

UNITED STATES OF AMERICA  
CENTERS FOR DISEASE CONTROL

+ + + + +

NATIONAL INSTITUTE FOR OCCUPATIONAL  
SAFETY AND HEALTH

+ + + + +

ADVISORY BOARD ON RADIATION AND  
WORKER HEALTH

+ + + + +

63<sup>rd</sup> MEETING

+ + + + +

MONDAY, JULY 27, 2009

+ + + + +

The meeting convened, at 1:30 p.m.,  
in the West Chester III Ballroom at the  
Cincinnati Marriott North at Union Centre,  
6189 Muhlhauser Road, West Chester, Ohio, Paul  
L. Ziemer, Chairman, presiding.

PRESENT:

PAUL L. ZIEMER, Chairman  
JOSIE M. BEACH, Member  
BRADLEY P. CLAWSON, Member  
MICHAEL H. GIBSON, Member  
MARK GRIFFON, Member  
JAMES E. LOCKEY, Member  
JAMES MALCOLM MELIUS, Member  
WANDA I. MUNN, Member  
ROBERT W. PRESLEY, Member  
JOHN W. POSTON, SR., Member  
GENEVIEVE S. ROESSLER, Member

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

PRESENT: (Continued)

PHILLIP SCHOFIELD, Member  
THEODORE M. KATZ, Acting Designated Federal  
Official

REGISTERED AND/OR PUBLIC COMMENT PARTICIPANTS:

ADAMS, NANCY, NIOSH Contractor  
AL-NABULSI, ISAF, DOE  
ALLEN, KELLY, US DOL  
ASHCRAFT, DANA, Mound Worker  
BEATTY, EVERETT "RAY", Fernald Medical  
BOHLEN, ANNE, Radar Screen Productions  
BRADFORD, SHANNON, NIOSH  
BROCK, DENISE, NIOSH  
BROEHM, JASON, CDC  
BUELOW, HELEN, NIOSH  
CALLAWAY, ALLEN "MOOCH", Fernald Medical  
CHILDS, MICHAEL  
DECKER, RONALD  
DECKER, ROBERT  
DECKER, RICHARD  
ELLIOTT, LARRY, NIOSH  
ELLISON, CHRIS, NIOSH  
FITZGERALD, JOE, SC&A  
GIBSON, PAIGE, Mound/WHPP  
GILBERTSON, TRACEY, NIOSH  
HANSON, JOHN, SIUE/Dow Madison  
HERBERT, NICHOLE, NIOSH  
HINNEFELD, STU, NIOSH  
HOWELL, EMILY, HHS  
JERISON, DEB, DEB  
KOTSCH, JEFF, US DOL  
LEWIS, GREG, DOE  
MAKHIJANI, ARJUN, SC&A  
MAURO, JOHN, SC&A  
MEDORA, RIASP  
NETON, JIM, NIOSH  
PARKER, ERIC  
PRESLEY, LOUISE  
RAFKY, MICHAEL, HHS  
RAMADEI, CATHY, CDC/MASO

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

ROBERTS, WANDA  
SHARFI, MUTTY, ORAU Team  
SHEEHAN, WARREN  
SIEBERT, SCOTT, ORAU Team  
STREET, GINGER  
TABOR, ROBERT, Fernald (Retired)  
ULSH, BRANT, NIOSH  
WADE, LEW, NIOSH  
WORTHINGTON, PAT, DOE  
ZACCHERO, MARY JO, ORAU Team  
ZIEMER, MARILYN

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

## C-O-N-T-E-N-T-S

	<u>Page</u>
Call to Order and Welcome Chairman Paul Ziemer	7
Preliminary Comments Ted Katz	10
NIOSH Program Update Larry Elliott, NIOSH	13
DOL Program Update Jeffrey L. Kotsch, DOL	46
Mound Work Group Josie Beach, WG Chair	67
Business Items	92
Transcript Reviews	92
Future Meeting Dates	102
DOE Update	115
Glenn Podonsky, DOE	122
Pat Worthington, DOE	135

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

## C-O-N-T-E-N-T-S (CONTINUED)

Public Comments	169
Matt Ferry Representing Congressman Higgins of New York	174
John Hanson On behalf of the Dow Madison site	179
Dan McKeel Petitioner for Dow Madison site	185

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

2 1:45 p.m.

3 CHAIRMAN ZIEMER: Good afternoon,  
4 everyone.

5 This is the meeting of the Advisory  
6 Board on Radiation and Worker Health, meeting  
7 in the Cincinnati area, more specifically,  
8 here in West Chester, Ohio. We are pleased to  
9 be here.

10 We have met in Cincinnati, our work  
11 groups, very often, and the Board has met here  
12 previously, notably, during a snowstorm. We  
13 are happy that there's no snowstorms today in  
14 the Cincinnati area.

15 The Board met earlier today in  
16 closed session to have its annual training on  
17 conflict of interest. We all now feel fairly  
18 well-trained. It is probably fortunate that  
19 it was closed session, so that none of you had  
20 to attend it. But, in any event, just for the  
21 record, the full Board was here for that  
22 training, annual training, as required by the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 federal agencies that we are involved with.

2 We have a registration booklet in  
3 the foyer. If you have not already done so,  
4 we ask that you register your attendance with  
5 us today. This is everyone, Board members,  
6 federal staff members, consultants, members of  
7 the public.

8 Also, if any of you are interested  
9 in participating in the public comments  
10 session this evening, which begins at 7:00  
11 p.m., there is a sign-up registration there,  
12 so that we have some idea of the numbers of  
13 individuals who wish to address the assembly  
14 during the public comments session. So, if  
15 you are interested in doing that, please sign  
16 up at your convenience before we have the  
17 break later in the afternoon.

18 On the table in the rear of the  
19 room, there are many documents. There are  
20 copies of today's agenda, as well as handouts  
21 and documents relating to the items on our  
22 agenda.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           In general, the Board will follow  
2 the agenda as it is given, although not all of  
3 the items are what we could call time-certain.

4           That is, we may get ahead of schedule or we  
5 may get behind schedule. Certainly, today we  
6 will simply move through the items as they  
7 come up.

8           Tomorrow's session, where we have  
9 specific SEC petitions that we are dealing  
10 with, we will typically consider those time-  
11 certain because we may have petitioners on the  
12 phone that wish to participate, and the times  
13 become more critical for those folks in terms  
14 of when they plan to be on the phone lines.

15           But, otherwise, unless something  
16 occurs that causes us to skip around, we will  
17 follow the agenda as it is given. Now what  
18 would cause us to skip around would be that  
19 the Chairman senses that we are so far ahead  
20 of schedule that we can do some of our  
21 Wednesday work earlier. Well, we will try to  
22 do that. But, other than that, we will

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 proceed as indicated.

2           Again, we are pleased to be in the  
3 Cincinnati area, not only because there are  
4 facilities of interest in this area, in Ohio,  
5 but also OSHA, or NIOSH rather, has principal  
6 offices here. Many of the staff members are  
7 located here locally as well.

8           Our Designated Federal Official is  
9 Mr. Theodore Katz, known as Ted.

10           Ted, you have some preliminary  
11 comments for us?

12           MR. KATZ: Yes. Thank you.

13           Well, first of all, just a welcome  
14 to everybody, to the Board members, the  
15 participants, staff, and the public. Welcome  
16 on behalf of Secretary Sebelius and the Acting  
17 Director of NIOSH, Christine Branche, who is  
18 here today. This Board advises the Secretary  
19 and NIOSH. So we are glad you all are here  
20 and able to participate.

21           Just a few logistical things to  
22 cover: one, in terms of your own safety, exit

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 from here, were there a fire or an emergency,  
2 there are exits. Go out the door straight to  
3 the right, and then right again or straight to  
4 the left, and then left again. There are  
5 emergency exits as well as, of course,  
6 straight through the lobby to the front doors.

7 So to let you know that.

8 Another logistical thing for the  
9 people who are participating by telephone,  
10 please mute your phones while you are  
11 listening, except when you are addressing the  
12 forum here. You can mute your phone, if you  
13 don't have a mute button, using \*6, and then,  
14 again, to unmute your phone, if you were to  
15 want to address the group, you would hit \*6  
16 again. If you need to leave the call for some  
17 time, please just hang up; don't use your hold  
18 button for that. Just hang up and then dial  
19 back in.

20 So that is a couple of logistical  
21 things. I also want to let people know we  
22 have with us for the Board -- I believe all

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 three days she will be here -- Anne Bohlen,  
2 who is a private filmmaker, very accomplished  
3 and recognized. She is doing a work on the  
4 nuclear facilities in Ohio, a documentary. So  
5 I just want to let everybody know she's  
6 filming, will be filming. She's not doing  
7 this on behalf of the agency or the  
8 government. This is her private enterprise,  
9 but, of course, she is welcome to do this and  
10 we are glad to have her with us.

11 I believe that covers the  
12 waterfront. Thank you, Dr. Ziemer.

13 CHAIRMAN ZIEMER: Thank you, Ted.  
14 You didn't mention whether or not, after Ms.  
15 Bohlen's film is highly recognized and  
16 awarded, whether there will be residuals for  
17 the Board members or not, but our training  
18 this morning tells us that we can't accept  
19 anything.

20 Mr. Clawson has a comment.

21 MEMBER CLAWSON: I just wanted, as  
22 you spoke earlier about our ethics training

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that we had, and as Christine Branche brought  
2 out, I just want to make sure that the record  
3 showed that she was going to look into some of  
4 the issues that we have, and so forth, and  
5 would be reporting back to us. I just felt  
6 that the report --

7 CHAIRMAN ZIEMER: Yes. For the  
8 record, there were some questions on  
9 procedures and policies that arose. I don't  
10 believe we will discuss them now, but, just  
11 for the record, Dr. Branche did commit to  
12 looking into some of the issues and will  
13 report back to the Board at an appropriate  
14 time on the policies that relate to the  
15 Board's conflict-of-interest policies.

16 Now let us proceed with the agenda  
17 items. The first one this afternoon is our  
18 NIOSH update. Larry Elliott is here to bring  
19 us that update.

20 Welcome, Larry.

21 MR. ELLIOTT: Good afternoon,  
22 ladies and gentlemen of the Board and members

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of the public, staff. Welcome to the  
2 Cincinnati area. We are certainly glad to  
3 have you here. It's going to be nice for  
4 staff to be able to sleep in their own beds  
5 tonight here in Cincinnati. So we take note  
6 of that and show our appreciation of you  
7 holding a meeting here in Cincinnati.

8 Generally, as you know, I start off  
9 with a couple of news briefs about the program  
10 before I get into my presentation with slides.

11 Today, I would like to begin with  
12 an update on the Ruttenber database. As you  
13 know, this is a database that was developed  
14 for the Rocky Flats plant, a mortality study  
15 that was conducted by Dr. Ruttenber and his  
16 study team.

17 We have completed an evaluation of  
18 the Ruttenber database for its impact on Rocky  
19 Flats Special Exposure Cohort eligibility.  
20 This report outlines and confirms our original  
21 understanding from conversations with Dr.  
22 Ruttenber that the source of the dosimetry

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 data that was used in the NDRP and the source  
2 of the Rutenber studies are the same, and  
3 that the dosimetry data NIOSH uses in its work  
4 under EEOICPA is as complete as possible and  
5 as complete as the Rutenber dataset. The  
6 report is available on our website under the  
7 SEC documents for the Rocky Flats plant.

8 The second news brief I would like  
9 to bring your attention to is that Dade  
10 Moeller & Associates, which is one of the  
11 teaming partner companies for the Oak Ridge  
12 Associated Universities team, which recently  
13 won our dose reconstruction technical support  
14 contract, recently began work as a mission  
15 support contractor for the Department of  
16 Energy at the Hanford site.

17 Last September, well in advance of  
18 the award to Dade Moeller & Associates by the  
19 Department of Energy, ORAU took action to  
20 ensure that it was in compliance with the  
21 NIOSH policy on Conflict or Bias, as well as  
22 the ORAU team's Conflict or Bias

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Implementation Plan.

2           These actions included declaring a  
3 corporate conflict for the Hanford site for  
4 all Dade Moeller staff and updating all of the  
5 Conflict or Bias Disclosure Forms for each  
6 individual Dade Moeller staff.

7           There was also an effort to  
8 reassign all dose reconstructions that were  
9 currently underway by Dade Moeller staff for  
10 Hanford claimants. Those reassignments were  
11 then given to other ORAU team partners to work  
12 since Dade Moeller had declared a conflict.

13           There was also one individual  
14 document owner that had to be replaced since  
15 they were a Dade Moeller associate working on  
16 a document for Hanford. So it was conflicted  
17 and had to be replaced with a non-conflicted  
18 key document owner.

19           All of this information is  
20 available on our website. If you have  
21 interest in that, you should check that out.  
22 If there are concerns about the Policy on

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Conflict or Bias and how it is being applied,  
2 I encourage you as an individual to seek out  
3 the NIOSH Conflict or Bias Officer that is  
4 listed on the website.

5 Seven years ago, an office was  
6 established at NIOSH to perform dose  
7 reconstructions and conduct other technical  
8 activities to assist the energy workers and  
9 their survivors, and also to support the  
10 Secretary of Health and Human Services under  
11 this compensation program that we all know now  
12 as EEOICPA.

13 Developing the infrastructure for  
14 the program required promulgating rules.  
15 These are major rules, rules on Probability of  
16 Causation and dose reconstruction methodology,  
17 as well as how to process petitions under the  
18 Special Exposure Cohort.

19 We were also heavily involved seven  
20 years ago in hiring staff and contractors and  
21 developing knowledge and also developing a  
22 myriad of technical procedures that had to be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 established for use in this program.

2 During that time, thousands of  
3 claims were being sent to NIOSH. Claims were  
4 eligible to be received July 31st of 2001, and  
5 in late October, NIOSH started receiving boxes  
6 of claims.

7 As you know, by the time NIOSH was  
8 able to begin performing dose reconstructions,  
9 there was a backlog of thousands of claims,  
10 representing thousands of workers or their  
11 survivors who were waiting for an answer.

12 Since that time, NIOSH has provided  
13 an answer for a vast majority of claims. More  
14 than 80 percent of the 30,000 claims that  
15 require radiation dose reconstruction have  
16 been provided an answer through the Department  
17 of Labor. Of the 4,610 claims that you see on  
18 this site that are currently remaining at  
19 NIOSH, these are active claims. These  
20 represent about 14 percent of the claims that  
21 have been sent to NIOSH.

22 We have 548 cases that are

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 currently administratively closed. Our work  
2 is done unless the claimant comes forward with  
3 a signed OCAS-1 form indicating they have no  
4 further information to provide, or if they  
5 provide new information that has bearing upon  
6 the claim, then we would reopen that  
7 administratively-closed claim.

8 This pie chart presents the case  
9 status as of June 30th, 2009. You can see  
10 here that the majority is in blue, as being  
11 completed. Those that have been pulled from  
12 our caseload by the Department of Labor for  
13 various reasons are shown in gray. They  
14 represent about 3 percent of the claims  
15 totally sent to us.

16 There are 8 percent that have been  
17 pulled in this -- I think that looks like a  
18 maroon-colored bar or color to me -- that have  
19 been SEC pulled, pulled from our claim  
20 population because they are perhaps eligible  
21 for the Special Exposure Cohort class that  
22 they fit into, and the Department of Labor is

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 determining that eligibility.

2 I mentioned earlier the one  
3 category of administratively-closed claims.  
4 They are about 2 percent, leaving us the  
5 active claims, and then, of that, we have  
6 pending 921 claims. I will speak about those  
7 in more detail in a moment.

8 If we look at the active cases,  
9 4,610 remaining at NIOSH, there are 1,779 that  
10 are currently in the dose reconstruction  
11 process. Four hundred and forty initial draft  
12 dose reconstruction reports have been mailed  
13 to the claimants, and we are in return of the  
14 OCAS-1. There are 2,391 cases that are in  
15 development to begin the dose reconstruction  
16 process. As I said, 921 cases of this active  
17 caseload are pending.

18 We take note of how old claims are.

19 In this situation of our active caseload, we  
20 have 2,603 cases, and 56 percent are older  
21 than one year.

22 Of the 921 pending cases at NIOSH,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you will see here the top six categories are:

2 TBD revisions in process. There  
3 are 774 claims pended because of some change  
4 in the Technical Basis Document. I would note  
5 here that Hanford represents around 600 of  
6 those claims pended because of Technical Basis  
7 Document questions.

8 There is an additional 55 claims  
9 that are awaiting DOE data requests, and 39  
10 that are tied up in SEC recommendations and  
11 considerations, 23 that we are awaiting the  
12 identification of a new survivor in order to  
13 process the claim. We have 18 that are pended  
14 because of issues that were discussed during  
15 the closeout interview, and those issues are  
16 under investigation. We have 13 that are  
17 pended because of SEC petitioner status.

18 From the beginning, NIOSH's core  
19 values have been an integral part of the  
20 development of NIOSH's activities under the  
21 compensation program. In particular, our core  
22 values of quality of science, transparency,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and accountability are at the heart of our  
2 actions, decisions, and communications.

3 First and foremost, we strive at  
4 NIOSH to bring the best available science,  
5 transparency, and accountability to the dose  
6 reconstruction of radiation doses for cancer-  
7 related claims.

8 It is important to note that  
9 Congress recognized the potential for a lack  
10 of monitoring records for workers eligible for  
11 this compensation program, and they specified  
12 that methods for radiation dose reconstruction  
13 should be established by regulation.

14 Specifically, the law required the  
15 promulgation of a rule to establish scientific  
16 methods for arriving at reasonable estimates  
17 of radiation dose for those individuals who  
18 were not monitored for radiation, for those  
19 individuals who were monitored inadequately,  
20 and for those individuals who were monitored  
21 but the records were missing or are  
22 incomplete.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           In the process of establishing this  
2 rule, both the general public and more than 30  
3 stakeholder organizations were asked for  
4 input, and NIOSH reviewed over 200 pages of  
5 their comments. In addition, NIOSH was  
6 adamant that each claimant would have the  
7 opportunity to be interviewed prior to the  
8 dose reconstruction process beginning and  
9 again when the draft dose reconstruction was  
10 prepared.

11           These interviews are an opportunity  
12 for claimants both to provide information and  
13 to ask questions about the process. There  
14 have been close to 100,000 interviews with  
15 claimants that have been conducted.

16           Although radiation dose  
17 reconstruction efforts have been ongoing in  
18 the United States for several decades, this  
19 type of radiation dose reconstruction for a  
20 compensation program was and still is  
21 unfamiliar to many people. Each dose  
22 reconstruction is individual and each has its

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 own unique characteristics and complexities.

2 NIOSH has painstakingly pored over  
3 thousands of boxes and tens of thousands of  
4 individual documents to acquire the records  
5 and the data needed to provide claimants with  
6 an answer for their claims. We have also  
7 integrated the information provided by  
8 claimants, site experts, and subject matter  
9 experts, as well as from outreach meetings.  
10 In fact, NIOSH's efforts have made more  
11 information on the facilities and the  
12 operations at those facilities available to  
13 energy employees and to the general public  
14 than ever before.

15 Because the dose reconstructions in  
16 this program are individual and complex, and  
17 because of the potential for a lack of  
18 monitoring records, the dose reconstruction  
19 methods used by NIOSH have consistently given  
20 benefit of the doubt to the claimant whenever  
21 there is a question or uncertainty about the  
22 amount of radiation exposure that the claimant

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 or the worker may have received. That is,  
2 when there are two equally-plausible exposure  
3 scenarios, NIOSH selects a scenario that  
4 provides the higher dose to the organ or the  
5 tissue that developed the cancer.

6 The benefit of the doubt I believe  
7 is evident in the Probability of Causation  
8 percentages for the 21,418 claims that have  
9 had a dose reconstruction, as you can see in  
10 this slide, where 32 percent of the cases had  
11 a PoC of higher than 50 percent, much higher  
12 than DOE's original estimate when the program  
13 was established.

