignant cancers. DOL refuses
10 to send these cancers to NIOSH. NIOSH refuses
11 to do a dose reconstruction unless a cancer is
12 sent to them by DOL. Whenever you send a, for
13 example, squamous cell skin cancer, and it
14 says there is squamous on it, well they say
15 no, that's actinic keratosis so therefore
16 we're not sending it. It says on the
17 pathology report it is squamous. I send it to
18 NIOSH. NIOSH said we can't accept it because
19 DOL did not send it to us. So we have
20 evidence that there was a cancer but DOL
21 refuses to do that. Now this is exclusive
22 control of Health and Human Services to decide

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1 what is a cancer and if that cancer, you know,
2 do the dose reconstruction and then let the
3 Probability of Causation decide if it's a
4 radiogenic cancer or not.

5 Specifically, you're talking about
6 prostate cancer and adding on other cancers to
7 the list. Mr. Glover in one of your advisory
8 board meetings stated he thought that that
9 list came from the National Cancer Institute.

10 No. That list came from the Radiation
11 Exposure Compensation Act 42.2210 note. In
12 2004 that was amended to add on renal cancers.

13 Before then the Veterans Radiation
14 Compensation Act had prostate cancer. You
15 know, so you have other compensation programs
16 that has radiation that acknowledges prostate.

17 You have switched a bulletin to do dose
18 reconstruction on prostate to bladder. You no
19 longer use testes, but yet your Probability of
20 Causation still uses male genitalia. So why
21 can't the Probability of Causation do a
22 bladder like you do the dose reconstruction?

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1 You issued a technical bulletin for that, and
2 I guess it was pre-approved and reviewed
3 because you're using it. So why isn't the
4 Probability of Causation model then the
5 bladder, since you found out, excuse me, that
6 the target organ is the bladder to use for
7 dose reconstruction.

8 The other issue is wounds. I have
9 a gentleman that I'm the authorized
10 representative of, he was cut three times with
11 classified waste. They said because he was
12 not monitored which he should have been
13 monitored we're not going to use it in dose
14 reconstruction. We do not use it in his
15 internal and we don't use it as a separate
16 incident. The law says the internal is
17 injection, injection or cuts and wounds. You
18 have a specific bulletin out for wounds. It
19 addresses plutonium, but at the very end it
20 says this is for all radionuclides. They're
21 not using it. I'll give my other time to
22 Savannah River since they're here. Thank you.

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1 CHAIR ZIEMER: Okay, thank you very
2 much. And you are planning to send this
3 information to us as I understand it? Thank
4 you. Next we'll hear from William Hooker. Is
5 William here? I know that sometimes people
6 inadvertently register their attendance in the
7 wrong book and so he may have thought he was
8 registering and actually signed the public
9 comment list. William Hooker. Okay, then how
10 about Harry Carver. Thank you, Harry.

11 MR. CARVER: My name is Harry
12 Carver and I work at Savannah River site as an
13 iron worker. And I had cancer in 2000 and I
14 went through this program and it took them six
15 years to finally give me a negative answer. I
16 think that was way too long to have to sit
17 around and wait, but this dose reconstruction
18 stuff that they're going through. They talk
19 about a log book. I guess those log books was
20 hand-entered by somebody from that site, from
21 RadCon personnel or whatever. I know for a
22 fact in either 2003 or 2004 after I returned

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1 to work after having cancer there was a RadCon
2 supervisor that was terminated for having his
3 technicians falsely write dosimetry reports on
4 those reports. And he was terminated for
5 that, and the people that did it were also
6 disciplined. The one fellow that refused to
7 falsify, to write the right number down, he
8 was not disciplined. The other ones were, and
9 that is wrote down in the log books out there.

10 And if one does it, how do you come up with a
11 dose reconstruction with people falsifying
12 records?

13 And there was three of us that
14 worked together in the early '90s out there,
15 three iron workers. We all worked the same
16 crew. We all worked the same area, F-B line,
17 and all three of us in our early to mid-
18 forties has had cancer. One of them is dead
19 now, real good friend. Another one is here
20 and he'll speak also. It's just highly
21 unlikely that three of us in our early
22 forties, you know, worked the same areas, the

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1 same group, and all of us end up with the same
2 - not the same type of cancer, but we all end
3 up with cancers. And my other question is
4 when I found out about all this and the dose
5 reconstruction, I asked my oncologist how much
6 radiation does it take to give you cancer?
7 How much does it - what are you all's limits
8 saying here under this dose reconstruction?
9 How - what is the minimum amount of radiation
10 exposure it takes to activate cancer? Well, I
11 would like to know that.

12 CHAIR ZIEMER: You won't get a
13 specific answer because it's going to be
14 different for every individual in terms of the
15 various cancers all have various -

16 MR. CARVER: I have testicular
17 cancer.

18 CHAIR ZIEMER: But I will point out
19 -

20 MR. CARVER: - I mean, he couldn't
21 tell me. He said there's no, you know, you
22 could get an X-ray, you can get cancer from an

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1 X-ray, a single X-ray could activate it.
2 Everybody has the potential to have a cancer,
3 you know. So how do you all - I don't
4 understand how you determine what small amount
5 activates any individual's cancer.

6 CHAIR ZIEMER: I'll give you a very
7 general answer, not a detailed one, but this
8 program uses the data from the National Cancer
9 Institute which is the so-called risk data
10 which they have developed which talks about
11 the - it leads to the probability of cancer in
12 various organs from various doses. It's based
13 largely on the Japanese data, but we can talk,
14 you know, we can talk in detail about that.
15 But the group does try to use what we would
16 describe as the best scientific data, and
17 you'll understand that there's uncertainty in
18 that as well. Yes, right. Thank you for your
19 comment. Mitch Still. Mitch?

20 MR. STILL: Thank you for your
21 time, I'll try not to take up too much. I may
22 sound like I'm bragging a little bit, but I'm

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1 not. I'm just going to state facts. I worked
2 at the plant for 11 years and I believe in
3 nuclear energy, I believe in nuclear power and
4 all that. When I started working I was
5 basically a high school graduate, got lucky
6 and got a job. Worked my way up. When I left
7 I started my own business. I'd worked there
8 11 years. I'd got as high as I could go
9 without a college education and I basically
10 got bored at that time. Westinghouse had
11 taken over. DuPont had left when Price-
12 Anderson came in. And up to that time we
13 worked - as a matter of fact in '83 and '84 I
14 think the most plutonium ever run through any
15 reactor in the DOE complex we run it through F
16 area canyons. And there were a handful of
17 guys and women who made that happen. One year
18 I think I worked 87 shifts of overtime. Of 87
19 shifts of overtime, they didn't offer overtime
20 to sit around in a control room. It was high-
21 radiation work and I think anybody with any
22 reasonable sense could figure out you can't

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1 work an additional 696 hours a year and not
2 have more radiation than the worker next to
3 you.

4 And where I'm going, the culture we
5 had back then, HP and production were two
6 different things. Production was what it
7 said, production. We got the job done. If
8 there were three cars of uranium waiting to
9 come in the canyon, they were going to get in
10 and they were going to get in that evaporator,
11 get melted down and get sent to B line. HP,
12 their initiatives weren't the same as ours so
13 most of the time we spent our time dodging HP.