14 When asked by the Office of  
15 Management and Budget and the Congressional  
16 Budget Office, they predicted that less than 5  
17 percent of the nuclear weapons workers with  
18 cancer would have a Probability of Causation  
19 of 50 percent or higher.

20 If we look at the distributions of  
21 PoC that have been returned to the Department  
22 of Labor for a decision, you will see in this

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 slide that there is a large number of claims  
2 that fall into the 0 to 10 percent PoC  
3 category. We work very hard, when a claim  
4 falls into the 41 to 49 percent, as you know,  
5 and we make sure that those are our best  
6 estimate doses. We also run those cases  
7 multiple times through our IREP scenario to  
8 make sure that they are statistically-  
9 accurate.

10 The quality of science and the  
11 benefit of the doubt that we give claimants  
12 are a foundation for NIOSH's process for  
13 changes in the scientific elements that are  
14 underlying the dose reconstruction process.  
15 This is all based on scientific progress as  
16 well as new information that comes to light.

17 This is explicitly outlined in our  
18 dose reconstruction rule and updates of  
19 certain scientific elements of the dose  
20 reconstructions that can be recommended by the  
21 public at any time.

22 In this reworks slide, for example,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 what reworks mean to claimants are different  
2 things, but it is relevant that when new  
3 information comes to light, that we take  
4 another look at the claim that was dose  
5 reconstructed under prior information or prior  
6 methodology and examine whether or not the new  
7 information or the new methodology will change  
8 the outcome of that claim. So our rule  
9 indicates to us that, when a change occurs or  
10 new information is presented in the dose for a  
11 given case that has previously been denied,  
12 might increase, we conduct what we call a  
13 Program Evaluation Review and we ask for  
14 claims that are so effected to be returned for  
15 rework.

16 In this slide, you see those kinds  
17 of claims that were sent to us for rework  
18 because of a technical change or new  
19 information that brought about perhaps an  
20 increase in dose to claims, but you will also  
21 see in this slide claims that were returned to  
22 NIOSH from the Department of Labor because

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 something changed within the demographics of  
2 the claim, a new survivor, a new cancer  
3 perhaps, or something similar in the  
4 demographics. To date, 9,400 reworks have  
5 been received by NIOSH, and we have returned  
6 to the Department of Labor 6,868.

7 In EEOICPA, Congress stipulated  
8 that the assumptions, the methodology, and the  
9 data used in dose reconstruction be made  
10 available to researchers and the general  
11 public, with exceptions for the protection of  
12 privacy. NIOSH emphasizes its transparency  
13 and accountability in making the NIOSH  
14 processes and methodology as open as possible  
15 for the claimants, their families, and their  
16 advocates.

17 One way that NIOSH makes  
18 information available is through our website.

19 It provides comprehensive information about  
20 the NIOSH dose reconstructions and other  
21 activities that support the program. The  
22 website includes over 100 web pages and over

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 2,500 PDF documents.

2 NIOSH has also designed the dose  
3 reconstruction and the SEC processes with an  
4 unusual amount of opportunity for public  
5 debate and input. Although it is typical in  
6 the sciences for differences of opinion to be  
7 debated in public forums, it is not so typical  
8 in a program such as this, such as a  
9 compensation program.

10 This leads some people to  
11 misunderstand the nature of the debate. For  
12 example, when the Advisory Board or its  
13 contractor review NIOSH documents or  
14 methodologies, it is typical for them to raise  
15 a list of questions. These questions are then  
16 discussed and debated among NIOSH and its  
17 contractors and the Advisory Board and its  
18 contractor, and generally these debates are  
19 done in a public forum.

20 These debates are not about who is  
21 right or who is wrong. They are about  
22 bringing the best-available science from a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 variety of sources to the processes that this  
2 program employs and making sure that it is as  
3 transparent as possible for the claimants,  
4 their families, and advocates.

5 I grant you, allowing for public  
6 debate and resolution of differences of  
7 opinion does add time to the process, and  
8 scrutinizing thousands of boxes and tens of  
9 thousands of individual documents to acquire  
10 the data and the records that are needed to  
11 support the process is time-consuming.  
12 Reworking claims when relevant new information  
13 becomes available adds time to the process,  
14 sometimes a significant amount of time.

15 We feel that the claimants are owed  
16 the best-available science as well as an  
17 exceptional degree of transparency and  
18 accountability.

19 So why am I spending a lot of time  
20 talking about time when my slide shows the  
21 first 10,000 cases that were sent to NIOSH?  
22 We have tracked the oldest cases by use of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 tracking number in the past, and you have seen  
2 the next two or three slides in every Board  
3 presentation that I have given. This will be  
4 the last time you see these slides for a while  
5 because we are going to start tracking on  
6 time, not on tracking number.

7 We've finally achieved the position  
8 in this program where the documentation is  
9 mature, where we have a technical support  
10 contractor now in place, after a long,  
11 extended wait to make that award, and we're at  
12 a point within our active claim population  
13 that, given our capacity, we can push through  
14 claims. I will show you some slides in a  
15 moment that talk about how we have improved  
16 our timeliness in that regard.

17 But our efforts on the oldest  
18 claims, the first 10,000 claims, we sent 7,692  
19 of the first 10,000 back to the Department of  
20 Labor with a dose reconstruction. There have  
21 been 175 that have been administratively-  
22 closed. Again, they could be reopened and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 processed at the will of the claimant.

2 Four hundred and seventeen cases  
3 from the first 10,000 have been pulled. Eight  
4 hundred and ninety-seven have been slated for  
5 SEC classes, and six are currently, as of June  
6 30th, this year, a dose reconstruction is in  
7 the hands of the claimant.

8 So that leaves what is shown in red  
9 on this slide as the number of DOL return  
10 cases, those cases that have already had one  
11 dose reconstruction or more, being returned to  
12 us for some change, either a technical change  
13 we've instituted or a change with the  
14 demographics of the case. Now we're reworking  
15 717 of those first 10,000.

16 There are 96 cases that still await dose  
17 reconstruction in the first 10,000, less than  
18 1 percent. Of the 96 claims waiting dose  
19 reconstruction, they break out in this  
20 fashion: fifty-one represent distinct sites.

21 In other words, there are 51 claims of the 96  
22 that are single distinct sites. Thirty-seven

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 are sitting in a pended status, and the pended  
2 statuses are listed here for your benefit and  
3 understanding. It ranges from missing  
4 survivor to number of SEC cases pended before  
5 designation to developing a DR methodology for  
6 non-SEC cases. So you can see how they are  
7 broken out here. Fifty-nine of these 96 cases  
8 are in an active status.

9 If we look at the first 5,000 of  
10 this 10,000, the oldest of the oldest, then 19  
11 of the cases are below 5,000. Those 19  
12 represent 16 distinct sites. Nine are in  
13 pended status and 10 are in an active status,  
14 as shown.

15 NIOSH continues to receive around  
16 200, if you look at the blue line here, that's  
17 the number of cases received from the  
18 Department of Labor. This slide has been  
19 changed to show first quarter of each fiscal  
20 year. So it is full fiscal year, there is  
21 nothing lost or hidden here.

22 So we received about 200 new claims

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 each month and another 200 reworks. That is  
2 where you see there is about 450-500 in a  
3 month.

4 If we look back and analyze on a  
5 fiscal year basis the time that it has taken  
6 us to conduct those reconstructions, provide  
7 an initial draft report to the claimants, the  
8 time is shown as, in this yellow bar, taking  
9 more than one year, in the blue bar, 181 to  
10 365 days to the dose reconstruction. The red  
11 bar, 61 to 180 days, and less than 60 days for  
12 that, I think that is green.

13 You can see here that, if we look  
14 at the yellow as compared to the others, we  
15 have shortened the time frame to do dose  
16 reconstruction over the course of time.

17 If we look at those claims that  
18 have been completed in less than six months or  
19 those that take more than two years, you can  
20 see how it is broken out from fiscal year 2005  
21 to fiscal year 2008. We want to see this  
22 trend continue.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           These are all on our website, by  
2 the way, the new charts added to our website.

3           The average number of days to  
4 process dose reconstructions for initial  
5 referrals, and so, again, here by fiscal year,  
6 how many days in a fiscal year has it taken to  
7 produce a dose reconstruction. Back in 2002,  
8 when we had the huge backlog of claims and  
9 didn't have the infrastructure developed, you  
10 see it was taking us over 1,000 days. Now, in  
11 fiscal year 2008, after a continuous downward  
12 trend, in FY 2008 we were taking, on average,  
13 204 days to process an initial dose  
14 reconstruction.

15           In our efforts to improve  
16 timeliness, we have also looked for  
17 opportunities to improve processes in the  
18 steps involved in dose reconstruction. For  
19 example, NIOSH requests exposure monitoring  
20 information from the Department of Energy, DOE  
21 provides NIOSH with a response to the request  
22 within 60 days. That response may be the dose

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 information that we're seeking or it may be  
2 just a status report on where things stand.  
3 NIOSH closely monitors the number of days  
4 since a DOE request was sent and stays in  
5 touch with DOE Operations Offices, where the  
6 request was sent.

7           So here on this slide, as of June  
8 30th, 2009, you see that the number of  
9 outstanding requests were 505 claims and  
10 outstanding requests that were over 60 days,  
11 196 claims. I can tell you that, of this  
12 number, 196, there's 153-some-odd claims that  
13 are in the Oak Ridge Operations Office. So  
14 they are tied to one of the Oak Ridge sites or  
15 perhaps multiple sites. So we monitor this to  
16 the point where we know what claims are  
17 affected.

18           The average turnaround time for all  
19 document reviews that NIOSH produces and has  
20 to provide to the Department of Energy for a  
21 review for sensitive information has  
22 approximately been 10.8 working days. The

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 average turnaround time for all documents that  
2 we have submitted since January 1st of 2009 is  
3 approximately 9.8 working days.

4 The agreement that we have with DOE  
5 is that they will turn these reviews around  
6 within 10 working days plus transmittal time.

7 So there's a day to transmit at the front end  
8 and a day to transmit at the rear end, and you  
9 can see that they are staying pretty well in  
10 the agreed time to conduct the review.

11 This timeline presents steps in the  
12 dose reconstruction process. I apologize for  
13 the busyness of the slide. It is on our  
14 website. You can get an expanded version.  
15 But I wanted to show it to you here today  
16 because, as we look at stages and steps within  
17 the dose reconstruction process, we note that  
18 there's certain days associated with certain  
19 steps. One of those steps is this 60 days to  
20 request data from the Department of Energy for  
21 a claim.

22 So we have been talking with the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Department of Energy and the Department of  
2 Labor about how we can consolidate our efforts  
3 on this step alone and save us some of this  
4 time for the claimant. What I am talking  
5 about is when the Department of Labor receives  
6 a claim, they turn immediately to the  
7 Department of Energy to verify the employment  
8 for that claim.

9 At that point in time, we are  
10 working with DOE and DOL to incorporate our  
11 request for dose information at the time DOL  
12 requests employment eligibility information.  
13 So we think that is a good step that is going  
14 to help us. For certain sites where this can  
15 be accommodated, we will reduce the amount of  
16 time at this step.

17 There are a couple of other steps  
18 that have time/days associated with them, but  
19 there's not a lot we can do about them. One  
20 of those steps would be the number of days  
21 that is associated with reviewing dose  
22 reconstruction by the claimant, and they get

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 60 days. We give them 14 days grace upon  
2 that. So 74 days is really the time in the  
3 claimant's hands.

4 So we are looking at all of these  
5 steps, trying to figure out how we can improve  
6 and do some streamlining.

7 Along these lines, we have taken  
8 the opportunity, since we have reached a state  
9 of maturity in the program, our documentation  
10 is available to us from a majority of the  
11 sites, we have taken note of the concerns, and  
12 I share these concerns, that certain  
13 individual claimants have not had an answer in  
14 six-plus years. We have many more that are  
15 older than a year, as you see, in our active  
16 caseload.

17 So we have established a management  
18 objective which reinforces the commitment we  
19 have at NIOSH to produce timely dose  
20 reconstructions. Within this management  
21 objective, we are saying that we have a policy  
22 that is driven to complete initial drafts

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 within one-year time frame. So, by June 1st  
2 of 2010, we hope to be at a state where we  
3 have no claim without an initial draft in our  
4 possession at NIOSH that is over a year old.

5 I will let that sink in a moment.  
6 How can I say that? Well, we have a  
7 contractor that is in place now that has shown  
8 us a capacity to produce 6,000 claims in a  
9 year. They did that in 2006, before we had  
10 our problems with awarding a new contract and  
11 problems with Continuing Resolutions, a  
12 funding problem.

13 So, if we can do 6,000-plus dose  
14 reconstructions in a year and we only have  
15 4,500 in our caseload, and we only get about  
16 450 every month from DOL, I think you can do  
17 the math.

18 We are making some strides and some  
19 progress on the pended claims, the Hanford  
20 claims that are pended right now. We have  
21 made a commitment to the Work Group, to the  
22 Chair of the Work Group, and to the Hanford

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 folks that we are going to release those  
2 almost 600 Hanford claims that are pended and  
3 establish a class pre-1972 for the Special  
4 Exposure Cohort. So that will free up a bunch  
5 of pended claims and also claims that are in  
6 our active case population.

7 What happens if we don't achieve  
8 the goal of June 1st, 2010? Well, we will,  
9 long before that happens, if we see that we  
10 are not going to achieve that goal in any one  
11 given claim, we are going to critically  
12 evaluate that claim and determine what the  
13 problem is in processing that claim, and  
14 document that in a memo that will be in the  
15 claim file.

16 This is a serious step because that  
17 memo can be used in adjudicating the claim.  
18 So we are going to be very diligent about  
19 trying to achieve the goal, and we are going  
20 to be very critical about evaluating those  
21 that may not meet it. I am hopeful that we  
22 will meet it and we don't have to do any of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 these memos to the file.

2 Let's talk a little bit about  
3 Special Exposure Cohort classes. This slide  
4 hasn't changed from the last meeting, but if  
5 we were to have this meeting in about five,  
6 ten days, this slide would change. There  
7 would be 44 SEC classes that have been added  
8 since May of 2005.

9 But these 42 that you see here, 22  
10 have been added through the 83.13 process and  
11 20 have been added through the 83.14 process.

12 This represents, these 42 classes represent  
13 workers from 33 sites, and they also represent  
14 around 2,274 cases.

15 I'm going to talk specifically  
16 about sites that are local that we want to  
17 give information to attendees in the audience  
18 that might be here for that particular site  
19 that is local to the meeting.

20 The distribution of Probability of  
21 Causation for Fernald claims is shown in this  
22 slide. You can see the distribution of those

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 PoCs by 10 percent, increments up to 49, and  
2 then you show greater than 50.

3 For Mound, there have been 565  
4 Mound cases referred to NIOSH. Four hundred  
5 and two, or 71 percent, have been completed  
6 and submitted to DOL. A hundred and thirty-  
7 eight of those had a PoC of greater than 50.  
8 Two hundred and sixty-four had a PoC of less  
9 than 50. Forty-nine of the Mound cases have  
10 been pulled by DOL from the NIOSH active  
11 caseload, and 114 remain, or 20 percent of the  
12 Mound cases remain at NIOSH in processing.

13 Here is the Probability of  
14 Causation in a bar graph, showing the  
15 distribution of these PoCs for Mound claims.

16 The Portsmouth Gaseous Diffusion  
17 Plant statistics are shown here. As of June  
18 30th, 2009, we have had 1,176 Portsmouth cases  
19 referred to NIOSH. I will remind everyone  
20 that this is a site that had a  
21 congressionally-mandated Special Exposure  
22 Cohort class. So all 1,176 of these cases

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 were sent to NIOSH for dose reconstruction  
2 either because they were not a presumptive  
3 cancer or the person had already perhaps been  
4 paid under the SEC and had acquired a new  
5 cancer that was not a presumptive cancer, and  
6 they are seeking medical benefits for that.  
7 So we are required to do a dose reconstruction  
8 for those as well.

9           Nine hundred and twenty-eight of  
10 these Portsmouth claims have been completed  
11 and submitted to the Department of Labor. In  
12 that, we break down 205 had a PoC that was  
13 found to be compensable and 723 had a  
14 Probability of Causation less than 50 percent.

15           Six percent, or 77, have been  
16 pulled by the Department of Labor for  
17 Portsmouth claims at NIOSH, and 171 Portsmouth  
18 claims are still active at NIOSH.

19           This slide, again, a bar chart  
20 presenting the distribution of Probability of  
21 Causation for the Portsmouth claims that we  
22 have.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I would be happy to answer any  
2 questions that you might have.

3 CHAIRMAN ZIEMER: Thank you very  
4 much, Larry. We appreciate the more detailed  
5 presentation that you made this time.

6 I would like to open the floor for  
7 questions that the Board members may have.

8 Brad Clawson?

9 MEMBER CLAWSON: Larry, forgive me  
10 if this is the wrong time, but one of my  
11 questions was on these dose reconstructions.  
12 Numerous claimants have asked me, if they are  
13 filing under Subpart E, how come do they have  
14 to have a dose reconstruction before they can  
15 do Subpart E?

16 MR. ELLIOTT: The question is, if  
17 they are filing a claim for Part E, toxic  
18 chemical exposure, I assume they have a  
19 cancer --

20 MEMBER CLAWSON: Right.

21 MR. ELLIOTT: And DOL is saying we  
22 need to wait on NIOSH's dose reconstruction

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 for that cancer?

2 MEMBER CLAWSON: Yes.

3 MR. ELLIOTT: I think DOL would be  
4 better versed to answer this question, but  
5 that is essentially what is going on. The  
6 claim has been referred to us for dose  
7 reconstruction, and they want that to inform  
8 the Part E decision.

9 There was radiation. Cancer was  
10 related. Radiation is considered a toxic. So  
11 that is what they are after.

12 MEMBER CLAWSON: Okay.

13 CHAIRMAN ZIEMER: Additional  
14 questions or comments?

15 (No response.)

16 Apparently not.

17 Larry, thank you again.

18 MR. ELLIOTT: Thank you very much.

19 CHAIRMAN ZIEMER: Now we will  
20 proceed with a follow-up presentation. Jeff  
21 Kotsch is here from the Department of Labor.  
22 Jeff also regularly reports to the Board and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to the assembly on the claims, both for Part B  
2 and for Part E of the regulation.

3 So, Jeff, welcome back.

4 MR. KOTSCH: Thank you, and good  
5 afternoon.

6 Just a little background on the  
7 Energy Employees Occupational Illness  
8 Compensation Program Act. Part B became  
9 effective on July 31st, 2001. I think all the  
10 dates on the slides are as of July 20th of  
11 2009.

12 But, for Part B, 66,821 cases or  
13 99,116 claims have been filed. Again, just a  
14 note, there are always more claims than cases  
15 because, for when the employee has passed  
16 away, there often is more than one survivor.  
17 So you would have more claims than cases. Of  
18 those, 30,029 cases have been referred to  
19 NIOSH for the dose reconstruction.

20 For Part E, which became effective  
21 on October 28th, 2004, we have had 57,889  
22 cases or 81,525 claims filed. The Part E

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 program is the former Part D program, which  
2 was administered initially by the Department  
3 of Energy. At the point of transition, we  
4 actually took 25,000 cases from DOE.

5 Now the summary for the  
6 compensation, we've just passed the \$5 billion  
7 mark in total compensation for the program;  
8 \$3.02 billion of that was for Part B, \$1.64  
9 billion was for Part E. The Department has  
10 paid out \$347 million in medical benefits.

11 Now the paid cases under the Act,  
12 52,920 payees in 39,227 Part B and E cases, as  
13 of, again, July 20th. Thirty-seven thousand  
14 three hundred fifty-seven Part B payees in  
15 24,443 cases, and there have been 15,563 Part  
16 E payees in 14,784 cases. So Part B is 62  
17 percent of the payments.

18 Just a quick summary of Part B:  
19 the principal thing related to NIOSH is,  
20 obviously, radiation-induced cancers that are  
21 addressed in this Part. But Part B also  
22 addresses a beryllium illness, the Special

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Exposure Cohort, silicosis for the miners in  
2 Nevada and Alaska, and a supplement for the  
3 RECA uranium workers. This is the Radiation  
4 Exposure Compensation Act, Section 5, which is  
5 administered by the Department of Justice, but  
6 the Act provides for a supplement of \$50,000.

7 As far as eligibility for Part B,  
8 it includes Department of Energy employees,  
9 the Department of Energy contractors and  
10 subcontractors, the Atomic Weapons Employers,  
11 the AWEs, the beryllium vendors, and certain  
12 survivors of the deceased workers.

13 We note the ones here because the  
14 survivor categories are a little bit different  
15 for Part B versus Part E. By the way, they  
16 wrote the initial Act and then the amendment  
17 to the Act.

18 So, for Part B, it's spouse,  
19 children regardless of age, parents,  
20 grandchildren, and grandparents. Then there's  
21 the RECA Section 5 uranium workers.

22 Continuing, presumptive coverage

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 for the 22 specified cancers for the SEC  
2 sites, the four legislated, the statutory  
3 sites, the three gaseous diffusion plants,  
4 Paducah, Portsmouth, K-25, and then the  
5 Amchitka test site in Alaska.

6 As of July 23rd, 2009, there were  
7 44 SEC classes added by Health and Human  
8 Services.

9 The Part B benefits include  
10 \$150,000 lump sum payment. That is the  
11 initial payment. There's medical benefits for  
12 the covered conditions, and then there's  
13 medical treatment and monitoring, but  
14 monitoring only for the beryllium sensitivity.

15 As far as Part E, a quick summary:  
16 again, created in 2004 to replace the old  
17 Part D program. It is a federal entitlement  
18 program similar to Part B. Lump sum payments  
19 up to \$250,000, usually on top of a Part B  
20 payment. If you have a Part B award, it's  
21 pretty much automatic that you get the initial  
22 Part E with that.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   We do currently, and have since the  
2 Part E program started, parallel-track these  
3 things for both Part E and Part B and work  
4 them simultaneously in the district offices.  
5 Even though there may be cases at NIOSH for  
6 Part B, they will continue to work the Part E  
7 side as much as they can for toxic exposures.

8                   If there is, indeed, something that  
9 merits an award on that side, they will at  
10 least, if it's like for asbestosis or  
11 something, they will award that initially, and  
12 then perhaps, if there is a Part B component  
13 for the dose reconstruction, they may await  
14 that for the additional payments. But they  
15 are not always hinged on another. There is,  
16 obviously, the radiation component of the Part  
17 B program, but for the cancers.

18                   If there's non-cancer conditions  
19 for Part E and we can get to an award in, for  
20 example, asbestosis or something, that will  
21 proceed that way, again, plus payments for  
22 medical benefits for the accepted conditions.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           For Part E eligibility, there's DOE  
2           contractors and subcontractors. This Act,  
3           when it was amended, the Act was amended, for  
4           Part E it does not include Atomic Weapons  
5           Employees or the beryllium vendor workers,  
6           unlike Part B.

7           Certain survivors of deceased  
8           workers include the spouse, the children if at  
9           the time of employee's death the child was  
10          under the age of 18, under the age of 23 and a  
11          full-time student continuously enrolled in an  
12          educational institution since age 18, or if at  
13          any age incapable of self-support. So, again,  
14          there's some differences mandated by the  
15          amendment for Part E.

16          Any occupational exposure or any  
17          toxic exposure, that's the coverage for Part  
18          E, including Part B disease. So there is dual  
19          eligibility.

20          Just a graphic of the Part B cases,  
21          the final decisions. There have been, again,  
22          on the final approval, 26,149 for the denial

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 side, 19,000 -- well, the denial side, the  
2 breakdown for the denial side is 19,669. That  
3 is the total. Five hundred and eighty for  
4 survivor non-eligible, 13,734 with PoC of less  
5 than 50 percent, and 5,356 for medical  
6 information insufficient to support the claim.

7           Concerning referral status to  
8 NIOSH, DOL has referred 30,000, a little over  
9 30,000, cases to NIOSH for dose  
10 reconstruction. Twenty-four thousand five  
11 hundred and twenty-seven of those have been  
12 returned by NIOSH and currently are at DOL or  
13 have been dispositioned. Twenty-one thousand  
14 three hundred and seventeen have dose  
15 reconstructions, 3,210 were returned without  
16 dose reconstructions. It could have been SEC  
17 classes, things like that.

18           Fifty-five hundred and two cases  
19 are currently at NIOSH. Thirty-one hundred  
20 and twenty-five are initial referrals, 2,377  
21 are reworks or returns to NIOSH.

22           Again, Larry mentioned this; the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 reworks primarily are driven on the DOL side  
2 by perhaps changes to the medical conditions,  
3 like the identification of an additional  
4 cancer. That is the primary reason for the  
5 medical things.

6 For the employment, additional  
7 employment, the identification of additional  
8 employment perhaps is primarily the driver for  
9 the employment changes. Then there are some  
10 miscellaneous categories.

11 New SEC-related cases, 2,922 cases  
12 have been withdrawn from NIOSH for review.  
13 Twenty-five hundred and ninety-six final  
14 decisions have been issued, and 2,517 of those  
15 are final approvals. There have been 28  
16 recommended but no final decisions, 55 cases  
17 are pending -- this is at DOL -- and 243 cases  
18 have been closed.

19 The way the DOL process works,  
20 quickly, is that, after it comes in,  
21 basically, and DOL has identified the medical  
22 and employment information, if it is a cancer

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 requirement, dose reconstruction, it has gone  
2 to NIOSH. When it comes back, when the dose  
3 reconstruction report comes back, the four  
4 district offices create recommended decisions.

5 Those go to the claimants. They have the  
6 opportunity at that point, if they are,  
7 obviously, approved or denied, if they are  
8 denied, the opportunity to basically submit  
9 comments or address the issues.

10 It then goes to the Final  
11 Adjudication Branch, which is a separate  
12 organization within each of the districts as  
13 well as the national office. They create the  
14 final decisions based on the input from the  
15 claimants.

16 Even after that point, there are  
17 other options for the claimants, including  
18 reconsideration at any point. Even after the  
19 final decision is written, there is always the  
20 opportunity for reopening of the case, either  
21 at the district or primarily the national  
22 office level.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   Then, again, there may be  
2 reopenings or additional information supplied  
3 anytime during that process or even after the  
4 case has been finalized or the decision has  
5 been finalized. That may require the case to  
6 go back to NIOSH for a rework, potentially.

7                   NIOSH dose reconstruction case  
8 status, we have had 21,317 cases at DOL with  
9 dose reconstructions. Nineteen thousand seven  
10 hundred and eighty-four of the dose  
11 reconstructed cases have final decisions.  
12 There have been 6,668 final approvals -- that  
13 is a PoC greater than 50 -- and 13,116 final  
14 denials with a PoC of less than 50.

15                   Just a summary of the accepted Part  
16 B cancer cases: the accepted dose  
17 reconstruction cases, 6,381, which includes  
18 9,098 payees, for a total compensation of  
19 \$946.7 million.

20                   Accepted SEC cases, there have been  
21 9,665 of those, which includes 15,575 payees,  
22 for compensation of \$1.4 billion.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           Cases accepted based on SEC status  
2           and a PoC of 50 or greater, 287 cases or 36  
3           payees, for \$42.9 million, which totals for  
4           all accepted SEC and DR cases, 16,333 cases  
5           for 25,039 payees, or \$2.4 billion in  
6           compensation.

7           This is just a quick summary or a  
8           graphic on the new Part B cases received  
9           monthly by DOL. Again, they would be both  
10          cancers as well as silicosis, beryllium  
11          disease, things like that, and running  
12          probably around 300, I guess, on average,  
13          maybe a little bit more sometimes.

14          Then, monthly, these are the rates  
15          of the Part B cases sent to NIOSH. Again,  
16          they are not tracking month to month because  
17          they take time to process in at Labor. But  
18          these are the numbers of Part B at the NIOSH  
19          monthly, includes both initial referrals to  
20          NIOSH and reworks and returns. So, again,  
21          those are probably running a load of 300s or  
22          maybe even mid-300s.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           At the last meeting, one or more of  
2 the Board asked -- and it was an interesting  
3 question for me because I didn't have the  
4 answer -- as far as which sites tend to be  
5 generating the new monthly cases. The review  
6 indicated that Hanford, Y-12, Savannah River,  
7 and the Oak Ridge K-25 tend to be the top four  
8 as far as the DOE sites go.

9           Just quick graphics on those, the  
10 summaries: this is Hanford, Part B cases for  
11 the new monthly numbers. They are running  
12 probably -- it has dropped recently, but  
13 around 50 probably per month over the last --  
14 I think we did the last, what, eight or ten  
15 months.

16           The same graphic, basically, for Y-  
17 12, running a little bit lower, probably  
18 running 25 to 30 a month.

19           Savannah River, again, the same  
20 graphic, probably running 20 to 25, maybe 30.

21           Then the K-25 site, running a  
22 little bit lower, I think, probably 20 to 25.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           Then the AWE cases are running  
2 about 8 to 10 percent of the total of all the  
3 new ones. Obviously, on the next slide, you  
4 will see it is running, like I said, 8 to 10  
5 percent, and the DOE ones per month are  
6 running, obviously, the rest of that, so 90 to  
7 92.

8           Just some information related to  
9 sites that are either on the agenda or perhaps  
10 local to our meeting here today and this week.

11          I noticed, when I was looking -- I have been  
12 out of the office for a couple of weeks -- but  
13 I noticed that we didn't have a slide for  
14 Fernald. So let me give the Fernald numbers  
15 first.

16           Cases for both Part B and Part E,  
17 3,265. This is for Fernald. Cases returned  
18 from NIOSH with the dose reconstruction, 962.

19          Final decisions for Part B, 1,219, of which  
20 450 were approvals. Part E approvals were  
21 516, and total compensation -- this is, again,  
22 for Fernald -- \$106.7 million.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   Now, on this slide, Mound, we have  
2                   6,802 cases.       We are indicating, the  
3                   Department is indicating 407 returned with  
4                   dose reconstructions, resulting in 588 final  
5                   Part B decisions and 213 Part B approvals, 228  
6                   Part E approvals, for total compensation of  
7                   \$47.2 million.   That's total compensation and  
8                   medical bills paid.

9                   Oak Ridge Hospital, 73 cases, 14  
10                  dose reconstructions from NIOSH, 24 Part B  
11                  decisions, 11 Part B approvals, 14 Part E  
12                  approvals, and \$2.7 million in total comp and  
13                  medical bills.

14                  Baker-Perkins Company, 18 cases.  
15                  This is Part B only.   It's an AWE.   Nine have  
16                  been returned with dose reconstructions, 11  
17                  Part B finals, 1 part B approval, \$150,750  
18                  compensation.

19                  Lake Ontario Ordnance Works, 147  
20                  cases, 14 with dose reconstructions, 35 Part B  
21                  approvals -- I'm sorry -- 35 Part B final  
22                  decisions, 5 Part B approvals, 5 Part E

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 approvals, and \$1.16 million in compensation.

2 Blockson Chemical, 214 Part E and  
3 Part B cases, 121 returned with NIOSH dose  
4 reconstructions, 134 Part B final decisions,  
5 54 Part B approvals. AWE, so the Part E is  
6 not applicable and \$8.21 million in total  
7 compensation and medical payments.

8 Fifty-three cases for Part B only  
9 for the Norton Company. Two dose  
10 reconstructions were performed by NIOSH. We  
11 have had 10 Part B final decisions, 3  
12 approvals in Part B, and \$453,750 in  
13 compensation.

14 And the last is just a pie chart of  
15 the Part B cases that have been filed. Again,  
16 ones that have gone to NIOSH for dose  
17 reconstruction, 35 percent, SEC cases are 7  
18 percent, SECs never sent to NIOSH, 9, 11  
19 percent are RECA's, and the rest, the 38, which  
20 is the remainder, are the silicosis, the  
21 chronic beryllium disease, primarily those  
22 categories.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I think that should be it.

2 CHAIRMAN ZIEMER: Thank you, Jeff.

3 Let me ask a question about the  
4 last sets of statistics on the local plants  
5 here. Where you have indicated the numbers of  
6 cases and have shown them as Part B plus E, am  
7 I correct that you are only showing the Part  
8 E's where there's a radiation component or is  
9 this all Part E cases?

10 MR. KOTSCH: Well, it would be all,  
11 but when you have a B and an E, it is a DOE  
12 facility. When it is only an E, it is an AWE.

13 CHAIRMAN ZIEMER: But the E part  
14 includes all cases, whether or not --

15 MR. KOTSCH: Yes.

16 CHAIRMAN ZIEMER: Now, related to  
17 that, and maybe Larry would answer this, when  
18 we see the NIOSH statistics -- and you may  
19 have answered before, but I just don't  
20 remember -- are we only counting the Part B  
21 claims, or if it is a Part E with radiation  
22 dose reconstruction, does that get counted in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the statistics you are giving us?

2 MR. ELLIOTT: Our statistics show  
3 Part B claims, and if it is an E claim that is  
4 not Part B, I'm not sure what happens then.

5 MR. KOTSCH: Then you wouldn't have  
6 it.

7 MR. ELLIOTT: I wouldn't have it.

8 MR. KOTSCH: No.

9 MR. ELLIOTT: Its cancer-related  
10 claims come to us.

11 CHAIRMAN ZIEMER: You don't  
12 distinguish then?

13 MR. ELLIOTT: No.

14 CHAIRMAN ZIEMER: Okay.

15 MR. ELLIOTT: We don't distinguish  
16 between B --

17 CHAIRMAN ZIEMER: So what we are  
18 seeing as Part B could include Part E's that  
19 have a radiation dose reconstruction?

20 MR. ELLIOTT: Yes.

21 CHAIRMAN ZIEMER: Okay, thank you.

22 MR. KOTSCH: But, Paul, primarily,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 any Part B that has a positive dose  
2 reconstruction greater than 50 percent becomes  
3 an automatic Part E, and then there may be  
4 some additional on top of that.

5 CHAIRMAN ZIEMER: Other questions,  
6 Board members?

7 (No response.)

8 Apparently not.

9 Thank you very much, Jim.

10 MR. KOTSCH: Okay, thank you.

11 CHAIRMAN ZIEMER: We'll go ahead  
12 and take our break. It's just about five to  
13 3:00. We'll take our break a little earlier.  
14 We will give you just a few minutes longer  
15 than the 15. I'm not saying how much longer,  
16 but we will take our break. It won't go  
17 longer than 3:30. But if the Chair senses  
18 that we are ready to go earlier than that, we  
19 will.

20 (Whereupon, the above-entitled  
21 matter went off the record at 2:53 p.m. and  
22 resumed at 3:30 p.m.)

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   CHAIRMAN ZIEMER: We are ready to  
2 reconvene now. Thank you very much.

3                   Our next report is from our Mound  
4 Working Group, and the Working Group Chair for  
5 the Mound Working Group is Josie Beach. She  
6 has prepared a somewhat detailed report for us  
7 today. So we are going to give her the  
8 podium.

9                   Board members, you should also have  
10 a PowerPoint copy in your computer files there  
11 as well. There's probably also for the public  
12 copies on the table of this report, I believe.

13                  MEMBER BEACH: Yes, there are.  
14 There's a few available.

15                  CHAIRMAN ZIEMER: Before Ms. Beach  
16 starts the presentation, while you were out,  
17 we added some paper to your stack and just  
18 want to call attention to the fact that Stu  
19 Hinnefeld has distributed copies of the  
20 potential cases for the 12th group of dose  
21 reconstruction reviews from which the Dose  
22 Reconstruction Subcommittee will be asking

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 some Board input.

2 Mark, I guess when you do your  
3 report, you will talk a little more about  
4 this.

5 But I want to make everyone aware  
6 that there's two packets here. You can make  
7 sure you have both packets. They are just two  
8 sorts, I believe, on the same group of cases.

9 So make sure you have those. That will be on  
10 our agenda during the Board's work group, I  
11 believe it's Wednesday, yes.

12 The plain brown envelope is your  
13 reward from the Department of Energy.

14 MEMBER MELIUS: This is the plain  
15 brown envelope.

16 CHAIRMAN ZIEMER: It's below the  
17 minimal criteria. It's two free booklets for  
18 all your work done. No, the DOE has prepared  
19 some things, and perhaps Dr. Worthington will  
20 say something about that as well during her  
21 presentation.

22 So let's hear from Ms. Beach now.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   MEMBER    BEACH:           Okay.           Good  
2           afternoon.   I'm happy to be here to have the  
3           opportunity to share with you the Mound SEC  
4           petition review.

5                   The Mound Work Group has made  
6           substantial progress over a spectrum of  
7           difficult issues.   Mound spanned a 50-year  
8           history that involved an alphabet soup of  
9           radionuclides over that history.

10                   NIOSH's roadmap has helped a great  
11           deal.   Most key issues are coming down to  
12           fundamental questions on how surrogate data  
13           should be applied, how models should be used,  
14           and the place of actual measurements, and  
15           whether sufficient site information exists to  
16           support dose reconstruction.   This may require  
17           a Board judgment in the end.

18                   The Work Group is now in the end  
19           game.   We will be pushing for closure where we  
20           can and addressing any remaining information  
21           gaps over the next couple of months.

22                   Okay, this is a brief review of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Mound's SEC petition history. Two petitions  
2 were qualified, one on August 17th, 2007 and  
3 the other, 091, qualified September of 2007.  
4 Those were merged.

5 NIOSH issued its evaluation report  
6 on December 19th of 2007. January 8, 2008,  
7 the evaluation report was presented at the  
8 Advisory Board meeting. The Work Group was  
9 formed. SC&A was authorized to begin its  
10 review.

11 The Work Group is myself as chair.  
12 We have Brad Clawson, Bob Presley, Phil  
13 Schofield. Paul Ziemer serves as our  
14 alternate.

15 The Work Group has met four times  
16 over the past two years, and we have had a  
17 couple of additional conference calls.

18 February 25th, SC&A identified 21  
19 potential SEC issues. Some of those have  
20 since been combined.

21 The next two slides are an overview  
22 of the Mound SEC issues. The issues were

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 largely derived from SC&A site profile review.

2 Issue 20 and 21 were secondary  
3 issues from the matrix. Both of these  
4 required more clarification.

5 This slide represents the five  
6 issues that have been closed by the Work Group  
7 to date.

8 Okay. Issue 5 is concentrations of  
9 plutonium-240, -241, and -242. They addressed  
10 whether monitoring data for plutonium-239  
11 would envelope trace isotopes such as  
12 plutonium-240 and -241.

13 NIOSH was able to demonstrate the  
14 ratios could be used for other plutonium  
15 isotopes to enable dose reconstruction.

16 SC&A questioned the use of  
17 plutonium as a marker for estimating exposure  
18 to fission and activation products.

19 SC&A agreed that there was a  
20 question regarding the relative concentrations  
21 of isotopes, but they did feel this would  
22 develop into a site profile issue. The Work

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Group agreed with both NIOSH and SC&A. We  
2 closed the issue July 14th of 2008.

3 I need to get the hang of switching  
4 pages and the clicker here.

5 Issue 17 questioned whether  
6 monitored workers were the most highly  
7 exposed. NIOSH's position is that, since all  
8 workers entering radiation-controlled areas  
9 were required to wear dosimeters, those  
10 receiving the highest dose were monitored.