14 Most of the high-radiation work was done on
15 shifts, done on the weekends. I tried to
16 access a log book from the plant because I
17 told them if you take, from any given time
18 period take a one-month log book from the
19 canyon, take the canyon HP supervisor log
20 book, take the lab book where the samples were
21 delivered, also take the DOE morning report,
22 look at the four of them and they won't work

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1 out because in production we did things to get
2 the job done, okay? The guy earlier was
3 talking about the trees that had contamination
4 in them. I can tell you how they got there.
5 I can tell you all kind of stories and
6 incidents that don't need to be reported. We
7 did what we did to get the job done. The only
8 incidents that NIOSH or anybody will retrieve
9 through records are incidents that were too
10 big to cover up when we were working. When I
11 say "cover up" I mean clean up. If we made a
12 mess, we cleaned it up. I deconned myself.
13 We went to the hot sample aisle to pull
14 samples, you milked samples. Nobody ever
15 wanted to bring up what milking a sample was.
16 Milking a sample is you take a sample from
17 the hottest radiation material on the plant
18 out of these tanks that are 20 feet below you,
19 you pull a vacuum on them and pull them out.
20 29.9 inches of mercury is a perfect vacuum.
21 It still won't pull this kind of material up
22 when levels get above 1.5. So there were

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1 tricks operators would do to get these to
2 pull. It involved not using the door cast,
3 120- and 140-pound door cast for shielding.
4 You actually had to hold what is called a
5 peanut in your hand, work it, watch the vacuum
6 needles and get the material flowing through
7 it to get a sample, okay? A lot of upper
8 management knew these machines didn't work the
9 way they should, but yet they knew that on all
10 shifts certain guys would get these jobs done,
11 okay? When I was hired in we was told that
12 radiation wouldn't hurt you any more than
13 wearing a tritium dial watch. I don't - I'm
14 not putting down people. We were just doing a
15 job that we were paid to do. And it goes on
16 and on. I mean, waste tank samples, we held
17 them in our hands, did the same things. When
18 you went to get a sample that couldn't be
19 pulled legally, you went on the off shift and
20 when you went to the sample box you took a
21 swab and swiped the area. We hadn't been
22 trained in self-monitoring. You swiped the

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1 area, you check it with the - I believe it was
2 R-02, I can't remember the exact name. One
3 has the shield to shield out beta and gamma,
4 the other one checks for alpha beta
5 contamination. We didn't even care about the
6 radiation beta gamma. All we cared about was
7 decontamination. Swipe the floor and whatever
8 it was, hopefully it was lower than background
9 in the building. If it was lower than
10 background in the building, pull your sample.

11 As soon as you get through with it, check it.

12 As long as it was lower than background go
13 back to work. Nobody would know you'd pulled
14 a sample illegally, okay? But if log books
15 are reviewed, and I tried through the plant to
16 get them. They won't give them to me. And
17 they're in records retention because all those
18 log books, we had to save them. They're all
19 clearly dated. There's no reason they can't
20 be retrieved, okay? Now I know that DOE has
21 an order up before Congress where they wanted
22 to destroy all records and I think Congress

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1 needs to make sure that doesn't happen. Do I
2 have more time?

3 CHAIR ZIEMER: You've got two
4 minutes.

5 MR. STILL: Missed dose. Missed
6 dose, I understand that's a good thing, but
7 when you're working 87 shifts of overtime a
8 year and you work in the sample aisle changing
9 out hooks, crane hooks and all, badges weren't
10 worn. If HP was on the job, for some reason
11 they were covering a job, a high-profile that
12 some upper management wanted to see, you wear
13 other people's badges. If you was in a high
14 beta radiation zone you knew if you switched
15 your badge around in the TLD an open window
16 would be closed, you wouldn't get the beta.
17 Some of these beta fields would be like a 40-1
18 ratio. Dosimeters, they talk about them going
19 off scale. You come out of a hot job and if
20 the radiation was extremely hot you tell the
21 HP inspector I dropped it in there so you
22 didn't get that high reading. You were

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1 refused overtime if you had high radiation and
2 you would not get promoted if you had high
3 radiation. It was almost a condition of
4 employment.

5 Chemical, trichloroethylene,
6 asbestos. We swept mercury out of the sumps
7 in the H area. F area didn't have as much in
8 their process. We swept it up with brooms,
9 okay, and put it in bottles and sent it to the
10 lab where they recycled it. So the toxic
11 exposure never gets brought up, but we was
12 exposed to a lot of that. We even deconned
13 ourselves with trichloroethylene. We always
14 didn't get decon with HP either, only when
15 used on a job that HP was covering.

16 Now, one other thing that really
17 concerns me is DOE, the Department of Labor
18 and the contractors. I noticed that you have
19 an SEC going for construction workers and
20 that's fine. They've got somebody to take up
21 for them. There shouldn't be a first-line
22 foreman having to come in here and take up for

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1 operators at the plant, including myself,
2 because there's no company to take care of us
3 because DOE is just bidding out to lowest
4 bidders. And the people at the plant now
5 don't even know it's going to affect them in
6 the future. DuPont left, good riddance.
7 There's nobody to represent employees. That's
8 the reason all these lawyers and litigation
9 has to get involved. The people need to be
10 represented correctly and we picked up
11 radiation, we called it the trenches. We did
12 the work. We picked up radiation. I've held
13 every product on the plant in my hand. And
14 when you go home at night a lot of times
15 you're wondering, I hope I got everything off.
16 I don't want to get it in my house. And I'm
17 not complaining. I got cancer at 47 years
18 old, colon cancer. My first foreman that I
19 worked for, he died at 60 with colon cancer,
20 and my second foreman that I worked for, he
21 died last year of colon cancer. You know, Dr.
22 Sanjay Gupta this morning on CNN said that 1

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1 out of 100,000 get colon cancer and that's a
2 big coincidence. He said the average age is
3 73 and there's three of us got it before 60.
4 So, and I'm not complaining. I'm lucky. I
5 caught mine early, I can deal with what I've
6 got, but I just wish the workers - every
7 worker's work history should be looked at.

8 The biggest jobs done on the plant,
9 changing out the 2F evaporator involved about
10 a hundred people on an outside radioactive
11 job. It wasn't in a canyon. I was the
12 foreman over that. I understand radiation and
13 I know how the plant works with radiation, and
14 I'd be curious if you're even milking samples
15 today. If the radiation boxes aren't changed,
16 they will. And when operators milk the sample
17 or pull any sample they know ALARA, "as low as
18 reasonably achievable" is what we were taught.

19 What that meant, and the older gentlemen
20 would teach you this, keeps your radiation
21 down. How do you do it? When you go into a
22 box that's got a high radiation, if you're

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1 right-handed, keep your badge on the left side
2 of the chest. If it shines it's going to get
3 your right side, it's not going to get the
4 left. So dose reconstruction on a lot of
5 production workers, you would have to figure
6 their missed dose for every day because it was
7 nothing to get your limit the first day when a
8 TLD come out. And if you knew you was getting
9 high, was going to get a write-up for it, you
10 pick up a TLD badge at the guard shack that
11 wasn't yours. It wasn't named, don't even
12 sign it out. Just pick it up, nobody would
13 ever notice you were wearing it during the
14 day. Okay? I'm not complaining, I'm just
15 stating facts. All these technical documents
16 are full, and I wish the Board had a worker on
17 the Board, and I wish in the future you all
18 would get one. Get one from Hanford,
19 wherever.