11 SC&A questioned whether the cohort  
12 badging in the early years could rule out  
13 without any evidence to the contrary. While  
14 NIOSH was unable to locate a documented  
15 badging policy, they did look for one. They  
16 did find documentation exists that indicates  
17 the badging was required.

18 SC&A interviews with former Mound  
19 workers corroborated NIOSH's position that all  
20 workers entering radiation areas were badged.

21 The Work Group tested the badging  
22 hypothesis by reviewing potential exposure of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 non-badged workers in ostensibly non-  
2 radiological buildings, without confirming any  
3 such exposures occurred.

4 However, there are some broader  
5 concerns over the adequacy and completeness of  
6 bioassays, and those will be covered in a  
7 later slide.

8 The Work Group did close this issue  
9 on May 28th of 2009.

10 For combined issues 18 and 19,  
11 external dose data adequacy, completeness, and  
12 integrity, Mound utilized a MESH database to  
13 serve as primary electronic repository for  
14 radiation exposure records.

15 SC&A analyzed 22 cases for data  
16 adequacy. In this limited sampling, it was  
17 found that workers that should have had doses  
18 recorded had doses recorded for the most part,  
19 and that there were some gaps, but no long  
20 periods when a worker should have had a dose  
21 record but did not. And for data completeness  
22 and integrity, they found no significant

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 errors in the transfer of that data.

2 In the limited sampling of 22  
3 cases, SC&A did not find anything that would  
4 point to a serious problem. The Work Group  
5 agreed with SC&A's findings and closed both  
6 issue 18 and 19 on May 27th, 2009.

7 Matrix item 20 covers ambient  
8 environmental internal radiation dose  
9 contributors. The evaluation report states  
10 that Mound did not generally experience  
11 significant site wide ambient contamination,  
12 and that there was less concern about the  
13 potential for internal dose related to ambient  
14 working conditions.

15 SC&A cited a secondary concern  
16 regarding the wording of the evaluation report  
17 in light of history of onsite contamination.  
18 Clarification was needed regarding how dose  
19 reconstruction would be handled.

20 The Work Group accepted NIOSH's  
21 practice of a maximum value being derived from  
22 Mound's occupational environmental ambient

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 dose and NIOSH's offer to remove the statement  
2 from the evaluation report that states Mound  
3 did not experience site wide ambient  
4 contaminations. The Work Group closed this  
5 item on May 28th, 2009.

6 So we are moving on now into the  
7 open items, starting with issue 16. This  
8 covers shallow dose beta/low-energy photon  
9 exposures from polonium processing,  
10 plutonium-238, and other radionuclides.

11 In its evaluation report, NIOSH  
12 indicates that the design of the T-building  
13 processing areas controlled beta dose rates to  
14 a significant extent. The site, therefore,  
15 did not record beta dose.

16 NIOSH is confident that it can  
17 bound dose, if necessary, using n/p ratios.  
18 This is actually beta-to-gamma ratios. This  
19 was later clarified by NIOSH.

20 SC&A commented that sufficiently-  
21 accurate dose metric methods had not been  
22 demonstrated for all sources, locations, and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 time periods.

2 NIOSH recommends assigning shallow  
3 dose as a function of ratio of photon recorded  
4 doses for certain workers for certain time  
5 periods.

6 The proposed approach provides a  
7 more claimant-favorable approach than that  
8 outlined in the evaluation report and bridges  
9 the Mound source terms, locations, and time  
10 periods that were not addressed specifically.

11 This issue is close to being closed  
12 with the delivery of requested action items  
13 from NIOSH during our last work group meeting,  
14 those being a response to SC&A's White Paper,  
15 and also, NIOSH needs to extent the approach  
16 from 1979 until the DOELAP accreditation  
17 period in 1989. This is to ensure adequate  
18 shallow dose estimation was being  
19 accomplished.

20 Issue 2 covers indoor radon-219,  
21 -220, and -222. This is airborne  
22 concentrations in the SW and other buildings.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           The evaluation report concludes  
2 that available radon air concentration data  
3 from 1979 until 2000 can be used to derive the  
4 WLM values, as provided in table 7-2 of the  
5 ER.

6           SC&A questioned whether the  
7 elevated radon levels were limited to the SW  
8 process areas and whether the very limited  
9 measurements prior to 1980 provided a valid  
10 basis to estimate an upper bound dose for  
11 radon, given the expected variability due to  
12 location, operations, and weather conditions.

13           A confounding issue is that  
14 radon-222 was not the sole source of radon  
15 exposure; -220 and -219 were also present in  
16 appreciable quantities.

17           NIOSH's latest proposal is to use  
18 air monitoring data from the occupational  
19 period in the 1950s to bound doses for later  
20 exposures. SC&A has questioned whether this  
21 satisfies the Board's surrogate data criteria.

22           The Board's proposed surrogate data

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 policy is somewhat different from NIOSH's  
2 surrogate data OTIB. This issue may end up  
3 before Dr. Melius' group in the end. That's a  
4 heads-up for you.

5 We have combined matrix issues 1,  
6 3, 4, 7, and 8. This covers exposure to  
7 secondary and other radionuclides.

8 Questions have been raised  
9 regarding potential exposures to radionuclides  
10 other than the primary Mound source terms,  
11 plutonium, polonium, and tritium, and whether  
12 exposures to these secondary sources was  
13 adequately monitored.

14 Issues involving to what extent  
15 doses were adequately monitored and recorded  
16 for various radionuclides, including radium,  
17 actinium, thorium, americium, cesium,  
18 neptunium, transuranics, uranium isotopes, and  
19 fission activation products, are being  
20 addressed by NIOSH's generated roadmap.

21 That identifies radionuclides by  
22 location, date, and available monitoring as a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 means of ascertaining whether all relevant  
2 exposure source terms have been adequately  
3 accounted for. The final version of that is  
4 being reviewed by the Work Group.

5 The bottom line will be whether the  
6 adequacy and completeness of bioassay  
7 practices can be established. Some of this  
8 will end up being settled in response to issue  
9 11 regarding adequacy of gross alpha  
10 monitoring.

11 Issue 6, interpretation of tritium  
12 bioassay data and exposure to stable metal  
13 tritides. Most of the tritium exposure at  
14 Mound was assumed to be related to uptake of  
15 tritiated water, HTO, which was routinely  
16 monitored.

17 However, questions have been raised  
18 regarding the exposure to other tritium  
19 compounds and the evaluation report's position  
20 that NIOSH can bound doses from stable metal  
21 tritides.

22 SC&A has provided a White Paper.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Technical calls have been held, and NIOSH is  
2 in the process of preparing a response.

3 This is a generic question at a  
4 number of DOE sites. The issue is coming down  
5 to whether the potentially-exposed worker  
6 populations can be defined as well as a  
7 bounding approach for dose estimation.

8 Concerns exist over plausibility of  
9 applying OTIB-066 if the simplifying  
10 assumption is made that attributes to all  
11 tritium results in urine due to tritides.

12 Issue 9, evaluation of high-fired  
13 ceramic plutonium-238 and uranium. Questions  
14 have been raised regarding the ER's treatment  
15 of relative insolubility of high-fired  
16 plutonium-238 at Mound. Agreement has been  
17 reached through the Work Group process that a  
18 special solubility type for plutonium-238 did  
19 exist at Mound and that the phenomenon likely  
20 can be conceptually described in a bounding  
21 solubility-based urine excretion model.

22 However, while agreeing that such a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 model can be developed, SC&A has questioned  
2 whether it can be shown to bound exposures at  
3 Mound. This issue seems to be hinging on what  
4 solubility type will be a bounding one, based  
5 on reviews of Mound's urinalysis data. It  
6 does appear that this can be bounded, but it  
7 is not settled yet.

8 In terms of proof of principle,  
9 NIOSH has agreed to provide sample dose  
10 reconstructions to demonstrate how any  
11 perspective bounding approach would be  
12 implemented in practice.

13 Issue 10 is the D&D era bioassay.  
14 This issue was originally deferred in the ER  
15 to permit further investigation by NIOSH of  
16 bioassay program-related issues related to  
17 Price-Anderson enforcement action in the  
18 1990s.

19 Evidence exists that worker  
20 exposure to residual contamination from  
21 sources generated during the life of the  
22 plant, particularly during D&D activities for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 which bioassay was not performed or in the  
2 case of actinium-227, performed adequately.

3 The Work Group requested that SC&A  
4 highlight its D&D concerns in a memo form for  
5 NIOSH's response. SC&A has not researched  
6 this issue, but based on the site profile  
7 review, has concerns over the use of lapel  
8 samplers as an indicator for follow-up  
9 bioassay.

10 The memo was delivered, I believe,  
11 to DOE on June 17th, and everybody should have  
12 that already.

13 Issue 11 covers data adequacy of  
14 internal dose records. In its evaluation  
15 report, NIOSH found that the available  
16 monitoring records, process descriptions, and  
17 source term data available are sufficient to  
18 complete dose reconstruction for the proposed  
19 class with the exception of actinium-227,  
20 thorium-228, and radium-226 from February 1st,  
21 1949 through August 17th, 2007. Pardon me,  
22 that should be '59.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           SC&A questioned the effectiveness  
2           and reliability of historic radiochemistry  
3           methods for interpretation of bioassay data.  
4           In the 1950s and into the sixties, bioassay  
5           techniques were pretty primitive.       The  
6           question is, how does NIOSH account for issues  
7           of reliability of such early techniques such  
8           as gross alpha analysis?   The Work Group has  
9           requested NIOSH review of SC&A's White Paper  
10          on the issue.

11           Issue 12 and 13 cover data  
12          integrity and completeness of internal dose  
13          records.   Again, the first bullet on the last  
14          slide is the same as this bullet, although it  
15          does need to say 1959 instead of 1949.

16           So, going to the second bullet, the  
17          Work Group requested that SC&A validate the  
18          radionuclide data other than plutonium and  
19          polonium are sufficiently complete, reliable,  
20          and available in the databases and individual  
21          exposure records.

22           SC&A's White Paper was provided

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 April 2nd, 2009, and the Work Group has  
2 requested NIOSH's review of the SC&A White  
3 Paper.

4 Some questions remain from SC&A and  
5 the Work Group regarding whether records  
6 pertinent to dose reconstruction were buried  
7 at LANL and NTS.

8 I understand SC&A will be at OSTI  
9 in August for other reasons and plans to do  
10 some limited sampling of these records that do  
11 exist in their holdings.

12 Issue 14 and 15 address neutron  
13 doses from polonium, plutonium, and other  
14 radionuclides.

15 Workers were exposed to a wide  
16 spectrum of neutron energies from different  
17 sources and operations. NTA film was used for  
18 neutron dosimetry from 1949 through 1977.  
19 After 1977, TLDs were used.

20 NTA film had a number of  
21 limitations, including a 0.5 MeV threshold,  
22 decreased response below 1 MeV, and also track

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 fading.

2 NIOSH proposed threshold correction  
3 factors generated by MCNP modeling, and I  
4 understand that is Monte Carlo Nuclear  
5 Program.

6 Questions remain regarding the  
7 application of generalized MCNP models for  
8 lower energy neutrons and demonstration of a  
9 valid coworker model. The Work Group has  
10 requested a memo report from SC&A and a NIOSH  
11 response.

12 By generalization, we mean that the  
13 model is based on assumed general parameters  
14 that reflect Mound operations, but no actual  
15 parameters measured at the site. It is not  
16 clear how NIOSH can demonstrate bounding dose  
17 without inclusion of real limiting parameters.

18 Issue 21 encompasses PAAA concerns  
19 regarding the 1991 actinium-227 urine samples.

20 The evaluation report indicates that during  
21 the interview with former Mound workers a  
22 concern was raised regarding the actinium-227

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 urine bioassay samples collected from  
2 employees involved in the 1991 R-building  
3 Corridor 5 D&D job.

4 The root of the concern is that  
5 these samples were not analyzed for a number  
6 of years and there were quality assurance  
7 problems with them, all of which resulted in  
8 Price-Anderson violations.

9 The Work Group directed both NIOSH  
10 and SC&A that have evaluated the bioassay  
11 program implications of specific PAAA issues  
12 for dose reconstruction. All issues have been  
13 dispositioned other than those related to  
14 bioassay adequacy itself.

15 And this issue is close to being  
16 closed with a few close-out actions requested  
17 by the Work Group. We have asked NIOSH to  
18 answer the three questions from SC&A's April  
19 White Paper.

20 Next steps:

21 So the Work Group is waiting for  
22 NIOSH's response. I have already mentioned

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 several of them. But, in quick summary, we  
2 are looking for responses to SC&A White Papers  
3 on stable metal tritides, high-fired  
4 plutonium-238, adequacy and completeness of  
5 internal dose records.

6 Both NIOSH and SC&A are actively  
7 working the tritides issue. The Work Group is  
8 to address final radionuclides roadmap. We  
9 are also going to review plausibility of  
10 proposed radon dose reconstruction. NIOSH to  
11 provide analysis of the D&D issues, and the  
12 Work Group to review plausibility of proposed  
13 neutron dose reconstructions.

14 Board members, if you want any  
15 additional information on any of the open  
16 items, send an email to me. I can send you  
17 the latest White Papers of any of those.

18 This was just meant to be an  
19 update, informational, of where the Work Group  
20 is at this time.

21 Although I didn't tell them I was  
22 going to do this, any of the Work Group

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 members have anything to add?

2 (No response.)

3 Okay.

4 CHAIRMAN ZIEMER: Thank you very  
5 much, Josie, for a very good overview of the  
6 Working Group's activities over the past year  
7 or more than the past year.

8 MEMBER BEACH: Two years.

9 CHAIRMAN ZIEMER: Before you leave  
10 the podium, we may have time for some  
11 questions, but let me point out we have I  
12 think maybe two Board members who are  
13 conflicted on Fernald.

14 MEMBER BEACH: Mound.

15 CHAIRMAN ZIEMER: Mound. All those  
16 Ohio sites look alike, don't they?

17 (Laughter.)

18 On Mound, and under the conflict-  
19 of-interest rules, they are allowed to listen  
20 to the reports, and so on. If the discussion  
21 moves into what we might call actions or  
22 recommendations to the Work Group or tasking

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of the contractor, or any of those kinds of  
2 things, they would have to recuse themselves  
3 and leave the table.

4 But let me ask our Designated  
5 Federal Official, are the conflicted members  
6 allowed to ask questions, if they had  
7 questions?

8 I am going to open the floor for  
9 questions, and I think this is questions on  
10 the report. So it seems to me that they  
11 could, but let's find out.

12 MR. KATZ: I think it would be  
13 better if they just refrained from asking  
14 questions whatsoever. I mean I am not sure  
15 what the parameters are. I realize you are  
16 probably thinking, if they are asking  
17 questions of just clarification for what was  
18 said, I think that would probably be okay, if  
19 it is just clarifications. But you wouldn't  
20 want to ask a leading question of any kind  
21 that could lead to some sort of action.

22 CHAIRMAN ZIEMER: Okay, we have to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 tread carefully here.

2 In any event, we do want to open  
3 the floor for questions.

4 I did want to ask for clarity. I  
5 believe the slide that you presented I think  
6 was correct. Slide 12, you mentioned adequacy  
7 of monitoring of various radionuclides. I  
8 believe cesium was mentioned, but I believe  
9 you perhaps meant curium. I think the slide  
10 itself showed curium. So, just for the  
11 record --

12 MEMBER BEACH: That was probably my  
13 mistake.

14 CHAIRMAN ZIEMER: I think it was  
15 slide 12. I just made a note.

16 MEMBER BEACH: Yes.

17 CHAIRMAN ZIEMER: Just for the  
18 record, I believe the one in question was  
19 curium rather than cesium.

20 MEMBER BEACH: Okay, thank you.

21 CHAIRMAN ZIEMER: And you already  
22 pointed out the date corrections on those.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Board members, are there questions  
2 or clarifications?

3 We had asked some of the Work  
4 Groups, such as the Mound Work Group, to  
5 periodically give us updates, particularly  
6 these complex sites where there is a lot of  
7 issues, and we don't want to wait until sort  
8 of the very end of the process to keep the  
9 Board apprised of what the issues are and how  
10 they are being resolved.

11 Dr. Melius?

12 MEMBER MELIUS: Yes. I'm not one  
13 of the conflicted members.

14 MEMBER BEACH: And I do want to  
15 point out that both Brant and Joe are  
16 available for any technical questions.

17 MEMBER MELIUS: No, this is a time  
18 question. How much longer?

19 MEMBER BEACH: Well, I understand  
20 that we're shooting for October, but I think  
21 that we're not going to quite be ready by  
22 October. So I'm not sure right now at this

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 point when the next Board meeting is, but I  
2 don't believe we will be ready in October.

3 When is the next one after that?

4 MR. KATZ: The next face-to-face  
5 Board meeting is February after October.

6 MEMBER BEACH: Okay. We're going  
7 to hope for February at this time, Dr. Melius.

8 MEMBER MELIUS: Okay, thank you.

9 CHAIRMAN ZIEMER: Other questions?

10 (No response.)

11 If not, thank you very much, Josie.

12 We appreciate the update.

13 MEMBER BEACH: You're welcome.

14 CHAIRMAN ZIEMER: I am having a  
15 little sidebar conference here. We have the  
16 DOE report up next, but one of the individuals  
17 that is en route to the meeting to participate  
18 in this is Glenn Podonsky. Perhaps we can  
19 look ahead for a minute and delay the DOE  
20 presentation at least a little bit.

21 Okay. Then I think let's look  
22 ahead at some business items that we can

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 handle, and perhaps delay, since we are ahead  
2 of schedule here, and give Mr. Podonsky time  
3 to arrive here to the meeting.

4 So we will just take a brief  
5 timeout here while we confer.

6 (Whereupon, the above-entitled  
7 matter went off the record at 3:59 p.m. and  
8 resumed at 4:00 p.m.)

9 CHAIRMAN ZIEMER: Mark was  
10 volunteering Dr. Neton for the science update,  
11 but we're not going to do that to you, Jim.

12 I'm looking ahead to the Board  
13 working time things. Let me introduce an  
14 item. We may not fully deliberate on it right  
15 now, but I want the Board members to be  
16 thinking about it.

17 That is the item called Transcript  
18 Reviews. Let me introduce sort of what the  
19 issues are and then get some input.

20 We have transcripts made of the  
21 full Board meetings as well as transcripts of  
22 our work groups and our subcommittees. These

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 transcripts, when you realize they are  
2 verbatim for, in the case of the Board  
3 meetings, up to three days of talking, they  
4 are very long. There are a lot of names and a  
5 lot of terminology which, as people speak, are  
6 not always clear, sometimes not clear to the  
7 listeners and sometimes not clear to the court  
8 reporters.

9 In the interest of accuracy, we  
10 have a process put in place where we are going  
11 through the Board transcripts in some greater  
12 amount of detail than in the past.

13 We have one of the NIOSH staff  
14 consultants who is going through those and  
15 looking for various kinds of editorial errors.

16 We know there are not errors in what Board  
17 members have said, but sometimes there are  
18 errors in what is recorded. So that is what  
19 she is doing.

20 Then the Chair has to certify that  
21 these are accurate copies or accurate  
22 renditions of what was said. That is even

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 more difficult because I am not allowed to  
2 remove any dangling participles that might  
3 have been in your speech, but I can correct  
4 editorial comments and technical words, and so  
5 on.

6 Then we also have the redaction  
7 process, which is also now in place, as well  
8 as the DOE security type of review. So there  
9 are different levels of review, all of which  
10 are taking more time for the transcripts,  
11 amidst the pressure from various constituents  
12 to have those transcripts out there rapidly.  
13 But we are trying to keep these things timely.

14 So I think we're okay on the Board  
15 transcripts in that regard, unless some other  
16 Board members wish to be in the loop as well  
17 and have additional input, but I'm not  
18 volunteering you for that.