20 CHAIR ZIEMER: We have several
21 workers on the Board.

22 MR. STILL: I mean, workers who did

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1 the things that I've done.

2 CHAIR ZIEMER: I think we have
3 several now. Yes, we do have workers onboard,
4 but thank you for that input.

5 MR. STILL: Thank you.

6 CHAIR ZIEMER: Yes, appreciate
7 that. Okay. Looks like maybe two people
8 here. Jim and Roxanne Bush?

9 MR. BUSH: Good evening. I'm Jim
10 Bush. I didn't work at SRP, but I'm on behalf
11 of my [Identifying Information]. He worked
12 out there over 20-some years. Back when he
13 started, back during '51, on up until he
14 retired, but now he come down - he didn't come
15 down with cancer. He come down with this
16 [Identifying Information], a rare form of a
17 [Identifying Information] in the head. And
18 [Identifying Information] did not have that
19 when he started out there, but during his
20 period of time of working, eventually he
21 contracted that [Identifying Information] in
22 his head. And I've seen it where it was so

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1 bad where he couldn't stand for the wind, or
2 the four seasons. Winter gave him problems,
3 summer, spring, fall. He had to cover his
4 face up with an old skull cap to go out into
5 the weather. And later on in the years past,
6 he had an operation which was a 50/50, either
7 live or die. So he had come to the conclusion
8 that the pain was so severe, that the doctor
9 told us that the pain was so severe of a man
10 or anyone having that [Identifying
11 Information] was more than a woman having a
12 baby. He said he wouldn't wish that on his
13 worst enemy. So [Identifying Information]
14 gave up and said, "well, just go ahead and
15 give me the operation." Well, the operation
16 did come out successful, but then they had to
17 take and operate on him without an anesthesia
18 because he could not stand for the doctor to
19 inject him with the needle. So he had to go
20 up into his head, over into his skull, into
21 that nerve and clip it. And so that was the
22 only thing that helped him.

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1 But now [Identifying Information]
2 did come a lot of days that he was
3 contaminated, but when I went and got all my
4 paperwork and everything, it was sent off to
5 Washington and Jacksonville and everywhere
6 else that it, you know, should go. But each
7 time it comes to a deadlock that they want to
8 say [Identifying Information] was not caused
9 in any way through working at SRP. And so I
10 did all I could do, you know, and I got all
11 paperwork, whatever was on his behalf, of
12 records-- but now to me I feel like it did,
13 SRP created and caused his problem, because he
14 wasn't having that problem until he started
15 working out there. And he was, and I feel
16 like if you being contaminated at certain
17 points in your life, then there you are going
18 to have problems from contamination. And
19 that's the way I feel about it, but now the
20 only thing I could do is do whatever I can,
21 and I felt like I've done my share, you know,
22 of getting all records, and I've turned them

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1 in. And I've been to most all of the meetings
2 that would occur, you know, of having
3 something to do with the litigation problem at
4 the SRP. And so that's why I come out
5 tonight, to state my opinion as well. And I
6 thank you all.

7 CHAIR ZIEMER: Thank you very much.
8 And Alice Frame. Alice.

9 MS. FRAME: I'm from Charleston,
10 West Virginia. I've driven about every time
11 down here to the meetings. I thank you. My
12 [Identifying Information] was an electrician.
13 He worked out there in '86 and '87. He was
14 diagnosed with [Identifying Information] 1992.
15 We had taken radiation and chemotherapy.
16 NIOSH tried to say that the [Identifying
17 Information] came from 25 radiation
18 treatments. Well, I've fought against you
19 long enough that you've come back and said it
20 was not medical induced. So November 4 of
21 1999 we started to Washington, D.C. Cancer
22 Center. [Identifying Information] was our

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1 oncologist, and he's a specialist in sarcoma.
2 And he's the tenth rated doctor in the nation.
3 He's written 56 books, and it's transcribed
4 in seven languages. So we started chemo
5 November 17. His leg broke and he was put in
6 a full body cast. To make a long story short,
7 January 28 they [Identifying Information] up
8 to his waist.

9 You know, there's not nuclear waste
10 in West Virginia. And I've wrote to my
11 congressmen and my senators. If I was a coal
12 miner, I would have gotten multitudes of
13 money. Our hospital bill in D.C. from
14 November till April was \$333,000. I went to
15 Department of Labor in D.C. April 7 for my
16 hearing. Everybody is kind of bashing NIOSH,
17 but I have found out when my papers come from
18 Department of Energy to NIOSH, doesn't it, my
19 records? Isn't that right, Department of
20 Labor, that's how you get them? Okay, I got
21 my papers from Savannah River site. It said
22 "work history, inaccurate." Now, if there's a

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1 record inaccurate, then how did you get it?
2 See what I'm saying? Then I got into when I
3 went to my hearing the little girl was very,
4 very uneducated. I asked her my first name,
5 "Do you have a dosimetry badge?" "Oh, it'll
6 take a few minutes." I said, "I have all
7 day." "It'll take a few minutes." "I have
8 all day." I said, "You don't have it and I
9 know you don't have it." I asked for a badge
10 number and a badge. I have not yet to get it.

11 So then I have got into dealing
12 with Jacksonville, and I got it from one of
13 their papers. It come back, "We do not know
14 how to make this decision on PoC." I'm going
15 to give it the shotgun effect for my decision.

16 It'll only change the cause so much
17 percentage. This is my [Identifying
18 Information] life that they're going to
19 shotgun effect with? So it's not all just
20 NIOSH. These people need to know. Then the
21 woman that made my decision, I called
22 Jacksonville and I said, "I know what an MD

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1 is, what's an MPH?" They hung up on me. I
2 called back and I said, "Just tell me, you
3 know, what is it?" Well, they hung up and I
4 called back. "It's occupational medicine." I
5 said, "Well, I'm from West Virginia, but I
6 don't think it starts with an M and an O." So
7 what I have found out, the doctor took her
8 decision from medical history, not medical
9 record. Why didn't she have the medical
10 record and not medical history? Then I came
11 back and asked. They paid her \$830 for 2.5
12 units to do this twice? Is this why I don't
13 have money to be compensated for? See, it's
14 not all about NIOSH. You do your job, let the
15 rest of them come up and do their job. So
16 when I went to my hearing in D.C. I asked
17 them, "I want somebody with the same
18 credentials that his doctor had in D.C. to
19 make my decision. And I don't feel like I'm
20 asking a lot."

21 But a lot of these people don't
22 know, I went to my Congress and I now have an

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1 attorney. The Congress passed a law October
2 of 2000. It states-- do you know what it
3 states? It says if you get an attorney before
4 you're denied, your attorney is fined \$5,000.

5 And this attorney can only take from what, 2
6 to 10 percent? There's not a lawyer in the
7 world that's going to take. But I have a
8 couple of good people that has agreed to take
9 mine. Then my paper came back, and I can't
10 understand. It says-- the NIOSH dose
11 reconstruction says he got the majority of it
12 working here, but he didn't get enough of it.

13 What is enough of it to [Identifying
14 Information] at 49 years old? Like I said, he
15 didn't work anywhere else. And when he worked
16 at Savannah River site, he was an electrician.

17 He got a letter from DuPont where he run
18 cable tray, and he had done that good a job.
19 I tried to find it, but I couldn't find it at
20 the time. My understanding is they use a
21 drill, you know, screwdrivers. They were
22 contaminated. They put them in plastic bags.

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1 They put them in the bin that day and they
2 were disposed. If that tool is disposed, what
3 causes that body can't be disposed? And I
4 have a paper I'd like to pass out to you.
5 Could I, please? Thank you.

6 CHAIR ZIEMER: Alice, do you have
7 additional comments? Do you have additional
8 comments?

9 MS. FRAME: No, I'm through. I
10 thank you.

11 CHAIR ZIEMER: Okay, thank you for
12 sharing that with us. Robert Young? Robert
13 Young? Wayne Knox? Mr. Knox.

14 MR. KNOX: My name is Wayne Knox.
15 I've been around this industry for many, many
16 years. I started in the Air Force as a
17 captain there as a radiation physicist, and I
18 also worked up the street here in Nuclear
19 Medicine Science at Eisenhower Hospital. I
20 also spent some time supporting the Nuclear
21 Regulatory Commission. I have a contract with
22 them for over 15 years, where I provided

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1 support to them in regulatory development and
2 compliance, and as a result of that I've
3 audited over 75 percent of U.S. reactors.
4 I've had contracts with the Department of
5 Energy, and I have worked on the DOE Tiger
6 Team. Not only have I done more of the high-
7 level work, but I have actually worked as an
8 operational health physicist, and I'd like to
9 make a distinction here. There is a big
10 difference between an operational health
11 physicist than an academic or a researcher.
12 We're the guys that get the job done in spite
13 of all of the elegant models, all of the
14 nicely worded procedure. We have to get it
15 done, and a number of other people have
16 reported that our job was to get it done at
17 all costs. It was not whether we were going
18 to wait and get the job done when we could
19 conveniently do it. It was it had to be done
20 and we got it done, minimizing exposure as
21 best we could.

22 In 1997 a colleague of mine, a PhD

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1 type, made the claim that you could
2 accurately, accurately calculate and
3 reconstruct this dose. And I said, "Well hold
4 it man, what are you talking about? Do you
5 understand" - and he came from my same school
6 too, a little school on Tenth Avenue. He said
7 that he could do it, and I said, "Do you
8 understand what 'accuracy' means? Accuracy is
9 how close you come to the true or actual
10 value. And hey man, you don't know the true
11 or actual value, so we can't calculate
12 accuracy." In the real world you also can't
13 even calculate precision, because we don't--
14 this is no research project. We do not make
15 repeated measurements. Any measurement of
16 precision requires repeated repetitive
17 measurements. Any measurement of competence
18 level requires repeated measurements. We
19 didn't do that, and one of the fundamental
20 reasons we didn't make all of these
21 measurements-- the more measurements you take,
22 the more exposures you've got. And we were

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1 trying to minimize exposure. So we didn't
2 make all of those measurements you guys think
3 we did. So the bottom line is, if we look at
4 the definition, any system of measurement, any
5 system of measurement that does not have
6 accuracy, does not have precision, is defined
7 as invalid. So everything we did was invalid.

8 I will make that statement. I walked away
9 from that meeting after giving CDC a lot of
10 examples of why we couldn't do this thing that
11 they said. But yet and still, they proceeded
12 to do it.

13 It disturbs me quite a bit when I
14 see that people have gone on and attempted to
15 spend all of this time and money constructing
16 IREP and all of these elegant models in order
17 to determine something which we did routinely.

18 We calculated risk. All of the risk data is
19 there, internationally accepted. I have
20 manually gone through and made several
21 calculations using several different methods,
22 standard methods, things that we use every

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1 day. And based upon my independent
2 calculation with a pencil, I come up with
3 probabilities of causation greater than what
4 was specified by IREP. And it turns out, and
5 I've been talking to people about IREP. I
6 pinged it. I put in data to see, how does it
7 respond when you give it a certain set of
8 data? And I haven't figured it out. I called
9 and said, "How does this thing work? Have you
10 guys ever conducted a validation and
11 verification of this thing?" And the answer
12 is no. This is standard. I find it very
13 difficult to believe that in this day and age
14 no one has conducted an independent validation
15 and verification of that thing called IREP.
16 What further disturbs me is that we have a
17 regulation that defines the Probability of
18 Causation. It's done in terms of base risk
19 and rad risk. I can get the cancer
20 statistics, which I did, to pull up my base
21 risk. I can drill all the way down to the
22 county level and determine a person's base

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1 risk. I can determine a person's rad risk
2 based upon already accepted methods of doing
3 it and risk of dose conversion coefficients.
4 But we have this method which I was told, and
5 I said, "Wait, wait, are you really telling me
6 that?" They said, "Well, we used assigned
7 share, and assigned share is the same as - is
8 the same as the Probability of Causation."
9 And I said, "Well, if you already have a term
10 defined, why do you define another term and
11 say it's the same?" It is not the same. And
12 it bothers me when I look at a report. This
13 is a report on the Probability of Causation of
14 an individual by name. It has the name, a
15 human name. But then I look into IREP. IREP
16 does not. It does not calculate the
17 individual's assigned share. It does not
18 calculate the Probability of Causation, and
19 that is what the regulation requires. And in
20 fact, this is what you say in here. In the
21 report, you do not say "This is the assigned
22 share." You say it is the Probability of

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1 Causation, and it's not. Is that true?

2 CHAIR ZIEMER: The way it's defined
3 in the regulation it is the Probability of
4 Causation.

5 MR. KNOX: Sir, are you saying the
6 Probability of Causation is the same as the
7 assigned share?

8 CHAIR ZIEMER: I believe, if I
9 recall-- and this is in the NIOSH document, we
10 could look at it. NIOSH pointed out the
11 technical difference in the terms, but we'd
12 probably have to have Jim Neton answer that
13 directly. But we can talk, we can discuss
14 that with you. I don't think we should have a
15 discussion here, but I understand what you're
16 saying.

17 MR. KNOX: And all due respect,
18 sir, we're playing with words. We're saying
19 that - if they're saying that they are
20 technical differences, come on. It's not the
21 same. The regulation requires the calculation
22 of the Probability of Causation. You report

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1 Probability of Causation. You report, this is
2 the individual's Probability of Causation by
3 name, and it's clearly not.

4 A number of people - we're getting
5 on another subject - a number of people talked
6 about what really goes on in the real world.
7 And trust me, I have been there, I have lived
8 it, I understand what they were talking about
9 with the badges and falsification of
10 documentation. I have been since 1998
11 attempting to process the situation. I will
12 try to be very brief with you. I was doing a
13 job at Savannah River. I've worked at
14 Savannah River, I've worked at Hanford, so I
15 understand what goes on in the dirty-hands
16 world. If you looked at the data, you have
17 tritium in the liquid phase of a large
18 underground storage tank, but no tritium in
19 the sludge phase. And I said, "Whoa. I'm a
20 technician now. Us technicians, we sense
21 things. We may not know how to calculate it,
22 but we can say that doesn't look right, that

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1 doesn't smell right." I challenged them on
2 it. Look, why isn't there tritium in the
3 sludge, and by the way, the sludge is what we
4 had to mix up and come in contact with it.
5 They said, "It's not there. You prove it's
6 there, because we have an 800-page report from
7 SAIC that said no tritium in the sludge, a
8 validation and verification report." And I
9 said, "Okay. Well, what about these plutonium
10 numbers? It looks like we have more plutonium
11 in the liquid phase than in the solid phase."