19 However, there is a separate set of  
20 transcripts that does not get quite that level  
21 of review, particularly technical review.  
22 Those are the transcripts of the work groups

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and of the subcommittees.

2           When this question came up recently  
3 by a member of the public who was concerned  
4 about the technical accuracy and transcription  
5 of those minutes or those deliberations, I  
6 suggested that perhaps the Chairs of the work  
7 groups and the subcommittees would have to  
8 take on that responsibility. I, as the Chair  
9 of the Board, do not want to review work group  
10 minutes, particularly work groups where I was  
11 not in attendance, and certify their accuracy.

12           Actually, we don't have to certify those, but  
13 we do want them to be accurate, I believe is  
14 the case, or does somebody certify those work  
15 group minutes?

16           MR. KATZ: Let me just make a  
17 clarification. That is, there is a difference  
18 between subcommittees and work groups. The  
19 subcommittees, actually, are under the same  
20 requirement as the full Board. So we have two  
21 subcommittees and those chairs review those  
22 transcripts, just as does the Chair for the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Board.

2 But the work groups, you are  
3 correct, that's a completely different  
4 situation. It's completely voluntary, the  
5 whole operation, in effect, transcripts and  
6 all. At this point, we don't have work group  
7 chairs reviewing these.

8 CHAIRMAN ZIEMER: Anyway, what I  
9 would like to have you consider, work group  
10 chairs, is whether or not you shouldn't review  
11 your work group transcripts before they go on  
12 the website.

13 I'm talking about reviewing them  
14 mainly for technical accuracy because we have  
15 found in a number of cases that there were  
16 words that were not technically correct in  
17 those transcripts. Sometimes it is because  
18 what was said by the speaker is not always  
19 clear to the transcriber. Sometimes it may be  
20 a technical term that is not familiar. I have  
21 seen cases where I didn't know what was going  
22 on myself because, I hate to admit it, but I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 don't know everything, either. So I didn't  
2 know what Brad was talking about one time --  
3 well, at least one time.

4 (Laughter.)

5 In fair amount, I didn't know the  
6 security jargon that he was using. So these  
7 have to be reviewed to make sure that they are  
8 correct.

9 Anyway, work group chairs, give me  
10 your feedback. Are you willing to review your  
11 work group transcripts before they go online?

12 I don't think we are sort of legally required  
13 to certify these as being accurate, and they  
14 are, in a sense, accurate in terms of what the  
15 transcriber heard, but there is this technical  
16 accuracy issue.

17 Okay, Josie?

18 MEMBER BEACH: I actually think  
19 that it makes more sense to have the work  
20 group chairs review those than to have or ask  
21 you to burden yourself with reviewing those.  
22 So I am for the work group chairs doing that.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN ZIEMER: Dr. Melius?

2 MEMBER MELIUS: Can the work group  
3 chair appoint another member of the work  
4 group?

5 (Laughter.)

6 CHAIRMAN ZIEMER: Actually, I  
7 believe that would be fine. I think the issue  
8 is, will somebody review those transcripts for  
9 accuracy from a technical point of view or  
10 identify if the word is supposed to be  
11 betatron, it doesn't come out megatron, or  
12 something like that, you know?

13 MEMBER BEACH: Paul, I guess my  
14 next question would be, what kind of a timely  
15 manner would that have to be completed in?

16 MR. KATZ: Well, with all of these,  
17 we try to get these out as soon as possible.  
18 Some of the work groups meet more frequently  
19 certainly than the full Board. So sometimes  
20 it is more pressure to get these done, but  
21 there's no legal requirement in terms of  
22 timeliness for the work group transcripts.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   CHAIRMAN ZIEMER:       But, as a  
2 practical matter, often the petitioners are  
3 interested in those proceedings in terms of  
4 understanding what went on in the work group,  
5 particularly at meetings where they have not  
6 had the capability of being present or even  
7 sometimes participating by phone.

8                   So, to some extent, the absence of  
9 the proceedings may be seen as a handicap for  
10 petitioners in terms of their knowledge of  
11 what the work group has done or is doing.

12                   Any other input on that?

13                   Yes, Wanda Munn.

14                   MEMBER MUNN: This is not a simple  
15 task you're asking about.

16                   CHAIRMAN ZIEMER: I just want to  
17 point out that, except for those that have  
18 two-day subcommittee meetings or work group  
19 meetings, it's not as bad as a three-day Board  
20 meeting.

21                   MEMBER MUNN: Well, that's true,  
22 but, by the same token, for those who are

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 chairing more than one work group, we are not  
2 just asking somebody to just take a look at  
3 something, give their thumbs-up, and put it on  
4 the web.

5 In past years, the amount of time  
6 that lapsed between the meeting itself and the  
7 production of the transcripts was significant  
8 enough that it created a real problem, I  
9 think, in even considering this. We no longer  
10 have that serious an issue.

11 But it would seem that we might  
12 want to think seriously about how formal we  
13 wanted to be in this kind of review. If you  
14 are fortunate enough to be able to have the  
15 transcript of your work group meeting prior to  
16 the actual beginning of the next work group,  
17 then that is very helpful for the Chair from a  
18 variety of positions, not the least of which  
19 is there's no better way to check your open  
20 action items than to be able to review your  
21 meetings from the past, your minutes of the  
22 past meeting.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           If that is not able to be done,  
2           however, then I guess my concern is very much  
3           the same focus as I suspect the basis of  
4           Josie's question was, the time element  
5           involved. If we are talking about doing this  
6           in a manner that our members can manage to  
7           work into their already-overcrowded schedules,  
8           then possibly. So, from my perspective, it  
9           would be a serious mistake to try to place a  
10          very restrictive time element on individuals  
11          we are asking to review these.

12                   CHAIRMAN ZIEMER: I believe, Ted,  
13           you said for the subcommittees there is a  
14           legal requirement for certification. So that  
15           burden I guess is already falling on the  
16           Chairs of our two subcommittees. So that is  
17           kind of a done deal, as are the main minutes,  
18           which fall on me to certify. So it is mainly  
19           the work groups that we are talking about  
20           here.

21                   We don't have to come to final  
22           decision on this, but perhaps I will defer any

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 formalization of a policy until our work time  
2 Wednesday, but I at least wanted the work  
3 group chairs, which is most of you are  
4 chairing at least one work group, if not more,  
5 as Wanda mentioned, that perhaps we formalize  
6 the policy of who is going to do this.

7 I don't think we have to specify  
8 the time, although we could have a goal. I  
9 think we have a goal on our regular minutes in  
10 terms of the time to get them out and onto the  
11 website. I don't recall -- what? -- it is 45  
12 days, which is a push to meet really,  
13 particularly with the Privacy Act reviews as  
14 well as the security reviews, plus the  
15 editorial stuff. It is a push to get it out.

16 Any other comments or words of  
17 insight?

18 (No response.)

19 Okay. Ted, do we have time to look  
20 at future meetings dates now? Am I catching  
21 you off guard? We can do that now. Let's do  
22 that.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           MR. KATZ: So, for future meetings,  
2 one thing I wanted to confirm, we talked about  
3 for our February face-to-face meeting in  
4 Redondo Beach, which is relevant for Santa  
5 Susana in terms of proximity. That is  
6 available to us. I mean we have checked with  
7 the hotel there, and that is a possibility.

8           The only question I just wanted to  
9 raise was whether we are settled on that being  
10 the right location. At some point, it seems  
11 like there are a number of sites in northern  
12 California. I don't know whether the Board  
13 wants to consider for that or for a different  
14 upcoming meeting revisiting northern  
15 California. I know the Board has been out  
16 there, it seems like it was quite some time  
17 ago, unless I missed -- I am not aware of a  
18 meeting that happened in between.

19           So that is just a question I want  
20 to raise before we finalize and go forward  
21 with committing to Redondo for February, if we  
22 are going to do that.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN ZIEMER: Dr. Melius?

2 MEMBER MELIUS: My recollection on  
3 northern California, I agree we haven't been  
4 there in a while, but there wasn't a lot of  
5 interest when we were out there. It is hard  
6 to get a location, a good location there, but  
7 there may be more now. It is just hard to  
8 gauge, or hard to gauge at any of these sites,  
9 actually.

10 CHAIRMAN ZIEMER: Well, we  
11 certainly know there's a lot of interest on  
12 the Santa Susana issue.

13 MEMBER MELIUS: Right.

14 CHAIRMAN ZIEMER: Where are we  
15 timing-wise in terms of being ready to address  
16 that at that meeting? Is everything falling  
17 into place in terms of all the tasking and the  
18 reviews? Is that you, Mike? So we're okay  
19 time wise there?

20 MEMBER GIBSON: Should be close,  
21 yes.

22 CHAIRMAN ZIEMER: Yes. Okay. This

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 is February 9th through 11th in -- what's the  
2 airport? The closest is Los Angeles. Okay,  
3 so I think we keep that, it sounds like.

4 MR. KATZ: So the next meeting of  
5 interest is a face-to-face meeting May 19th  
6 through 21st. We haven't talked about  
7 location for that.

8 Since our next face-to-face meeting  
9 is October, we don't have to deal with it.  
10 There's going to also be a teleconference of  
11 the Board scheduled in between now and then,  
12 but if there are ideas about that at this  
13 point, it would be good to hear them.

14 CHAIRMAN ZIEMER: We also need to  
15 be thinking about a meeting somewhere along  
16 the line in Washington, D.C. I don't know how  
17 much we are concerned about tying that in with  
18 a bearable weather pattern, but May is not too  
19 bad in terms of heat and humidity. But, in my  
20 mind, we are overdue for a meeting in the  
21 nation's capital, where we may have the  
22 interest of a variety of folks.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   MEMBER MUNN:       That is probably  
2 true.

3                   CHAIRMAN ZIEMER:       Or other  
4 suggestions? We don't have to make the  
5 decision now, but we want to get some ideas on  
6 the table. Any of the work groups that  
7 believe that it's critical to meet in a  
8 certain area related to your site, you can  
9 also suggest.

10                  MEMBER MELIUS:    I don't want to  
11 suggest it for February, but May in the  
12 Buffalo area. We've got Linde and --

13                  MR. KATZ:    February in Buffalo?

14                  MEMBER MELIUS:    I said May. May.

15                               (Laughter.)

16                  We would have time to review the  
17 transcript before we got out of there.

18                               (Laughter.)

19                  CHAIRMAN ZIEMER:    Let the record  
20 show he does not mean February.

21                               (Laughter.)

22                               Any others?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   MEMBER MUNN:   Where are we likely  
2                   to be with LANL by that time?

3                   CHAIRMAN ZIEMER:   LANL?   I think it  
4                   is premature, would be my impression on LANL.

5                   Joe, do you agree?

6                   Let the record show that Joe  
7                   Fitzgerald from SC&A says we will not be  
8                   ready.   SC&A thinks they will be ready, but I  
9                   don't sense that we will be ready.

10                  MR. FITZGERALD:   I was just here  
11                  last week and did a round of interviews.   I  
12                  think that might be a little tight.

13                  CHAIRMAN ZIEMER:   I believe so.

14                  MR. FITZGERALD:   I would think, at  
15                  the earliest it would be the meeting after  
16                  that.

17                  CHAIRMAN ZIEMER:   Yes.   Thank you.

18                  Okay, we have a couple of  
19                  suggestions for May.   We don't have to come to  
20                  closure now.

21                  Any others?

22                  (No response.)

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   Okay.

2                   MR. KATZ:   Just to note, I was just  
3 reminded that, if it were to be in the D.C.  
4 area, that's a very difficult area, actually,  
5 to do without doing it far in advance.

6                   MEMBER MELIUS:   And May is a  
7 particularly --

8                   MR. KATZ:   And May is a busy time  
9 there.

10                  MEMBER MELIUS:   Yes.

11                  CHAIRMAN ZIEMER:   I think one of  
12 the problems with May is we're still getting  
13 into high school tours and student tours and  
14 things of that sort, although many of them are  
15 more into the April area.   But I'm not sure  
16 there's any good time in D.C. as far as  
17 competing with other things.

18                  MEMBER MELIUS:   And if we go into  
19 suburban areas where you can get cheaper  
20 accommodations, you sort of defeat the purpose  
21 of doing a meeting there.

22                  MEMBER MUNN:   Late November is

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 always fun.

2 (Laughter.)

3 MR. KATZ: Moving on, then I have  
4 teleconference dates to set, too. I will just  
5 note that we had talked at a previous Board  
6 meeting about the summer meeting for that  
7 year, next year, possibly going to INL, since  
8 that's one of the few times in the year when  
9 you can get there and back.

10 (Laughter.)

11 So I'm keeping that as tentatively  
12 sort of penciled in as a possibility.

13 CHAIRMAN ZIEMER: I think that  
14 would be a good idea.

15 MEMBER MELIUS: We can rent snow  
16 mobiles in Buffalo in May.

17 (Laughter.)

18 MR. KATZ: And go straight there.

19 But we need to schedule a  
20 conference call, one in July, and I've just  
21 put a question mark -- around the week of the  
22 15th is about the right timing, but I don't

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 know whether that week works or one adjacent  
2 in either direction.

3 CHAIRMAN ZIEMER: Let's ask if  
4 there's any conflicts the week of July 15th  
5 that would preclude members from participating  
6 in a phone conference call. Any bad days  
7 during that week that are known?

8 MEMBER MUNN: During July 15th?

9 CHAIRMAN ZIEMER: The week of July  
10 15th.

11 MEMBER ROESSLER: Let's check the  
12 Health Physics Society meeting.

13 CHAIRMAN ZIEMER: The Health  
14 Physics Society meeting.

15 MEMBER ROESSLER: The Health  
16 Physics meeting is June 27th through July --

17 CHAIRMAN ZIEMER: We're okay then,  
18 July 15th, for that meeting.

19 MEMBER MELIUS: Where is it?

20 MEMBER ROESSLER: Salt Lake City.

21 CHAIRMAN ZIEMER: Okay. So, Ted,  
22 let's pick out a date for that tentatively and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 get it on people's calendars.

2 MR. KATZ: How about Wednesday?

3 CHAIRMAN ZIEMER: Wednesday, the  
4 what? What is it? Who has the calendar out?

5 MEMBER MUNN: The 14th.

6 CHAIRMAN ZIEMER: The 14th? This  
7 is July 14th.

8 MR. KATZ: Bastille Day.

9 CHAIRMAN ZIEMER: Ted, you've also  
10 asked about an October conference call  
11 meeting?

12 MR. KATZ: Right, and then the  
13 right timing is about the week of the 7th in  
14 October. So are there any days that week that  
15 don't work for any members already?

16 MEMBER MELIUS: What week is that  
17 again?

18 MR. KATZ: The week of October 7th.

19 MEMBER MUNN: What, 2010?

20 CHAIRMAN ZIEMER: The week of  
21 October 7, any bad dates?

22 MEMBER MUNN: Well, the 7th is a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Thursday.

2 CHAIRMAN ZIEMER: Yes. So I guess,  
3 Ted, that would be the week surrounding that  
4 Thursday.

5 (Laughter.)

6 Plus or minus a few days from the  
7 7th. So anything that week. You were  
8 probably thinking of doing it on the 7th.

9 MEMBER MUNN: What is that, a call  
10 or a face-to-face?

11 CHAIRMAN ZIEMER: That would be a  
12 conference call. So there would be a July  
13 conference call, a face-to-face in August, and  
14 a conference call Board meeting in October  
15 during the week of the 7th.

16 MEMBER LOCKEY: The 20th?

17 CHAIRMAN ZIEMER: That is a pretty  
18 big plus or minus on the 7th.

19 MEMBER ROESSLER: The 6th is a  
20 Wednesday.

21 MEMBER MELIUS: It is not good for  
22 me.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN ZIEMER: Okay. Wednesday,  
2 the 6th, is bad. How about Thursday?

3 MEMBER MUNN: What about the 7th?

4 MEMBER MELIUS: The 7th is perfect.

5 CHAIRMAN ZIEMER: Seven being a  
6 perfect number, we will -- let's go with the  
7 7th, unless anyone else has a conflict.

8 Okay. I think we are booked  
9 through 2010, right? Thank you.

10 MEMBER BEACH: So, Ted, for those  
11 of us still working, can we get that out in  
12 email form, so we can forward them on to the  
13 appropriate people, my boss? Thanks.

14 CHAIRMAN ZIEMER: Okay, thank you  
15 very much.

16 Now I'm going to ask Dr.  
17 Worthington -- is she still here or did she go  
18 out?

19 Okay, we are just going to take a  
20 five-minute, quick break here and see where we  
21 are on the DOE presentation. This is not a  
22 regular break. Do not go far.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   (Whereupon, the above-entitled  
2 matter went off the record at 4:25 p.m. and  
3 resumed at 4:33 p.m.)

4                   CHAIRMAN ZIEMER: Okay. We are  
5 ready to proceed, if you would all take your  
6 seats.

7                   We have been regularly including  
8 what we call Department of Energy update in  
9 our meetings. We are pleased not only to have  
10 Dr. Worthington here, who has been our regular  
11 updater, as it were, but also Glenn Podonsky,  
12 who has been with us before. We welcome him,  
13 and I think we are going to hear from Mr.  
14 Podonsky as well.

15                   Who is going first, though, Pat?  
16 Are you going first?

17                   She is giving way to her boss.

18                   So, Glenn, we welcome you.

19                   Glenn Podonsky has been with the  
20 Department of Energy for many years.  
21 Currently, he is responsible for a large  
22 portion of what used to be Environment,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Safety, and Health, and includes the portfolio  
2 of providing support for the EEOICPA program.

3 So, Glenn, we are pleased to have  
4 you with us today.

5 MR. PODONSKY: Well, thank you,  
6 and good afternoon, Dr. Ziemer and members of  
7 the Board, representatives from the Department  
8 of Labor and NIOSH, and those of you in the  
9 audience.

10 As Dr. Ziemer said, I am Glenn  
11 Podonsky, the head of the HSS organization. I  
12 haven't addressed this Board since December of  
13 '07 in Denver. That was shortly after HSS was  
14 created.

15 Some of you may or may not know  
16 this, but the creation of HSS was very  
17 controversial. It was controversial because  
18 it was foreseen as undermining the focus of  
19 safety over security. Some of our most ardent  
20 critics were the labor unions, the national  
21 labor unions. We are very pleased that three  
22 years after we have stood up our strongest

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 supporter now are the labor unions.

2 The reason I bring this up here to  
3 this Committee is because we have been able to  
4 sustain the focus on the EEOICPA program and  
5 the Former Worker Program. We have been able  
6 to sustain consistency with the budget during  
7 a time that our budgets are being slashed.

8 I am sure other agencies are  
9 experiencing something like this, but right  
10 now in the Department of Energy I have a  
11 current commitment from our Secretary,  
12 Secretary Chu, who has only been onboard now  
13 for six months. But, nevertheless, there is a  
14 lot of focus on reduction of budgets,  
15 operating budgets.

16 So the reason I share with you our  
17 excitement about HSS's being supported by the  
18 unions and now both sides of the aisle on  
19 Capitol Hill is because of this consistency  
20 and sustainability for what we consider to be  
21 very important. That is the EEOICPA program  
22 and the Former Worker Program.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701



1 Labor. It is a very solid relationship. We  
2 understand what our role is supposed to be.

3 Recently, we also worked out, in  
4 close coordination with NIOSH and DOL, as well  
5 as this Board and its contractor, in terms of  
6 security plans. This was very important for  
7 us to make sure that the plans would be viable  
8 to provide all the information while still  
9 protecting national security.

10 The most important part of it was  
11 the goal of establishing the protocol for  
12 handling the documents in a way that would  
13 provide NIOSH, this Board, your contractors a  
14 clear path to consistent access for all the  
15 information. We wanted to make sure that that  
16 was done, so that when people leave, there is  
17 still this protocol that exists, and that it  
18 is not just ad hoc.