12 Again, a technician looks at this and he
13 says, "Well, you know, most of the time you
14 have more plutonium in the dirt than in the--
15 it's just normal. That's the way it is." But
16 it turns out if you were to switch the
17 numbers, then you could burn the sludge up at
18 Oak Ridge. We burned them in the incinerator
19 up at Oak Ridge. I went on and performed the
20 job under protest. None of our people had any
21 protection from tritium. No monitoring of
22 tritium. They would not provide it, even

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1 though a health physicist said we needed to
2 use it. I clearly said it, I documented it,
3 we needed to do it. They refused because I
4 had no proof of it. After I finished the job,
5 I said, "That's okay." I took my samples and I
6 split it, one going to Westinghouse and one
7 going to a laboratory. When I did that, they
8 said, "Your job is through." They would not
9 allow me to have access to the sludge. They
10 would not allow me to have access to the final
11 report. I had to go through the Freedom of
12 Information Act in order to get this
13 information. After I got the information it
14 did turn out that that was tritium in the
15 sludge. I think everybody knew that. I'm
16 sure most of you know that rule. That was
17 tritium in the sludge. I got the data, and I
18 found out that the split sample I gave to
19 Westinghouse was a couple of orders of
20 magnitude below that which was performed in
21 the laboratory. And I dug around and found
22 out why. And guess what happened? A

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1 gentleman talked about liquid scintillation
2 counting. It's sounds nice and elegant, but
3 most people use simply the analysis results
4 and the errors associated with the analysis.
5 They do not consider the errors associated
6 with the preparation of the sample or the
7 sampling. I have seen people that will
8 perform criticality analysis without, without
9 considering the sampling error. And the
10 sampling error is the largest possible error
11 you're going to find. And most of the time
12 it's just one or two samples. So you can't
13 determine precision, and you can't develop
14 these nice little confidence intervals.

15 Anyway, getting back to the
16 tritium, what Westinghouse does here-- and I
17 have the data. It took me a year and even
18 going through - having to appeal it under the
19 Freedom of Information Act, but I have the
20 data, and I will share it with this committee
21 and anyone else where it is a tritium -
22 preparation method that Westinghouse used here

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1 to boil off the tritium. So, yes, you could
2 use the liquid scintillation, but you boil it
3 off first. So afterward, it ain't there. And
4 it happened in - I did a little more research.

5 I did a little more research. 1996 they sent
6 a shipment up to Oak Ridge.

7 CHAIR ZIEMER: Please go back to
8 the mic. You need to wind it up, also.

9 MR. KNOX: Okay. Anyway, the
10 bottom line is that there are methods that are
11 used that underestimate the amount of
12 radioactive and hazardous waste at Savannah
13 River. I have the data. I can show you.
14 It's not only that, but it's also hazardous
15 waste. If you look at how they do PCB, you
16 have five species of PCBs roughly, and what
17 they will do is sample for one of them. And I
18 had to tell them, "You have to sample each one
19 of these guys and then you add them up.
20 That's your total PCBs. It's not, 'I'll
21 choose the one that's the lowest level.'"
22 Again, there are a lot of other problems at

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1 Savannah River. I have all of the
2 documentation. I have reported this to the
3 Department of Energy IG and guess what? They
4 take your data and they gave it to
5 Westinghouse and said, "Well, why don't you
6 conduct a self-investigation of this and write
7 the report in the name of the Department of
8 Energy IG?" And that's what they did. They
9 wrote a confidential non-releasable report in
10 the name of the Department of Energy IG, and
11 in violation of Part 1013 which requires -
12 which requires a GS-15 or above to conduct the
13 investigation. So in summary, the things you
14 heard that many people talked about are true.

15 I will certify that.

16 CHAIR ZIEMER: Thank you.

17 MR. KNOX: And one other parting
18 shot. There are no experts on dose
19 reconstruction. There are only varying
20 degrees of ignorance.

21 CHAIR ZIEMER: Thank you.

22 (Applause.)

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1 CHAIR ZIEMER: Next, John Hall. Is
2 John here? Thank you.

3 MR. HALL: How are you doing? I'm
4 John Hall. I'm an iron worker. I'm one of
5 the ones Harry Carver told you about. Three
6 months ago I had a full head of hair, healthy
7 as a horse. Never thought I'd have cancer.
8 Never had cancer in my family. I worked at
9 SRS for 14 years. Even worked a year at the
10 Nevada test site. A lot of things that you
11 hear these people telling you are true. I've
12 worked in areas, were exposed to things, and
13 never were told what it was. I was exposed to
14 a release from H area. I was working in S
15 area. I got real sick afterward. They never
16 did tell me what was wrong, what I was exposed
17 to. Again in F area, at lab when the stack
18 spewed, worked right there around the clock.
19 They never did tell us what we were exposed
20 to. Worked in the burial ground. There was
21 nothing but a chain link fence between me and
22 high-level radiation storage. Worked there

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1 for two months. Questioned the people at the
2 burial ground about a TLD. "You don't need
3 it. You don't need it." Finally a DOE man
4 came over. I asked him. It was about a week
5 later, me and my crew all had TLD badges.
6 Explain to me why they determined we didn't
7 need it, but then when DOE got involved in it,
8 we needed them.

9 There's a lot of stuff that went on
10 out there that you could find out more
11 information about it by talking to the workers
12 out there than you can talking to the
13 supervisors, because they're going to tell you
14 what you want to hear, or what they want you
15 to know, not what actually happens. If you
16 went out there and interviewed the workers
17 you'd find out more information than you will
18 by talking to them. And hiring another
19 contractor, that's just another waste of money
20 for them to go out there and talk to the same
21 people that you have already talked to.

22 Now, myself-- you just don't know

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1 how it is to get cancer. I never thought that
2 I would have cancer and you don't know how
3 devastating it is. And I hope it doesn't
4 happen to nobody else. But it just - there's
5 a lot of things that you people need to listen
6 to than to just the higher-ups out there that
7 try to cover up. Okay?

8 CHAIR ZIEMER: Thank you.

9 MR. HALL: Thank you.

10 CHAIR ZIEMER: Wayne -- is it
11 Boyce? Wayne Boyce?

12 MR. KNOX: Let me ask another quick
13 question. Who could I get to to show the real
14 data? This is live data. On the tritium, the
15 plutonium, the PCBs. I have the data. I
16 would like to know who I can show it to.

17 CHAIR ZIEMER: Well, Larry, maybe
18 you can direct him. Larry Elliott will give
19 you someone. Is it Wayne Boyce? B-O-Y-C-E?
20 Thank you, Wayne.

21 MR. BOYCE: My name's Wayne Boyce.
22 I'm an electrician. I have just two things

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1 to make comments on. In the late '70s I was
2 working in 221 H, was caught in an air
3 reversal while operations was packaging
4 plutonium. They evacuated the building,
5 brought construction workers back in later for
6 nasal smears and I had plutonium in one of my
7 nostrils. There were two HP inspectors
8 involved and an HP supervisor. They did the
9 nasal smears, put them in the count rate meter
10 and say well you got it in one nostril. They
11 smeared some more, well we got it out, and
12 that was the end of it. You know, naive, you
13 don't think much about it at all. The HP
14 inspector that was his area where the incident
15 happened, he starts entering it into his log
16 book, daily log book that they kept.
17 Supervisor got real irate and started raising
18 pure - just showing out. He didn't want that
19 looking bad on his shift, looking bad on him.
20 They had a pretty heated argument. Anyway,
21 it got entered into the log book. Several
22 months later the HP inspector that logged it

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1 in, he had been to summer camp. He was in the
2 Guard or the Reserve or whatever. He came to
3 our shack first - before starting to work on
4 Monday morning and told me he needed to see
5 me. Took me up to his desk. You could see
6 where a crow bar, they'd broke in and stolen
7 the log book. That was under old DuPont
8 culture.

9 Years later when the health
10 screening started I went through the screening
11 and came back a beryllium sensitized which in
12 part of the Cleveland Clinic obstructed lung
13 due to welding fumes. And they had a doctor
14 in Augusta I was sent to. He was following
15 it. It progressed far enough for the
16 establishment of the percentage of disability
17 or impairment. Can't get a doctor to touch
18 it. So now I've expired. I went past my
19 limit. Now I got a letter just a few weeks
20 ago I think, in two years you can apply again,
21 but I'm starting to hear now, I don't - there
22 are very few people out there anymore that's

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1 been involved in this, but I've heard twice
2 tonight in the lobby that this is the standard
3 pattern, that when it comes time to establish
4 your degree of impairment. In fact, the
5 doctor, the office manager of the one I was
6 dealing with were rude and obnoxious to me.
7 They told me they weren't going to be involved
8 in that. So I think that's something that
9 might need to be looked into. I can't keep up
10 - I keep all the letters, and the best I can
11 make out that last letter it'll be two years
12 before you can reapply. And that's about all,
13 that's all I've got. Thank you.

14 CHAIR ZIEMER: Thank you very much.
15 Sidney Jones?

16 MR. JONES: Thank you for giving me
17 the time. My name is Sidney Jones. I'm a
18 local attorney. I'm licensed in South
19 Carolina and Georgia. And I got involved in
20 this situation sort of when a family member
21 developed cancer, and they understood the
22 compensation under Program B, and later E that

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1 used to be D, and it sort of got convoluted at
2 times. So I got involved with it because the
3 first one - I've got numerous clients now that
4 are trying to get their compensation under
5 this program, and it seemed like it's a
6 standard operating procedure to deny
7 everybody. The ones I've gotten, I'm going to
8 share three cases with you which I'll try to
9 be brief and real paraphrase it, but the
10 information I'm gathering is, like you alluded
11 Mr. Ziemer to the radiation exposure from the
12 Japanese, you know, being 60 or 70 years ago,
13 we're still under the same conclusion that we
14 don't know how much radiation it takes to
15 cause cancer. People can say there's a
16 probability or propensity or anything we want
17 to, but the scientists will admit we don't
18 know. It could be a very small dose for one
19 person, a large dose for another. We have
20 Japanese that were close to ground zero that
21 never developed cancer. We had some miles
22 away that did. So they don't know. But the

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1 clients I've got are very unique in that I
2 look at some of them and the first one I'll
3 share with you, a lady has had eight
4 operations for skin cancer, very deep lesions
5 and all of them were below her knees. Nowhere
6 else on her body. Developing her scope of
7 work, the only radiation exposure she had was
8 below her feet. She was on
9 assembly/disassembly. All the radiation, the
10 corona of radiation source much like a space
11 heater. The closer you get to it, the more
12 you get. So as Mr. Spock said on Star Trek,
13 it's just not logical that we've got a lady
14 with eight surgeries below her knees, the
15 radiation source was below her feet, but NIOSH
16 says that a 7 percent probability that it
17 caused.

18 I've got another lady with colon
19 cancer. The propensity for a statistical
20 inference drawn on that per capita is less
21 than 1 percent for her age to have colon
22 cancer. In her group of 60, there are 12

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1 people with cancer. The numbers are off the
2 chart when it relates to the per capita people
3 that should get cancer. I've got another one
4 with thyroid cancer. The ORA Medical Board
5 said the probabilities are that radiation
6 caused your cancer. They gave her a 42
7 percent probability so she didn't get
8 compensation. We are appealing it and they
9 say we've got all the data, but I presented
10 them two of her dosimeters that I've got in my
11 office that they never had to analyze to
12 review, so there's no way.

13 So I started doing my research
14 again and found out that when NIOSH first
15 started this reconstruction there were over
16 9,000 boxes of old exposure data that was to
17 be reviewed and entered in to draw these
18 conclusions as to what the statistics would
19 be. They had a computer-generated program
20 that selected less than 200 of these 9,000
21 boxes that they used to construct the data.
22 If you're doing an analogy on apples from

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1 Washington and you take a sample, you can sort
2 of determine what the average size is, but to
3 draw a statistical inference there's go to be
4 some sort of relationship to what goes on.
5 Well, radiation exposure, there is none.
6 Every one of them is unique. I've sent in
7 numerous affidavits from people where the
8 self-reading dosimeters that these people
9 carried with them - they called them "pencils"
10 - that the HP people would show them how to
11 reset them to zero so that they would not have
12 to record the data. I've had affidavits where
13 they say if you drop one of them it'll
14 automatically set to zero. The NIOSH way of
15 doing things based on the dose reconstruction
16 is just, it's just so full of fallacies it
17 can't be anything of substance that can deny
18 these people the compensation they need.
19 Here's my rule. If they can show that they
20 were exposed to radiation they deserve
21 compensation. They've got cancer, they were
22 exposed because no one knows how much it takes

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1 and no one knows what cancer is like except
2 those people that got it. I don't have it.
3 I'm representing people that do. We haven't
4 got into court yet. I'm hoping that we never
5 have to. Pay them. You can pay Wall Street
6 \$700 billion but you can't pay these people
7 that's got cancer the benefits that they
8 deserve? Something's wrong with the system
9 and it's up to you to decide to change it.
10 And anything I can do to help, let me know.
11 Thank you.

12 (Applause.)

13 CHAIR ZIEMER: I don't think we're
14 going to take on Wall Street, but we'll leave
15 that up to the attorneys here I think. Thank
16 you Sidney for that. Now I'm going to go to
17 the phone lines. Is there anyone on the phone
18 line that wishes to address - representing,
19 from the local site here at Savannah River
20 that wishes to speak? Hello?

21 MR. FUNK: Dr. Ziemer?

22 CHAIR ZIEMER: Yes.

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1 MR. FUNK: This is John Funk. Is
2 any time left?

3 CHAIR ZIEMER: Yes. I want to see,
4 John, if we first have any comments from
5 others representing the local site here. Hang
6 on just a moment, would you please?