19 If you all will indulge me before  
20 Pat makes a more formal presentation, one more  
21 issue I would like to talk about, and that is  
22 the area of concern for workers' fear for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1       reprisal. In my opinion, as the head of HSS,  
2       this is totally unacceptable for the workers  
3       to have this fear. It is unacceptable.

4                   I am meeting with the new three  
5       Under Secretaries next week and I am meeting  
6       with the Deputy Secretary next week on a  
7       couple of matters. I assure you, I assure all  
8       of you in this room, I am making it a priority  
9       to make sure that they understand the  
10      importance of these interviews with the  
11      workers.

12                   These workers are formerly of their  
13      organizations, their predecessor organizations  
14      that they are managers of now, and they need  
15      to understand and their managers in the field  
16      need to understand that these workers cannot  
17      feel that they are not safe to talk freely.

18                   It has to be, and I'm taking it to  
19      the highest level. If I could see Secretary  
20      Chu this next week, I would see him, too, but  
21      right now I'm just seeing the three Unders and  
22      the Deputy.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           But I want to make sure that they  
2 understand from our perspective how vitally  
3 important it is not to have a continued  
4 chilled atmosphere in the Department of Energy  
5 where people feel uncomfortable coming forward  
6 and sharing the knowledge.

7           It is very important that we get  
8 that knowledge that they have because all the  
9 records are not where we thought they would  
10 be. No matter what amount of money we are  
11 spending to find the records and make sure  
12 that we are putting everything together at the  
13 request of what NIOSH, your contractor, as  
14 well as Labor needs, we just think that it is  
15 vitally important that the current  
16 Administration, which is a new Administration,  
17 that they understand the importance of this  
18 program.

19           So I was going to turn it over to  
20 Pat Worthington to cover more detail, but I  
21 would like to just close by saying, from my  
22 perspective as the head of HSS, in the three

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 years that we have been stood up, I very much  
2 appreciate the work of this Committee, the  
3 work of NIOSH, the partnership we have with  
4 the Labor Department. We think it is a  
5 vitally-important program.

6 I've testified to OMB on this case,  
7 and my assurance to you all is that, even at  
8 the time of reductions in budgets, we are  
9 going to stay stable. We have eliminated  
10 other programs to maintain this one because we  
11 think it's that important that the workers,  
12 the former workers and the current workers,  
13 understand that.

14 I'm not the spokesperson for the  
15 Department of Energy. I'm simply speaking on  
16 behalf of what HSS has been stood up for, and  
17 I think part of it is getting our humanity  
18 back and making sure people trust the  
19 government and trust the Department to do what  
20 it said it was going to do. That is what we  
21 have been doing for, hopefully, now three  
22 years.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           So, if there's no questions for me  
2           -- or do you want to have questions?

3           CHAIRMAN ZIEMER: Well, thank you,  
4           Glenn.

5           I think, Board members, if you have  
6           a question for Glenn, please share it.

7           We certainly appreciate your taking  
8           time. We know your schedule is very busy, but  
9           we appreciate your taking the time to come  
10          here and showing that at the high level that  
11          you are in the Department of Energy that there  
12          is that level of support. We do appreciate  
13          that. So thank you so much.

14          MR. PODONSKY: Well, thank you.  
15          Thank you for allowing me to address the  
16          group.

17          CHAIRMAN ZIEMER: Brad Clawson has  
18          a question for you though.

19          MEMBER CLAWSON: I appreciate and I  
20          am very happy to hear what you have said about  
21          that because, as a Board member, and also as a  
22          DOE employee, and so forth, it has bothered me

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to go to a couple of the sites and see the  
2 frustration that people have.

3 One of the things, and I've got to  
4 give Greg and Pat and all those a lot of  
5 credit to, is that we are trying to work  
6 through to this, but sometimes up-top a lot of  
7 people have expectations. I just want to make  
8 sure that at the sites that they really  
9 understand how important this is, too, because  
10 sometimes in the chain of command things get  
11 lost.

12 I would like to give credit to Greg  
13 and to Pat and those because they have been  
14 working with these issues. But it is out  
15 there, and it is sad when people don't want to  
16 say things on a public record because they are  
17 scared. To me, that does bother me. We are  
18 trying to work through this, but it makes me  
19 feel good to know that we do have your  
20 support, and so forth, like that.

21 MR. PODONSKY: Thank you for that  
22 statement. If I can, I would like to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 piggyback on that and tell you, when I talk to  
2 the three Unders, let me tell you what that  
3 means.

4 That means that I would be talking  
5 to them about their particular sites. If Pat  
6 and Greg have any specific examples, you know,  
7 we have to be careful not to have it turn into  
8 the new Under Secretary being upset because of  
9 some event that they are not well aware of at  
10 their site. But what I want to impress upon  
11 them is the importance of their communication  
12 to their site managers, that this is a program  
13 that they support.

14 The new Administration, the Obama  
15 Administration, is talking about openness in  
16 government. Part of that openness is creating  
17 an atmosphere where people feel that they can  
18 come forward and talk openly.

19 We have had other issues in the  
20 past. Back in the 1994 period, when the  
21 Clintons were in office, and we had the Human  
22 Radiation Experiments Program, my office went

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 out and found the records for that. I will  
2 tell you, there was a great struggle just  
3 getting those records, and it was something  
4 that was supported by the White House, by the  
5 Administration, and by the Department of  
6 Energy from the Secretary's level, but it  
7 didn't reach all the way out there.

8 We are hoping to use our experience  
9 in that period of time to also share with  
10 today's leadership how important this is. It  
11 is important for them for another reason.  
12 They are trying to establish a new agency.  
13 They are trying to reset the Department of  
14 Energy and change the way it is structured and  
15 managed. That is what Secretary Chu has  
16 talked about in very public forums.

17 Part of what that is, is not just  
18 refocusing the Department on science, which is  
19 what this is about, but refocusing on making  
20 sure the workers feel involved. So when I say  
21 I am going to talk to them, I'm not going to  
22 be magically just lecturing them, giving them

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 a sense of what they should be doing, but a  
2 sense of how important this program is.

3 What we have found, each successive  
4 Administration, every transition we go  
5 through, and I've been through about eight of  
6 them, is that there is a lot of these type of  
7 programs that just kind of get lost because  
8 the new political team comes on and they have  
9 different agendas and they have different  
10 priorities.

11 We don't want that to happen here.

12 We don't want to lose the consistency that  
13 has been the mainstay under the leadership of  
14 this panel, as well as the partnership with  
15 NIOSH and DOL.

16 So, when we bring it to the Under  
17 Secretaries, it is more than that. It is  
18 really bringing back to them the understanding  
19 that these are their workers, their company's  
20 responsibility, and DOE, as a corporation, has  
21 this obligation. Aside from what the law  
22 says, they have an obligation. So we are just

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 trying to bring that to it.

2 So I appreciate your comment.

3 MEMBER CLAWSON: And if I could  
4 kind of piggyback onto that comment, when we  
5 go to the site, one of the things that I guess  
6 really surprised me, a lot of these sites we  
7 are doing have been destroyed for many years,  
8 but we have working sites as they are now  
9 somewhat. A lot of them have had a lot of  
10 parts and D&D and stuff like that.

11 But one of the things that  
12 surprised me was at one of the sites, and so  
13 forth, like that, to go into the lunch room,  
14 and so forth like that, and they were curious  
15 what we were doing there. When they found  
16 out, they said they were surprised because  
17 they didn't think people were listening to  
18 them.

19 So the point I'm trying to get to  
20 is, also, it is important for us, because for  
21 me to walk into and read a 100- or 350-page  
22 site profile and stuff, I really don't get a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 concept for what people did there.

2 I know at numerous sites we are in  
3 the process of getting tours to be able to  
4 better help us understand, so that we can help  
5 the process through.

6 So I guess my request is to you, as  
7 you're speaking to them, that we're not an  
8 enemy of them. We are trying to actually help  
9 DOE build their accreditation, and so forth  
10 like that. By us coming into these sites,  
11 actually builds, I guess, a better respect  
12 that we are actually taking what the workers  
13 said and investigating and looking into these  
14 things.

15 CHAIRMAN ZIEMER: Thank you, Brad.

16 And let's hear from Dr. Melius as  
17 well.

18 MEMBER MELIUS: Yes. Thanks for  
19 what you said here today, and I think for the  
20 efforts put into this program and supporting  
21 this program.

22 I think that sort of setting an

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 atmosphere at the sites where this program is  
2 seen as valuable and something that should be  
3 supported can be very helpful.

4 I had also made a specific request,  
5 and I don't know if Pat was going to address  
6 it later on. But, with the new security  
7 arrangements and procedures in place for this  
8 program, I think you sort of highlighted the  
9 security issue more, and people are more aware  
10 of it. That's fine, but the issue of people  
11 being afraid about retaliation comes up.

12 Remember, many of these are former  
13 workers who haven't worked in the sites for  
14 many years. So it is their memories of what  
15 has happened 20 years ago and what they heard  
16 about, and so forth. So there is a lot of  
17 fear and concern about what would happen if  
18 they cooperate with interviews, what happens  
19 if the people doing the classification reviews  
20 need to get back to them to clarify what they  
21 were talking about, or some particular  
22 technical issue.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           I think it would be very helpful if  
2 there could be some statement, whether it  
3 comes from the site or from DOE headquarters,  
4 a piece of paper they could have that they  
5 would then understand that they should not  
6 fear retaliation. As long as they follow the  
7 procedures in terms of how the information is  
8 conveyed and that it is then reviewed, that  
9 there should be no fear on their part for any  
10 retaliation from the site.

11           I think having that piece of paper  
12 would be helpful, particularly for the former  
13 workers, but even for current workers, because  
14 there's always going to be certain individuals  
15 that may be suspicious or concerned about what  
16 might happen to them.

17           So, if something in writing could  
18 be done, either from headquarters or at the  
19 sites, whatever is most feasible, I think it  
20 would be very helpful for that part of the  
21 program, and to make sure that we have  
22 everyone participating. At the same time, we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 can also provide the proper security  
2 protection.

3 MR. PODONSKY: We will take a look  
4 at that, but I will just say, I have been with  
5 the Department a short 25 years, and I don't  
6 have any faith in any piece of paper that is  
7 signed off by anybody, simply because it is a  
8 piece of paper.

9 I have worked for a number of  
10 Secretaries that have signed out papers, and  
11 the folks down at the sites have not taken it  
12 to heart. So, on one level, I don't disagree  
13 with having some sort of documentation, but on  
14 another level it's, how do you get across a  
15 change of attitude where the contractors and  
16 the feds onsite understand that this is  
17 supported at the highest levels? It's not the  
18 piece of paper I'm concerned about, only  
19 because I've seen, without naming names, I've  
20 seen Secretaries sign out paper that people  
21 have ignored.

22 MEMBER MELIUS: Well, always

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 hopeful, but I think, remember, these  
2 interviews are often being conducted by people  
3 from outside and strangers. So, if some  
4 stranger comes up to you and says, "I want to  
5 interview you. I want you to tell me all  
6 about your work, past work environment. I  
7 know some of this may be classified, but this  
8 will be reviewed, but don't worry, nothing  
9 will happen to you," am I going to trust that  
10 person?

11 Does this indicate, then, that,  
12 well, this program really does have the  
13 support and there's something in writing to  
14 that effect that they can take back with them?

15 You're right, it can be undone, but I think  
16 at least it would be helpful.

17 MR. PODONSKY: That is a helpful  
18 suggestion. Thank you.

19 CHAIRMAN ZIEMER: In that regard,  
20 and I haven't had a chance to read what was  
21 distributed to us, I know you have some new  
22 documents which I guess are intended for the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 DOE workforce perhaps.

2 MR. PODONSKY: Yes, it is intended  
3 to inform as vast a population as we can.

4 CHAIRMAN ZIEMER: I don't know if  
5 these may contain at least hints of that, at  
6 least show some support from the top for the  
7 program.

8 But, as Glenn has indicated, what  
9 the workers have to see is the reality in  
10 action, and that is all the way down the chain  
11 that there is not only no retaliation, but  
12 there is encouragement for them to  
13 participate. This has to not just be at the  
14 secretarial level. It's got to be down in the  
15 trenches. We all know how that goes, in not  
16 just this area, but many related areas.

17 Phil Schofield.

18 MEMBER SCHOFIELD: I would like to  
19 thank Greg and Dr. Worthington for everything  
20 they have done. But I think it is going to  
21 take some education at these facilities  
22 because I can say, from the documents I had to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 sign, the training I had about non-  
2 disclosures, about not talking, and people I  
3 grew up with whose parents had gone through  
4 the same thing, and a lot of them, if you ask  
5 them, "What do your parents do?" or even my  
6 kids at one point, "Nothing." That was as  
7 much as you told your children, "Nothing."

8 I worked there at the lab and that  
9 is as far as it went. A lot of these people,  
10 and I know a lot of my own coworkers, some of  
11 them who still to this day will not -- their  
12 wives don't know what they did all those  
13 years, they really don't. They have taken  
14 that oath, and they will take it to the grave  
15 with them because, as far as they are  
16 concerned, that paper they signed is until  
17 they die, that is in force.

18 So that the culture has changed and  
19 that there are certain things they can talk  
20 about needs to be brought to these facilities.

21 I appreciate what you are doing.

22 CHAIRMAN ZIEMER: Thank you.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   Any further comments or questions  
2 for Mr. Podonsky?

3                   (No response.)

4                   Again, Glenn, we thank you very  
5 much for --

6                   MR. PODONSKY:     Thank you.

7                   CHAIRMAN ZIEMER:   -- not only your  
8 presentation, but for being with us here in  
9 this meeting today.

10                  MR. PODONSKY:     Thanks for all the  
11 work that you all are doing with our partners  
12 as well. Thank you.

13                  CHAIRMAN ZIEMER:   I guess we will  
14 hear from Dr. Worthington as well. Thank you.

15                  DR. WORTHINGTON:    Good afternoon  
16 again. It is always a pleasure to come and  
17 brief the Board and talk about the various  
18 things that we are doing at the Department of  
19 Energy, and also to get some feedback, some  
20 questions, and some comments from you.

21                  I typically start off the meeting  
22 saying that I am here on behalf of Mr.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Podonsky to talk about these efforts. So I am  
2 pleased that Glenn is here today as well, and  
3 he has talked about his commitment and what he  
4 has charged us with. So I guess it is my job  
5 for the next few minutes to talk about what we  
6 are doing, what are the things that we are  
7 doing, and to provide you with some stats on  
8 those areas.

9           What we have done today is that we  
10 have sort of stepped back and we revisited the  
11 presentation that we have been doing for the  
12 last six months. We kind of updated it just a  
13 little bit to focus it on the DOE roles and  
14 responsibilities, and then to align that with  
15 the stats.

16           We just want to remind ourselves,  
17 and to remind everybody, that we work on  
18 behalf of the program claimants, and that we  
19 want to make sure, as Glenn has indicated,  
20 that we are making all the information that is  
21 available to the right organizations, so that  
22 decisions can be made.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           We have a number of things that we  
2           try to do. We try to do them well, to make  
3           sure that the information gets to the right  
4           sources.

5           Part of it is responding to DOL and  
6           NIOSH requests. It is very critical that  
7           employment verification, exposure rates, that  
8           information, records, that that is being done.

9           So that is a major part of what we do.

10          We provide support and assistance  
11          to the various organizations, to the Board, on  
12          large-scale things. So there are individual  
13          things. There are large-scale activities that  
14          we provide data on. We conduct research on  
15          the covered facilities. We try to provide  
16          some insights and to answer some questions in  
17          that regard.

18          I will talk a little about the  
19          booklets that you have in front of you. We  
20          have had some recent initiatives, and some of  
21          the things that I have heard in response to  
22          Glenn's comments are related to that.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           We wanted to make sure that people  
2 are aware of this program and they are aware  
3 of the roles and responsibilities of DOE, so  
4 that they come forward and that, collectively,  
5 we can work through and make the program  
6 better.

7           So we have what we called an  
8 aggressive outreach to make people just more  
9 aware. We think that if workers are more  
10 aware, they are more aware of their rights and  
11 more aware of the program, that they certainly  
12 will come forward with valuable information.  
13 It is not just about current workers, it is  
14 also about former workers as well, and that we  
15 provide information and resources on programs,  
16 and that we offer these services across the  
17 board, where it is appropriate to do so, and  
18 that we interface with these other  
19 organizations that Glenn has talked about  
20 today in terms of the various agencies.

21           We stepped back and we wanted to  
22 look at the services that we are offering

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 within our organization and to figure out how  
2 we could, one, highlight those services, make  
3 people more aware of those services, and to in  
4 some cases fine-tune those activities that we  
5 are doing to make them more responsive.  
6 Again, it is about making people aware of the  
7 program.

8 We provided for you today a copy of  
9 two of the pamphlets. One was sent out early,  
10 and I will talk a little bit about that one.

11 The idea, again, was to just  
12 refocus and to revisit the roles and  
13 responsibilities for the Department of Energy.

14 I will digress just a little bit,  
15 that we actually have several people from our  
16 organization actually out at Oak Ridge. We  
17 have talked about Oak Ridge today being a  
18 major hub for getting information from the  
19 various organizations, getting the documents.

20 We have people there today meeting with the  
21 feds and the contractors there, talking about  
22 sort of the Former Worker Program and how we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 can do better with that, and also ideas and  
2 information about the EEOICPA program. So we  
3 recognize the need, that we need to get the  
4 word out and make people more aware of those  
5 activities.

6 The Former Worker Medical Screening  
7 Program, why are we talking about that? I  
8 will talk about it a little bit more as we go  
9 along through this presentation today.

10 But, again, it is not just about  
11 the current workers, it is about the former  
12 workers, and it is about, what are the things  
13 that we are seeing when we are doing the  
14 medical screenings? They are telling us that  
15 there are some adverse health effects. So  
16 that information we are feeding into the  
17 EEOICPA program, as appropriate, when we need  
18 to do that, but we also use it to have a  
19 better current program, so that we don't get  
20 in the same situation that we are in with some  
21 of the things that we are seeing today.

22 The third item is on the Worker

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Safety and Health Program. It is Rule 851.  
2 It was a rule that was developed to sort of  
3 bring the non-nuclear hazards and work  
4 activities on par with the nuclear ones. So  
5 what we have tried to do with that one is to,  
6 again, we heard from current workers, "I don't  
7 know if I really understand 851. What are my  
8 rights? What does it mean to me? What are  
9 the kinds of things that I should be doing?"

10 So we wanted to have sort of an  
11 awareness pamphlet that people could use for  
12 training. We've gotten feedback from the  
13 unions that that kind of information is  
14 helpful to them.

15 So, again, these were the three  
16 tools that we were using:

17 How do we deliver the right  
18 documents, and so forth, on the EEOICPA  
19 program? How do we look at the Former Worker  
20 Screening Program and leverage that and  
21 connect it to the other program as needed?  
22 And then are we doing the right thing for the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 current workers? So that is what the 851  
2 piece is about.

3 These are snapshots of the  
4 pamphlets that I made available to you. The  
5 first one is on the EEOICPA program, "Outreach  
6 and Awareness". Again, it is about making  
7 people aware of the program. Where do you go?  
8 What does it do? And in doing so, hopefully,  
9 how we can get it better.

10 The Former Worker Program, that is  
11 also in your packet there. Then we have the  
12 851, which dealt with the current workers.

13 Again, we hand-carried those  
14 because sometimes, with mailroom activities,  
15 it is kind of a Pony Express. So we wanted to  
16 make sure that, even though they were sent out  
17 a week ago, that they were made available to  
18 you right now.

19 Now a little bit about the specific  
20 DOE activities, the things that we are doing,  
21 and some idea about the numbers. While I will  
22 give you some specific numbers on what we are

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 seeing today, and looking back last year as  
2 well, sometimes the numbers themselves don't  
3 tell the story because sometimes the  
4 complexity associated with the research and  
5 delivering the documents may be more difficult  
6 for one or two versus a number of individual  
7 employment verifications.

8 Employment verifications, we have  
9 done about 6,500 this year. We have, again,  
10 tried to be very aggressive and very creative  
11 in terms of how we can verify employment. In  
12 some cases, for example, at Hanford, they even  
13 look at public housing records. They look at  
14 where people live, various kinds of documents.

15 The people at Hanford would have only been in  
16 those programs and had that housing if, in  
17 fact, they were working on the DOE programs.

18 So we are using every method  
19 possible, and we are trying to provide what we  
20 view as somewhat of a personal touch in terms  
21 of doing this. There are systematic things  
22 you look at, but did we think about other

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 rocks we could overturn?

2           You have heard today a little bit  
3 about sort of timing. When do we get back to  
4 people when we have completed our searches, or  
5 whatever it is? Sometimes some of them may  
6 take longer because we don't want to come back  
7 with a no if it really isn't a no, that maybe  
8 it is difficult, and we have to really be  
9 aggressive and turn over everything to be able  
10 to do those records.

11           In terms of the dose records for  
12 NIOSH, about 4,000 a year. Then the document  
13 acquisition requests are about 7,500 a year,  
14 is what we are doing.

15           This is just a comparison between  
16 2008 and 2009. Again, it is on fiscal year,  
17 so it looks similar. Again, our view is that  
18 the data searches are becoming more difficult.  
19 Even if the numbers are the same, the  
20 resources going into it sometimes are quite  
21 extensive, but we are learning more. We are  
22 learning from that, and we are factoring that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 into how we do the others.

2 In terms of the DOE support for SEC  
3 activities, these are things that cost us more  
4 bucks, and there are things that we have to be  
5 more aggressive, and that we are working with  
6 the various sites on.

7 Here is a listing of the ones that  
8 we are working on now. Some of them,  
9 certainly, are bigger activities than others,  
10 but it is quite a big part of what we do.

11 Here are some examples, and I think  
12 we have gone through some of them in the past,  
13 things that we are doing at Hanford, for  
14 example. Over 2,800 keywords searches, and I  
15 will talk about that, just for maybe 60  
16 seconds.

17 Keyword searches, I mean that is  
18 very critical because you need some structured  
19 approach in terms of being able to look for  
20 documents. What are the words you use at this  
21 site for these kinds of things, or whatever it  
22 is?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           So a lot of time and effort goes  
2 into the keyword searching methodology and  
3 approach, but they are revised as appropriate  
4 when we need to do that.

5           Approximately a million pages  
6 produced for review, boxes and documents. I  
7 mean that is extensive, we think.

8           For example, since we are talking  
9 about Hanford, I will talk about the  
10 individuals there. We have people that are  
11 very knowledgeable. Many of them worked on  
12 the site, and they are familiar with things,  
13 but quite a lot that we go through in terms of  
14 reviewing of documents and making sure that we  
15 can make things available.

16           We have talked about security plans  
17 today and the fact that we think that we are  
18 better in terms of the fact that we have  
19 worked with you on how to put together the  
20 plan that will be useful. But we continue to  
21 have to do classification reviews at the  
22 various sites for various documents. So we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 work on that, and also the Privacy Act-type  
2 information.

3           Continuing with Hanford, we  
4 typically do about one visit a month for NIOSH  
5 Advisory Board contractors, getting them out  
6 to the sites.

7           We have heard about, I think just a  
8 few minutes ago, the need to actually get out  
9 on the ground and walk the spaces. There is  
10 one thing to do a keyword search. There is  
11 another thing to have sort of a visual on what  
12 is it I'm looking for, what kinds of  
13 activities went on there, and to be able to  
14 walk the spaces. I think it certainly helps  
15 everybody. It makes the job easier and more  
16 credible if we are able to do that.

17           So we want to continue to  
18 facilitate those onsite visits and tours. We  
19 think that they are good for everybody.

20           In terms of being able to do the  
21 job the best you can in the right environment,  
22 we try to work with the various organizations

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to have work space that is appropriate for the  
2 types of documents and the types of activities  
3 that you have there. So we work across the  
4 DOE complex to do that.

5 These were just examples of Hanford  
6 again in terms of the tours. I think they are  
7 outstanding.

8 Specific employees made available  
9 for interviews by request, we want to  
10 certainly work with the different  
11 organizations to make sure that we are able to  
12 set up an interview schedule and that we work  
13 that schedule. It is critical because there  
14 are things that workers know. You have to put  
15 all the information together. You have to  
16 look at the facilities. What do they look  
17 like? The data that you are generating, but  
18 also the insights from the workers.

19 So anything that we can do to help  
20 facilitate the interviews, making sure that we  
21 provide a space where, if there is a belief  
22 that there may be classified discussions, that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 they are in an environment that they can do  
2 that. I think we are hearing more that in  
3 some cases you want the interviews to be  
4 offsite and away from the regular DOE  
5 facility. We will work with you on how to  
6 make that happen.

7 In the case where there is a need  
8 or a perception that there may be classified  
9 discussions, we have to be maybe more creative  
10 in how we do that and we meet the  
11 requirements. But, certainly, I think we have  
12 a long history in Glenn's organization of  
13 doing investigations and reviews. There have  
14 been cases where people don't want to do it on  
15 site. So we have to work with you and be able  
16 to find the right environment, so we can get  
17 the workers there.

18 As Glenn indicated in terms of  
19 working from the top all the way down to the  
20 bottom of the DOE organization and making sure  
21 that workers are comfortable, whether they are  
22 current or former, that they are comfortable

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in being able to come forth and provide  
2 information. So what can we do to kind of  
3 make it happen? So that is one of the things  
4 that we will be championing, to try to work on  
5 that.

6 Savannah River is another site  
7 where we have a big SEC activity going on. We  
8 have hosted, I believe, at least 12 NIOSH site  
9 visits. We expect to complete records  
10 search/data capture efforts during the visit  
11 the week of July 27th, which is right now as  
12 we speak. Greg, there should be people there  
13 that are working on that activity.

14 We have hosted a visit for the  
15 Advisory Board whenever that is needed. We  
16 will try to work through that. Some sites  
17 there is a longer lead time. So I think Greg  
18 has been working hard with you on that, but  
19 let us know what you think you need.

20 As of July 1st, for Savannah River,  
21 we had, as you see the stats there, quite a  
22 bit of effort going on at that site.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           We have security reviews of nearly  
2 all the documents that were identified to  
3 date. So we continue to work through that.

4           Again, we do conduct document  
5 reviews of classified documents, in this case,  
6 129 at Savannah River, you know, almost 4,000  
7 pages.

8           The SEC at Mound, I think we have  
9 talked about that in your report today. So  
10 just a few updates from that:

11           We facilitate meetings of NIOSH and  
12 the Board and contractors as needed.  
13 Classified experts will be made available,  
14 have been made available to review notes and  
15 things on the spot. We want to, to the extent  
16 we can, eliminate any long delays in terms of  
17 getting information back to you. Also, we  
18 will continue to respond to periodic NIOSH  
19 data requests.

20           On facility research, again, it is  
21 DOE's responsibility to maintain that database  
22 of about 350 facilities. We continue to work

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 on that.

2 A little bit about support that we  
3 have. Again, you see Isaf and Greg, who is  
4 actually the Program Manager. You see Gina,  
5 who is the Office Director. We have an  
6 additional person that recently came onboard  
7 from the Former Worker Program working with  
8 us.

9 But we also try to bring in  
10 whatever resources we think that are needed.  
11 In some cases, these are complicated, complex  
12 documents, some of them very old documents,  
13 and we utilize experts from the Legacy  
14 Management organization. They certainly have  
15 a lot of experience in record retrieval and  
16 those kinds of activities. So we continue,  
17 and we have people that are dedicated to our  
18 program. They certainly belong to Legacy  
19 Management, but they are dedicated and provide  
20 support to us. I think they have been  
21 involved in calls and other things. So I  
22 think some of you are aware of them.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   Facilities research, I have listed  
2 four facilities here. We have a number of  
3 activities that are ongoing. They are at  
4 various stages of maturity in terms of where  
5 we are in terms of data collection and working  
6 with either NIOSH or DOL on those efforts.

7                   The DOE initiatives, again, what we  
8 want to do, and Glenn has charged us to do it,  
9 and he is continuously reminding us,  
10 communicate, communicate, communicate  
11 effectively with the different people that you  
12 have to interface with.

13                   So we try to hold regular  
14 conference calls with NIOSH. NIOSH has been  
15 very busy. We have been working with them to  
16 provide information and support, understand  
17 any concerns that they may have and try to  
18 address those.

19                   We want to make, again, our subject  
20 matter experts available to the Board, working  
21 groups, to answer questions on calls, if  
22 needed.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           We serve as sort of the facilitator  
2 for secured meetings between NIOSH and the  
3 Board, where discussions can take place on key  
4 activities in a classified setting, if  
5 appropriate.

6           In terms of data ownership, in  
7 terms of trying to retrieve data and working  
8 with contractors to get what we need, we have  
9 been trying to do things, and I think Glenn  
10 mentioned earlier in terms of a security plan  
11 that the development of the security plan was  
12 to institutionalize the process, so that if  
13 you changed staff or you changed people, the  
14 process is there and we have already worked  
15 through it.

16           We are trying to do the same thing  
17 with kind of records. So we are working with  
18 the CIO's office to make sure that there are  
19 certain things in procurement activities, or  
20 whatever, that would ensure that DOE has a  
21 right for these records, and here are the  
22 things that we are expecting the contractors

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to do. So we will continue to kind of work  
2 through that. I think we have made a lot of  
3 progress, I think, in the last year in that  
4 area.

5 The bullet here or the second  
6 bullet here on this slide is about the Los  
7 Alamos Medical Center records. Here was a  
8 situation where, when the hospital was  
9 privatized and no longer part of DOE activity,  
10 that those records, critical worker records,  
11 remained there at the hospital and they were  
12 in sort of a deteriorating situation.

13 We have been working aggressively  
14 with the Medical Center. I am happy to say  
15 that we are very close to completing a major  
16 phase of that project. We expect, I believe,  
17 by the end of the summer that we will have  
18 cleaned up all the records, packaged them, and  
19 have them characterized in such a way that  
20 they will be easy to retrieve.

21 So this has been a major  
22 accomplishment for us, and we have had, I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 think, good support. We have had  
2 congressional involvement and the people from  
3 NNSA are very supportive of this activity.

4 So we hope at the next Board  
5 meeting that we can declare a victory and have  
6 even more positive information on where we  
7 stand with those medical records.

8 This slide is labeled "outreach."  
9 Probably maybe a different topic might be more  
10 appropriate. It really is focused on that top  
11 bullet there.

12 We have designated within the DOE  
13 complex what we call EEOICPA site points of  
14 contact. Those individuals have a lot of  
15 responsibility for making sure that we reach  
16 out to people and that there is continuity and  
17 that there is consistency in how the program  
18 is being carried out, and people know where to  
19 go in order to get information at key sites.

20 We hold regular or Greg holds  
21 regular calls with these individuals, making  
22 sure that we are sharing lessons learned and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that we are helping people resolve problems.

2 They attend local public meetings.

3 They set up site visits and tours, and we  
4 have talked about that already, how important  
5 it is to be able to do that. They work with  
6 any of the agencies that we need, whether it  
7 is DOL or NIOSH, to facilitate interviews of  
8 current and former workers. So they play a  
9 major role, provide site experts. In some  
10 cases, you are looking for the experts at the  
11 site that understand those operations and  
12 those activities, and you want to have them to  
13 work with you.

14 So we are expanding our outreach  
15 program now sort of beyond these points of  
16 contact at the site to coordinate a Former  
17 Worker Program, so that we can come together  
18 and collectively utilize resources more  
19 effectively, and be able to reach more people,  
20 make them aware of the program, and see what  
21 kind of changes and improvements we can make  
22 in it as well.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           We have talked about the sites  
2 things and the site POCs. In headquarters, we  
3 are working with the agencies, DOL, NIOSH, and  
4 the Ombudsman Office, and the DOL Former  
5 Worker Medical Screening Program individuals  
6 to see how collectively from that level we can  
7 work to get more information out to  
8 individuals and to figure out how we can  
9 better retrieve records.

10           A little bit about the Former  
11 Worker Medical Screening Program. I mentioned  
12 it several times. We think that it is a very  
13 unique program, a unique opportunity for DOE  
14 to reach back to the former workers and say,  
15 "Come in after you no longer work at the  
16 Department, that we will screen you for  
17 adverse health effects to some hazards that  
18 you could have been exposed to only because  
19 you were working in the DOE complex," and that  
20 the exams are set up and designed in such a  
21 way that you are able to look for those kinds  
22 of things.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           So we are pleased about the  
2 program, and that we serve all former workers  
3 from all DOE sites and locations close to  
4 their residences. So, in some cases, we have  
5 a dedicated clinic located in a DOE area. And  
6 when we don't have the dedicated clinic, we  
7 send people to Comprehensive Health Services.

8           They have a network of clinics all over the  
9 country, so that people can go a short  
10 distance and actually get these screenings.

11           The Former Worker Medical Screening  
12 Program, there are local screening programs  
13 for five sites in Ohio, and I think we have a  
14 number of people that are here today from the  
15 Former Worker Program.

16           Are some of you here? If you could  
17 stand up? Here are the individuals from the  
18 Former Worker Program here in Ohio. They are  
19 around. They have cards and other things, if  
20 you want to talk to them some after the  
21 meeting.

22           But, again, we believe this is an

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 excellent program and that it is one that DOE  
2 is looking back and looking to see how we can  
3 look at those workers from the past.

4 I was a little bit fast there. I  
5 want to catch us up a little bit and allow  
6 plenty of time for questions and comments.  
7 I'm ready to answer any questions or to  
8 revisit any of the things that I may have  
9 rushed through in the presentation.

10 CHAIRMAN ZIEMER: Okay, thank you  
11 very much, Pat. We appreciate that overview  
12 and additional detail as well.

13 Let's go ahead and open the floor  
14 for questions or comments from the Board. Any  
15 issues that Pat has raised that you want to  
16 ask about?

17 Mr. Presley?

18 Use the microphone there, Robert.

19 MEMBER PRESLEY: Can you explain to  
20 the Board the working relationship between  
21 DOE, NNSA, and OSTI on how you all get records  
22 and things like that in Oak Ridge? The

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 question has been asked.

2 DR. WORTHINGTON: Right. I am  
3 going to sort of give some general comments.  
4 Then Greg will come up and give some  
5 additional specific information.

6 But Oak Ridge, as I mentioned  
7 before, is our biggest operation in terms of  
8 information when you're coming in, looking for  
9 records. You are going to look for K-25; you  
10 are going to look for Oak Ridge National  
11 Laboratory, Y-12. So there are a large number  
12 of many of the environmental programs that are  
13 going on there, the EM programs that are going  
14 on. They will come through the Oak Ridge  
15 Operations Office for the actual search of  
16 those records.

17 I don't know if you want to add  
18 anything else.

19 I know that, as Greg is coming up,  
20 you might want to elaborate a little bit, but  
21 I know earlier today there were some  
22 statistics regarding some outstanding things

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 from Oak Ridge. I think just recently, maybe  
2 within the last week or so, maybe 100 or more  
3 of those that were listed there actually were  
4 completed by Oak Ridge. But it is the largest  
5 center that we go to in terms of retrieving  
6 records.

7 MR. LEWIS: Yes, and I would agree  
8 with what Dr. Worthington said. Approximately  
9 35 percent of our claims, somewhere around  
10 there, have to do with Oak Ridge when you  
11 count all five sites, including NNSA, EM, and  
12 the various groups. Even though they are  
13 different agencies within DOE that are  
14 involved down there or different groups, we  
15 handle it all through one office.

16 That is primarily because we have  
17 found your typical Oak Ridge employee has  
18 worked at about three of the sites because  
19 they traded around so much and would move from  
20 one to the other, depending on workloads. We  
21 found that it was more efficient to run it  
22 through one office, and because of the volume

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of claims, it works out better. So we have  
2 one point of contact down there for all issues  
3 related to K-25, Paducah, Portsmouth, Y-12,  
4 and the National Lab. So they all run through  
5 one office.

6 OSTI is a little bit different  
7 because it is more of a library, a holding  
8 area for records. Even though it is a covered  
9 facility, there are not so many claims from  
10 OSTI, but we do utilize them significantly for  
11 large-scale records research projects and the  
12 SECs. Because they are a repository for  
13 records, we will go there for many different  
14 facilities or we will facilitate access for  
15 NIOSH and DOL for many different facilities at  
16 OSTI.

17 DR. WORTHINGTON: This week we have  
18 a team from our office that are there meeting  
19 on the Former Worker Program with some  
20 interface on the EEOICPA program. We have  
21 pulled together those coordinators from all of  
22 those. Whether EM, NNSA, or science, we have

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 pulled them all together for discussion.

2 As Greg said, typically, there is  
3 one organization -- I believe it is EM; Steve  
4 McCracken's group I believe is the group --  
5 that may have maybe overall coordination, if  
6 we need to do that. But, again, we go to Oak  
7 Ridge for records, whether it is NNSA,  
8 Science, EM. Because, as Greg indicated, they  
9 do move around quite a bit there. So that  
10 centralized approach I think is probably more  
11 effective.

12 MEMBER PRESLEY: Thank you.

13 CHAIRMAN ZIEMER: Robert, did you  
14 have a follow-up to that or that answered it?

15 MEMBER PRESLEY: Very good.

16 CHAIRMAN ZIEMER: Yes, thank you.

17 Josie Beach?

18 MEMBER BEACH: I believe Greg said  
19 he might mention this, but I wanted to  
20 compliment DOE on a meeting that we held  
21 recently for Mound. It was a secure meeting,  
22 and we were able to do it through video

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 conferencing. Some of us were at Hanford,  
2 some in Germantown, and then Y-12. That was  
3 wonderful, and I hope to see more of those  
4 meetings in the future.

5 MEMBER CLAWSON: It worked like a  
6 million dollars.

7 DR. WORTHINGTON: Thank you. We  
8 got some good feedback on that, and Greg is  
9 looking into it for others.

10 CHAIRMAN ZIEMER: Thank you. We  
11 appreciate that.

12 Brad Clawson?

13 MEMBER CLAWSON: Pat, so many times  
14 we sometimes focus on all the negative that is  
15 going on. I would like to take the  
16 opportunity to tell you how much we appreciate  
17 what you and your staff has done. It has made  
18 it a lot easier for us to have a point of  
19 contact that we can go to that assists us in a  
20 lot of this stuff.

21 As I have watched the program  
22 progress, and so forth, I would just like to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 tell you and your group how much we appreciate  
2 what you have done for us.

3 DR. WORTHINGTON: We certainly  
4 appreciate the feedback on the positive, but  
5 we take every negative comment and turn it  
6 over to see if we can make some improvements  
7 in the program. So some of the things that  
8 you see that we are feeding back, it is  
9 because we have been listening. So please  
10 give us those as well. We certainly  
11 appreciate them.

12 CHAIRMAN ZIEMER: The Board members  
13 are not usually very hesitant to do that, when  
14 necessary.

15 DR. WORTHINGTON: I know.

16 CHAIRMAN ZIEMER: But, nonetheless,  
17 we do appreciate it. In the past year or two,  
18 or three now, particularly since Glenn has  
19 gotten involved in your staff, we have seen a  
20 remarkable improvement in retrieving those  
21 records and supporting the program. So we  
22 certainly thank you.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Any other comments, Board members?