7 MR. FUNK: Okay.

8 CHAIR ZIEMER: Anyone on the line
9 that wishes to speak for Savannah River - from
10 Savannah River? Okay. And I have another
11 individual in the room here that has a comment
12 perhaps. Yes, we have one more person here I
13 think. Please come to the mic and you can
14 identify yourself or not as you wish.

15 MR. DAVIS: Good evening. My name
16 is Dan Lee Davis.

17 CHAIR ZIEMER: Haynes?

18 MR. DAVIS: My name is Dan Lee
19 Davis.

20 CHAIR ZIEMER: Dan Lee Davis.

21 MR. DAVIS: Right.

22 CHAIR ZIEMER: Thank you.

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1 MR. DAVIS: I worked at Savannah
2 River site 43 and a half years and I went
3 there in `51 when they first started breaking
4 soil. I was there and I stayed there 43 and a
5 half years. And you can name it, the place,
6 I've been there. So I can tell you all I've
7 been to the mountain. I was a worker, was a
8 common laborer. I did all the dirty stuff,
9 name it. I went in some places, I put on two
10 pair of coveralls and a lead suit. Have you
11 ever known what a lead suit is? Had a lead
12 suit on and there's no fresh air passed
13 through over that. I mean, I was doing my
14 job, see what I mean? And back in those days
15 and times we weren't allowed to ask no
16 questions. If there's a question you get writ
17 up or out the game. You do it how you're told
18 to do it and they have a sign on the wall
19 there say keep your mouth zipped up. You
20 leaving, you leave it here. Well, most of
21 them I went with they're gone, they're dead.
22 The Lord just let me live a little bit more

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1 longer, probably he got something else for
2 this old boy to do, so I'm trying to do it.
3 I'm letting you all know where we came from.
4 We went through the mill out there, everybody.

5 Everybody had to keep their mouth closed. We
6 couldn't first call home sometime. I couldn't
7 tell my wife or, you know. I tell her I work
8 at the site and that's all. So I don't know
9 if any of you brothers in here are with me or
10 what. Those of you all were not there, so I
11 from my stance. Yes, I had cancer too,
12 prostate cancer, and right now I'm on four
13 doctors trying to stay alive, trying to do the
14 best I can. And like I said now, about the
15 tritium and stuff, anything that you can't
16 smell it, taste it, feel it, you don't know
17 what you get. I have plenty of time. I went
18 to Savannah twice. They even let me strip,
19 put on a little suit, you know, like a doctor.
20 I got up under these big lights. I went up
21 there twice in less than two months time. In
22 the end they told me nothing. Said well,

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1 that's something you got way back. Why they
2 send me up there twice, up under them big old
3 lights, turn me all over and what? Back in
4 those days I wasn't allowed to tell anything.

5 We weren't allowed to tell nothing. So right
6 now some of you all that's - the table done
7 set for you all. You all can sit and pick and
8 eat what they want to eat. When I was coming
9 up the table wasn't set. We had to set it
10 down there at SRS. And as I said, thank God
11 just to let me live a few more days where I
12 can tell you all, probably some of you all
13 never went down there, just heard about it.
14 It was a big place, big place in America
15 because I was born and raised down there.
16 That was my home and I still have nightmares.

17 I don't know. Like the cancer, I don't know
18 where it goes, but right now the way I feel, I
19 feel like I'm walking on the clock. I feel
20 like, hey, that's where I've been.

21 So brother and sister, I'm sorry to
22 tell you all we is blessed in some ways now

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1 because back in the old days and time we were
2 fighting war and what his name, Khrushchev, he
3 came over here. You all remember when he put
4 his Sputnik in the air and scared the heck out
5 of America. I don't know whether you all know
6 it or not. The first Sputnik was in the air
7 was done by Russia. It flew overhead and it
8 scared us. And hey, like I said, we were for
9 the first time checking out the country. We
10 didn't had no war here. Rest of the place
11 didn't have a war, war in this country.
12 Bobby, we took a lot of stuff on ourselves,
13 went down to SRS. Like the man said, dropped
14 the pencil and all that stuff. That's true.
15 Because I was there. It wasn't a place I went
16 in down there. Expecting to get hot. See, I
17 was construction and anytime we wanted to
18 repair something, construction had to go in
19 there and repair it. Because they'd say you
20 want to repair this building here. We'd do
21 it. That's how we had to do. We had to go in
22 there and clean it up, wash it up and put on

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1 just what they said to put on. We didn't know
2 what we were in. And asbestos. I used to
3 play with asbestos like I played with a
4 marble. We didn't know what was going on back
5 in those days and time. What I found out was
6 wrong when the cancer - Big Horse - you know,
7 when Big Horse died with cancer, with
8 asbestos, that's when SRS opened my eyes up.
9 All the rest of them days, we didn't pay no
10 attention to no asbestos. That's just like
11 I'm putting on a jacket. Like lead. I used
12 to just play with it. Never thought it would
13 hurt us. So I'm just giving you all some of
14 the - where I come from. I come from, I'm
15 blessed to be living because all my coworkers,
16 they're gone. Thank you.

17 CHAIR ZIEMER: Thank you very much.

18 Anyone else here in the assembly that has a
19 comment? Yes, sir. John Funk on the line.
20 We may need to pick you up tomorrow. I think
21 you're going to be back with us, right? We
22 have a couple more here locally that wish to

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1 speak. Go ahead, sir.

2 MR. YOUNG: How are you? My name
3 is Robert Young and I worked for Wackenhut
4 Security at SRS. I worked out there for 24
5 years. I can validate a lot of these stories.

6 I've had a lot of them myself. When I first
7 started out there we played in our reactor
8 hide and go seek many a nights while we were
9 out there. I've been in all the areas because
10 I had to have knowledge of all the areas, all
11 the time, and I filed - I had lung cancer. I
12 have only one lung and I no longer can keep up
13 my standards to carry a weapon so I had to
14 retire this year. But, I've been out there
15 long enough and the TLD badges and all that,
16 there's no way that they can reconstruct where
17 all I've been and say no. Because my TLD came
18 back every month no matter where I was or what
19 I was doing, 0.001. And I could talk to 30
20 other Wackenhutters, same thing, 0.001, for 24
21 years.

22 So I've filed already and I've had

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1 an interview and I'm only up to 13 percent
2 saying that it was probable cause that it was
3 out there. But nobody else in my family has
4 ever had cancer. I'm the first one and it was
5 small cell cancer, squamous cell. I don't
6 know if that's one of them out there or not.
7 But that's my two cents.

8 CHAIR ZIEMER: Okay, thank you sir.

9 MR. YOUNG: Thank you.

10 CHAIR ZIEMER: And there was one
11 other person? Yes, sir. Please, approach the
12 mic.

13 MR. OVERCASH: I hadn't planned to
14 say anything tonight. I was just going to
15 listen.

16 CHAIR ZIEMER: Give us your name
17 and then we'll -

18 MR. OVERCASH: Oh, Karl Overcash.

19 CHAIR ZIEMER: O-V-E-R?

20 MR. OVERCASH: C-A-S-H.

21 CHAIR ZIEMER: Overcash, thank you.

22 MR. OVERCASH: That was before I

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1 developed cancer. Now it's Undercash.