2 Okay, Phil, I missed you there. Go  
3 ahead.

4 MEMBER SCHOFIELD: No. I just  
5 forgot to put it down.

6 CHAIRMAN ZIEMER: Okay, thank you.

7 Okay, thank you again for your  
8 comments and your insight into the things that  
9 are going on from the DOE perspective. We  
10 appreciate your presence here with us again.

11 DR. WORTHINGTON: And again, thank  
12 you for the opportunity.

13 CHAIRMAN ZIEMER: We are going to  
14 recess now until seven o'clock, at which time  
15 we will have the public comment session.

16 Before we do that, I asked Nancy  
17 Adams to provide me with some information,  
18 which she has provided me, because we wanted  
19 to thank particularly Leroy Turner and Lynette  
20 -- is it Hartkee? Hartle, okay. I can  
21 "Hartle" say that.

22 And Tom Neely and Tom James, who

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 are the IT people who have been helping us  
2 with our new computers that we are devoting  
3 now to our Board work because of new  
4 requirements, well, basically, new security  
5 requirements. Tom and Leroy have been here  
6 today and helping us fix problems that we have  
7 had, and maybe fix problems that we didn't  
8 know we had, but had, nevertheless. So we do  
9 appreciate them.

10 Are they here still? Yes.

11 Thanks, guys. We appreciate the  
12 work that you have done for the Board.

13 Now the proof is in the pudding. A  
14 lot of us don't have our computers back yet.  
15 So we are thanking you in advance, in  
16 anticipation of the good work that you are  
17 going to continue as you get us squared away  
18 and ready for the future of IT and this Board.

19 So, again, we do thank you for your  
20 efforts and for helping us get revamped and  
21 underway with the various procedures and  
22 requirements.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I may need to say some more things  
2 about this, but, Nancy, you will have to  
3 prompt me later, if I left anything out. At  
4 least my heart is in the right place, if not  
5 all the words.

6 We will recess until seven o'clock,  
7 at which time we will have our public comment  
8 session.

9 If you do wish to make public  
10 comment and have not already signed up to do  
11 so, please sign up on the registration sheet  
12 in the foyer.

13 (Whereupon, the above-entitled  
14 matter went off the record at 5:24 p.m. and  
15 resumed at 7:04 p.m.)

16 CHAIRMAN ZIEMER: Good evening,  
17 everyone.

18 This is the public comment session  
19 of the Advisory Board on Radiation and Worker  
20 Health, meeting in the Cincinnati area today  
21 and for the next two days.

22 We will have some members of the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 public on the telephone lines who will make  
2 comment.

3 Before we get to the actual  
4 comments, let me make a few comments myself,  
5 and then Ted Katz, our Designated Federal  
6 Official, is going to fill us in on some of  
7 the ground rules of a public comment session.

8 But, for the members of the public,  
9 I just want to remind you, or maybe you hadn't  
10 heard it before, but this Board is an  
11 independent Board. We are not part of NIOSH  
12 or Department of Labor or Department of  
13 Energy. So we are here as an independent  
14 group to get feedback from the public about  
15 the compensation program.

16 Now we are not an appeals board on  
17 individual claims, nor are we the group that  
18 does the dose reconstructions. If you are  
19 speaking in public and have issues relating to  
20 your personal claim, this Board will not be  
21 able to deal with that individually, and  
22 particularly not here at this meeting,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1       although in certain cases we can point you in  
2       the right direction in terms of who you need  
3       to speak to.

4                   Mr. Katz will talk to you about the  
5       ground rules of what you should anticipate in  
6       terms of what will appear in the public  
7       record.   Certainly, we welcome your relaying  
8       of experiences that you may have had in terms  
9       of your own claim or other aspects of the  
10      program, but I just want to make you aware  
11     that we are mainly here to listen.   This is  
12     not a question-and-answer period, but mainly  
13     the Board will simply listen to what you have  
14     to say and your comments will be on the public  
15     record as well.

16                   Now let me ask Mr. Katz to talk to  
17     us about mainly what is the so-called  
18     Redaction Policy relating to these  
19     proceedings.

20                   MR. KATZ: Thank you Dr. Ziemer.

21                   So this is pretty simple.   But, as  
22     you may have noticed, and for the folks on the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 phone, of course, you can't, but the entire  
2 session of the Board all day each day,  
3 including the public comment session, is  
4 transcribed verbatim. So everything that is  
5 said is taken down, and all of that is posted  
6 after it goes through some review processes,  
7 it is all posted on the NIOSH website.

8           So what you need to know as a  
9 public commenter is, if you come up and make a  
10 presentation, your information that you  
11 present will all be part of that transcript  
12 and available to the public, including your  
13 name, if you give us your name, and any  
14 personal information you give about yourself,  
15 generally speaking. It would all be posted  
16 and available to the public.

17           If you do speak about a third  
18 party, another individual, that person's  
19 identifying information, generally speaking,  
20 would not be made available to the public. So  
21 their name and other identifying information  
22 about a person you talk about would be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 redacted, blacked-out in the transcript, to  
2 protect their privacy.

3 The only other points really to  
4 make are, if you want to see the full policy  
5 for how we go about this with the redaction,  
6 it is on the NIOSH website and it is also in  
7 this room at the back, on the back table, with  
8 the other documents.

9 Should there be someone who wants  
10 to address the Board or communicate something  
11 with the Board, but not want to do that in  
12 this sort of public forum, then they should  
13 get in touch with me to see about what kind of  
14 arrangements could be made.

15 Thank you.

16 CHAIRMAN ZIEMER: Thank you, Mr.  
17 Katz.

18 We are going to begin this evening  
19 with a statement from Representative Higgins  
20 of New York, and I believe on the line is Matt  
21 Ferry from Representative Higgins' staff.

22 Matt, are you on the line?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. FERRY: Yes, I am, sir.

2 CHAIRMAN ZIEMER: Okay, Matt, if  
3 you would proceed with the statement from  
4 Congressman Higgins, we would appreciate it.

5 MR. FERRY: Thank you.

6 Again, I am calling on behalf of  
7 Congressman Brian Higgins from Buffalo, New  
8 York, in regards to the Bethlehem Steel  
9 Claimant Action Group Special Exposure Cohort  
10 Petition.

11 On June 4th, 2009, Congressman  
12 Higgins, along with Senator Schumer, Senator  
13 Gillibrand, Congresswoman Slaughter,  
14 Congressman Massa, and Congressman Lee, sent a  
15 letter to the Advisory Board on Radiation and  
16 Worker Health in regard to that petition. I  
17 would like to read that into the record right  
18 now word for word.

19 "Dear Dr. Ziemer:

20 "We write you today to request that  
21 the Advisory Board on Radiation and Worker  
22 Health hold one of its upcoming meetings in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Buffalo, New York, to discuss problems with  
2 use of surrogate data and the dose  
3 reconstruction processes for claimants at the  
4 Bethlehem Steel site, and the merits of the  
5 Bethlehem Steel Claimants Action Group Special  
6 Exposure Cohort Application before the Board.

7 "As you may know, we recently  
8 introduced legislation, H.R. 2114 and S.916,  
9 the Ed Walker Memorial Act for Improvements to  
10 the Energy Employees Occupational Illness  
11 Compensation Program. This legislation echoes  
12 the application of the Bethlehem Steel  
13 Claimants Action Group for Designation as a  
14 Special Exposure Cohort.

15 "It is our contention that these  
16 workers should be classified into a Special  
17 Exposure Cohort because of the extreme paucity  
18 of data to actually assess the causation link  
19 between the ailments suffered by the nuclear  
20 workers and the exposure to them.

21 "The Bethlehem Steel claimants and  
22 their families have been dealing with the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 results of this extremely harmful exposure to  
2 radioactive particles for decades. Now they  
3 have been dealing with the frustrating and  
4 convoluted processes related to the  
5 implementation of the EEOICPA for nearly 10  
6 years.

7 "In order to assure that the  
8 federal government treats these families with  
9 fairness, we urge the Advisory Board on  
10 Radiation and Worker Health to come to Buffalo  
11 and hear firsthand the difficulties families  
12 have had with processes as they exist and  
13 understand arguments for why the Bethlehem  
14 Steel Claimants Action Group Special Exposure  
15 Cohort's petition is meritorious.

16 "Sincerely, Charles Schumer,  
17 Kirsten Gillibrand, Brian Higgins, Louise  
18 Slaughter, Eric Massa, and Chris Lee."

19 Thank you.

20 CHAIRMAN ZIEMER: Thank you, Matt.

21 Did you have any additional comments?

22 MR. FERRY: Well, yes. In addition

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to that, as you may probably know, there are  
2 several other petitions from the area,  
3 including the Linde Ceramics petition as well  
4 as the Jones Steel and Laughlin Steel  
5 petitions as well.

6 So at such point where, should the  
7 Advisory Board choose to come to Buffalo,  
8 hopefully, this year or possibly next year,  
9 there are many things that you will be able to  
10 discuss. So we would welcome you to both  
11 discuss the Bethlehem Steel issue as well as  
12 all the other claims that exist.

13 So we would certainly appreciate  
14 any follow-up from the Advisory Board  
15 forthcoming, and we look forward to hearing  
16 from you, and would be more than happy to be  
17 helpful to you as you move forward.

18 CHAIRMAN ZIEMER: Okay, thank you  
19 very much, Matt. Let me officially  
20 acknowledge the fact that I have received a  
21 copy of the letter in the past two or three  
22 weeks. I forget the exact date. I think it

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 was distributed to the Board, but I'm not  
2 absolutely certain. It was? Okay. So the  
3 Board members do have copies.

4 During our working session this  
5 week, we will at least discuss -- we will  
6 respond to the letter formally. The Chair  
7 responds to these letters, but only with the  
8 concurrence of the Board. So we will have  
9 some sort of response officially to your  
10 letter, hopefully, later this week, and that  
11 will be transmitted to all of the signatories  
12 of the letter. Again, we will keep you  
13 informed in terms of progress in that regard.

14 MR. FERRY: Well, your  
15 responsiveness is greatly appreciated. I  
16 would say that, on behalf of all six offices  
17 that submitted this letter, this is a fight  
18 that we have been waging for quite some time,  
19 often with other members of Congress who have  
20 since moved away from federal office. But it  
21 is something that we will likely continue to  
22 wage moving forward.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   So we appreciate your working with  
2                   us on this.

3                   CHAIRMAN ZIEMER:   Okay.   Thank you  
4                   very much for participating this evening in  
5                   this public comment period.

6                   MR. FERRY:    Thank you for having  
7                   me.

8                   CHAIRMAN ZIEMER:   Next we will hear  
9                   from John Hanson.   John is here with us, and  
10                  he is here on behalf of the Dow Madison site,  
11                  actually, which is in Illinois.

12                  John, welcome.

13                  I think most of us have met John  
14                  before.

15                  John also has provided a handout  
16                  which has been distributed to all the Board  
17                  members.       This is a letter and some  
18                  attachments which come from John and from  
19                  [identifying information redacted].

20                  So, John, the floor is yours.

21                  MR. HANSON:    Yes, thank you, Dr.  
22                  Ziemer.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   Good evening.                   [identifying  
2 information redacted], who has addressed this  
3 Board in the past, was unable to attend due to  
4 her new duties as [identifying information  
5 redacted] Department and sends her welcome.  
6 She has asked that I address the Board in her  
7 stead. I would like to read the following  
8 into the public record:

9                   A letter to Rachel Leiton,  
10 Department of Labor, dated July 24th, 2009:

11                   "Dear Ms. Leiton:

12                   "As you know, in September 2008, we  
13 requested that the Department of Labor  
14 consider extending the covered AWE time frame  
15 under the Energy Employees Occupational  
16 Illness Compensation Program Act for the Dow  
17 Madison facility in Madison, Illinois, based  
18 upon information indicating that:

19                   "One, Dow Madison was contracted by  
20 the AEC to develop the alloy that was to  
21 become HK31A, that HK31A was present at  
22 Lawrence Livermore National Laboratory as well

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 as Sandia National Laboratory, and, three,  
2 that the Department of Energy reported that  
3 `several other weapons parts were made from  
4 thorium in the time frame 1962 through 1969.'

5 "In March 2009, your office denied  
6 our request for expanding the covered period,  
7 stating that there is `only evidence that  
8 magnesium-thorium alloys could have been used  
9 in the production of an atomic weapon and no  
10 evidence that, if such alloys were used in  
11 atomic weapons, that they originated from Dow  
12 Madison.'

13 "You further suggested that we  
14 provide you with `evidence of a singular and  
15 compelling nature that shows Dow Madison was  
16 the sole manufacturer and distributor of  
17 magnesium-thorium alloys used in an atomic  
18 weapon.'

19 "Consideration might be given by  
20 the Department of Labor to change the current  
21 years of coverage. At this time, we would  
22 like to submit recently-uncovered materials

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 which do confirm that Dow Madison was the lone  
2 facility to produce HK31A under the auspices  
3 of its parent company, Dow Midland, of the  
4 specificity used in atomic weapons parts, and  
5 that was present at Lawrence Livermore  
6 National Laboratory as well as Sandia National  
7 Laboratory."

8 And if you will please reference  
9 the attachments.

10 "In the Norman Woldman, Engineering  
11 Alloys, Fifth and Sixth Editions, Dow Madison  
12 is clearly identified as the sole producer of  
13 the following alloys: HK31A O-temper with  
14 30,000 to 33,000 tensile strength in pounds  
15 per square inch, a yield strength of 18,000 to  
16 20,000 pounds per square inch. These are 6  
17 percent greater tensile strength than  
18 T6-temper and 36 percent greater yield  
19 strength than T6-temper, as well as HK31A  
20 H24-temper with 34,000 to 39,000 tensile  
21 strength in pounds per square inch, a yield  
22 strength of 24,000 to 31,000 pounds per square

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 inch, 24 percent greater tensile strength than  
2 T6-temper and 96 percent greater yield  
3 strength than T6-temper.

4 "And finally, the HK31A extrusion  
5 in T5-temper with 37,000 to 44,000 tensile  
6 strength in pounds per square inch, a yield  
7 strength of 26,000 to 38,000 pounds per square  
8 inch, which is 37 percent greater tensile  
9 strength than the T6-temper and 129 percent  
10 greater yield strength than T6-temper.

11 "The temper strengths mentioned  
12 here, particularly the T5-temper that I  
13 previously mentioned, are consistent with the  
14 HK31A used in atomic weapons at this time  
15 because of their ability to withstand  
16 excessive heat, stress, and strain. While  
17 there were other manufacturers of HK31A at the  
18 time, they produced only the T6-temper with  
19 the 27,000 to 32,000 tensile strength in  
20 pounds per square inch and a yield strength of  
21 13,000 to 15,000 pounds per square inch, and  
22 as such, were basically commercial producers

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 or involved in the aerospace industry.

2 "Therefore, based on this new  
3 evidence, we would like to request the  
4 extension of the covered AWE time frame under  
5 the EEOICPA legislation for the Dow Madison  
6 facility in Madison, Illinois, to 1972."

7 Signed, "Sincerely, [identifying  
8 information redacted], Southern Illinois  
9 University, Edwardsville, and John Hanson,  
10 Research Assistant to [identifying information  
11 redacted]."

12 Thank you.

13 CHAIRMAN ZIEMER: Thank you, John.

14 I would like to ask you one  
15 question. Do you know if this material has  
16 been supplied to the petitioner for Dow  
17 Madison or not?

18 MR. HANSON: To my knowledge, no,  
19 sir.

20 CHAIRMAN ZIEMER: Okay, thank you.

21 Now, on the sign-up sheet outside  
22 the door, John Hanson was the only one who

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 signed the sheet. So I want to ask now if  
2 there are others in the assembly here who did  
3 wish to make public comment, but who  
4 overlooked signing up or weren't sure whether  
5 you wanted to speak or not. We will certainly  
6 open the door for you if you do wish to make  
7 comment. Otherwise, I am going to go back to  
8 the phone lines.

9 (No response.)

10 Okay. I will provide another  
11 opportunity in a few minutes.

12 I would like to ask if there are  
13 others on the phone lines who wish to make  
14 public comment.

15 DR. McKEEL: This is Dan McKeel. I  
16 would like to make a short comment, please,  
17 Dr. Ziemer.

18 CHAIRMAN ZIEMER: Okay. Yes, Dan  
19 McKeel I believe is the petitioner for the Dow  
20 Madison site as well as another site.

21 Go ahead, Dan.

22 DR. McKEEL: Good evening to the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Board members. I would just like to comment  
2 on your question to Mr. Hanson.

3 That is, I did write, I have  
4 written [identifying information redacted]  
5 several times asking her to please share her  
6 new information with me, as petitioner on the  
7 Dow Madison extension of the SEC. The most  
8 recent one was an email I sent to her  
9 yesterday in that regard. So I am hoping that  
10 she will decide to do that because it puts me  
11 in a very awkward position not knowing this  
12 information and not being able to help and  
13 support the effort, which, of course, I hope  
14 proves to be successful.

15 I think the other comment that I  
16 want to make, shifting gears, relates to Larry  
17 Elliott's, Director of OCAS, presentation to  
18 the Board today. In that, he gave a news  
19 update about the recently-published report  
20 that NIOSH made about comparing the Rutenber  
21 Rocky Flats dataset with the dataset that  
22 NIOSH had collected on Rocky Flats that had to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 do with neutron exposures.

2 Mr. Elliott, as I understood, his  
3 comment was that, basically, the report showed  
4 that there were no significant differences  
5 between the two datasets and that they were  
6 basically the same. I just wanted to comment  
7 that many of us maybe listened to and  
8 participated in the July the 20th, 2009, Rocky  
9 Flats Work Group session. In that session,  
10 there was attention called to two basic huge  
11 differences between the two datasets.

12 Again, those datasets were aimed at  
13 identifying people who had neutron exposures  
14 at Rocky Flats and might be included in the  
15 awarded SEC class for that facility. You  
16 please excuse me if these weren't the exact  
17 numbers, but I believe there were 4,163 people  
18 identified in the Ruttenber dataset that they  
19 said were exposed to neutrons that were not in  
20 the NIOSH dataset. And in turn, Brant Ulsh  
21 commented that there were 468 people, or 486  
22 -- I can't remember -- people in the NIOSH

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 dataset that were not found in the Ruttenber  
2 dataset.

3 SC&A's Arjun Makhijani commented  
4 that that 4,163 people were potentially  
5 eligible to be included in the SEC dataset,  
6 and I believe that is where it ended with the  
7 Work Group, that obviously more work was to be  
8 done to reconcile those really large  
9 discrepancies.

10 So, in light of that happening just  
11 four days ago, I must say I was very surprised  
12 to hear Mr. Elliott's characterization of that  
13 report. I just thought that should be noted  
14 for the public record.

15 Thank you very much.

16 CHAIRMAN ZIEMER: Thank you, Dan.  
17 I might mention -- and of course, Mark Griffon  
18 is here, the Chair of that work group, and he  
19 is aware of your comments as well, as is Dr.  
20 Makhijani, I believe. At least he is here at  
21 the meeting. Yes, he is here in the assembly.

22 I believe, Mark, when you report

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 out for the Work Group later this week, you  
2 may address this issue further.

3 So thank you, Dan, for those  
4 comments.

5 Is there anyone else on the line  
6 who wishes to address the assembly?

7 (No response.)

8 Apparently not.

9 Let me again give opportunity to  
10 anyone here in the room with us tonight that  
11 wishes to make public comment.

12 (No response.)

13 A very quiet group tonight, and I'm  
14 not aware of any other folks that have called  
15 in to ask specifically, not for today. We  
16 will have some others on the line at the other  
17 public comment period.

18 If not, then we are going to  
19 recess. We will reconvene tomorrow morning at  
20 what, at 8:30? Nine o'clock. You shouldn't  
21 have told me, I would have been here really  
22 early.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   Thank you.    We will see you all  
2 tomorrow.

3                   (Whereupon,    the    above-entitled  
4 matter went off the record at 7:24 p.m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701