2 CHAIR ZIEMER: Yes, Undercash.

3 Karl with a C or a K?

4 MR. OVERCASH: With a K.

5 CHAIR ZIEMER: With a K.

6 MR. OVERCASH: Okay.

7 CHAIR ZIEMER: For our court
8 reporter.

9 MR. OVERCASH: Okay. I spent 40
10 years with DuPont, four and a half years with
11 the Westinghouse, then I spent another two
12 years with Ebasco engineers consultant working
13 at the Savannah River plant. Ninety percent
14 of my time was spent in SRL. I worked in the
15 tritium facility for a year. I worked when I
16 first went there for a year till I could get
17 my clearance because after 23 years - 23
18 months in the military and being discharged,
19 they could not get me clearance because I was
20 dead. So it took a little while to clear that
21 up, but once I got it then I was transferred
22 to Savannah River to the laboratory and I

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1 worked in research for the next 15 years.

2 In this period I not only did I do
3 process development work, but I actually did a
4 lot of cutting edge development work. I had a
5 wing, a whole wing that I was over, and I had
6 27 men that worked for me. We performed every
7 kind of hazardous job that you can think of.
8 This was not a facility that was built for
9 this type of work, but it was protected
10 individually in cells and glove boxes. Now,
11 one of the things like the lady with the feet
12 with problems, there's nothing to tell you how
13 much you're getting to your feet when you're
14 working at a glove box. How much shine is
15 there back to you? It's not a direct thing.
16 I also worked with the development of the
17 californium for cancer research. My facility
18 provided over 60 percent of the radiation for
19 the whole SRL and they did not like me.

20 So they finally decided they were
21 going to get rid of it and they went it to Oak
22 Ridge because they didn't want to have the

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1 stigma of the radiation. There's no way you
2 can protect yourself 100 percent because
3 there's a little here, a little there, a
4 little here, a little there.

5 You can't go in and clean it up.
6 It's just too hard. You have to wait on a two
7 and a half year half life. And everyone no
8 matter who they are, they come in, the
9 radiation isn't that great from the neutrons,
10 but if you're there over a period of time
11 you're going to pick up the radiation. Now,
12 we had very little problem with maintaining
13 our radiation, but we had to swap people
14 around constantly and to be perfectly honest I
15 was the 28th member of the Work Group. It had
16 to be because of the number of people required
17 to do these jobs. So I was just, I was just
18 like the people that worked for me, really. I
19 was a technician just like they were because I
20 did all the things that they did. Not quite
21 as much as they did, but these are the things
22 that you do to get the job done. We weren't

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1 asked could we. It's just like Smith
2 Kettering. They would call me and say I need
3 new californium sources. When do you want
4 them? They would tell me. I had to produce
5 those to get them to them on time.

6 Now, sometimes I caught my boys
7 doing little things that were not kosher. I
8 did not appreciate it and I didn't like it. I
9 told them, I said look, we can always spread
10 it out. It would take twice as much
11 radiation. I understood that, but still they
12 should not have done these things and picked
13 up an unusual amount, like you say, moving
14 their badge. Now, this is one of the things
15 you had to watch for and we watched for it and
16 we tried our best. We had good health
17 coverage. Our construction people, I had a
18 wonderful relationship with those people.
19 They came up and did jobs for me and they were
20 always included. They were given the same
21 training. They had to have the same training
22 that we would have. We had to make sure that

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1 they fully understood and actually I usurped
2 their supervision quite often, and I had to
3 explain this beforehand. Your supervision
4 does not understand the problems that we have.

5 I will supervise your employees. He can sit
6 out front. There's no problem there. I did
7 what I could. And I'm not just the only one
8 in SRL that did this. A lot of the other
9 supervision there did the very same thing, to
10 try to get the job done but get it as safely
11 as possible.

12 I processed a unit there. The
13 first thing I did was I made slugs for the
14 reactor area that went to Hanford - I mean to,
15 I think it went to Hanford. I can't remember.
16 My mind went when I lost my hair.

17 Anyway, to another facility and
18 they worked on them, and then they sent them
19 back. Then I processed them again, then I
20 gave them to the reactor area. They put them
21 in. When they finished, they sent them to Oak
22 Ridge.

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1 young people that have cancer and problems. I
2 have been fortunate. I had to wait until I
3 started my second puberty. I was 81 when I
4 received cancer. I went through the early
5 stages when I first started talking about it.
6 I went over to the doctor that they sent me to
7 and he examined me. I walked out and when I
8 went over to this specialist four or five
9 months ago and walked in and handed my
10 Medicare card, it took about three minutes.
11 You're good, bye bye. The fellow that
12 examined me to evaluate me the first time
13 years before did it faster. He looked at my
14 eyes, he looked in my mouth and he felt my
15 throat, and that was all there was to it. I
16 did not get the type of evaluation I thought I
17 should have gotten. I've never applied for
18 anything. I have always felt that if I needed
19 it I could go get it, but I don't believe
20 today these people are getting their fair
21 share. And I think this is something that we
22 should look into and you people have an

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1 opportunity to eradicate the road blocks that
2 are put before them. And I thank you.

3 CHAIR ZIEMER: Thank you.

4 (Applause.)

5 CHAIR ZIEMER: I did promise one
6 individual on the phone line that we would
7 give her an opportunity to speak today. It's
8 Terri Barrie. And Terri, are you on the line
9 still?

10 (No verbal response.)

11 CHAIR ZIEMER: Terri Barrie, are
12 you on the line?

13 (No verbal response.)

14 CHAIR ZIEMER: John Funk?

15 MR. FUNK: Yes, I'm here Dr.
16 Ziemer.

17 CHAIR ZIEMER: John, are you going
18 to be able to be with us during the public
19 comment session tomorrow?

20 MR. FUNK: Yes, I can. I know you
21 guys had a hard day today.

22 CHAIR ZIEMER: Well, we're past our

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1 time here. If you're agreeable we'll put you
2 on tomorrow's schedule.

3 MR. FUNK: That's fine.

4 CHAIR ZIEMER: Okay. Thank you,
5 John.

6 MR. FUNK: Thank you, sir.

7 CHAIR ZIEMER: Let me again check
8 with Terri Barrie to see if she's on the line.
9 Okay. Hopefully we'll check for Terri again
10 tomorrow. Was there one other person? Okay.
11 And Denise, we'll put you on tomorrow then if
12 that's agreeable?

13 MS. DEGARMO: That's perfectly
14 fine.

15 CHAIR ZIEMER: Are you good with
16 that?

17 MS. DEGARMO: Yes.

18 CHAIR ZIEMER: Okay. And let me
19 remind all of you there is another public
20 comment session tomorrow so if any of you felt
21 like you wanted to speak but maybe weren't
22 quite ready or didn't quite have the courage

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1 today, you have an opportunity tomorrow. We
2 will be meeting all day tomorrow. You're
3 welcome to be at any of our sessions as
4 exciting as they are, or as interesting as
5 they are, but the public comment session
6 tomorrow is at 7:30. It's in the evening to
7 accommodate folks who aren't able to come
8 during the day, but you're all welcome to be
9 back here and we'll be pleased to have you
10 with us at that time. So we're recessed till
11 tomorrow morning.

12 (Whereupon, the above-entitled
13 matter went off the record at 6:32 p.m.)

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