

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

PUBLIC HEALTH SERVICE

CENTERS FOR DISEASE CONTROL AND PREVENTION

NATIONAL INSTITUTE FOR
OCCUPATIONAL SAFETY AND HEALTH

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ADVISORY BOARD ON RADIATION AND
WORKER HEALTH

+ + + + +

SURROGATE DATA WORKGROUP

+ + + + +

FRIDAY,
MAY 8, 2009

+ + + + +

TELECONFERENCE

+ + + + +

The workgroup convened at 1:00
p.m., Dr. Jim Melius, Chair, presiding.

MEMBERS PRESENT:

JIM MELIUS, Chair
JOSIE BEACH
MARK GRIFFON
WANDA I. MUNN
PAUL ZIEMER

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IDENTIFIED PARTICIPANTS PRESENT:

THEODORE M. KATZ, Acting Designated
Federal Official
NANCY ADAMS, Contractor to NIOSH
EMILY HOWELL, HHS
ARJUN MAKHIJANI, SC&A
JOHN MAURO, SC&A
ROBERT MCGOLERICK, HHS
DAN McKEEL
JIM NETON, NIOSH ORAU
JOHN RAMSPOTT, General Steel Industries
BILL THURBER, SC&A
TOM TOMES, NIOSH ORAU

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

2 (1:04 p.m.)

3 MR. KATZ: This is the Surrogate
4 Data Working Group. And this is Ted Katz.
5 I'm the acting designated federal official for
6 the Advisory Board. We'll start with roll
7 call, beginning with the Chair of the Working
8 Group or all members of the Working Group.

9 CHAIRMAN MELIUS: Jim Melius.

10 MEMBER ZIEMER: Paul Ziemer.

11 MEMBER MUNN: Wanda Munn.

12 MEMBER BEACH: Josie Beach. No
13 conflicts.

14 MEMBER GRIFFON: Mark Griffon.

15 MR. KATZ: Okay. And I know Dr.
16 Poston is out of the country and not joining
17 us. Everyone else, since we're talking about
18 a site today, if you could just address
19 conflict as well, as Mark did.

20 MEMBER ZIEMER: Ziemer. No
21 conflicts.

22 MEMBER MUNN: Munn. No conflict.

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1 CHAIRMAN MELIUS: Jim Melius. No
2 conflicts.

3 MEMBER GRIFFON: And Mark Griffon.
4 No conflicts.

5 MR. KATZ: Okay. On to NIOSH ORAU?

6 DR. NETON: This is Jim Neton. No
7 conflicts.

8 MR. TOMES: This is Tom Tomes. I
9 have no conflicts.

10 MR. KATZ: And SC&A team?

11 DR. MAURO: John Mauro. No
12 conflict.

13 MR. THURBER: Bill Thurber. No
14 conflicts.

15 MR. KATZ: Okay.

16 MEMBER ZIEMER: I thought I heard
17 Arjun on the phone before.

18 MR. KATZ: Yes.

19 DR. MAKHIJANI: Arjun. No
20 conflicts.

21 MR. KATZ: Okay. All right. And
22 then let's have other HHS or other federal

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1 either employees or contractors.

2 MS. HOWELL: Emily Howell, HHS. No
3 conflicts.

4 MR. MCGOLERICK: Robert McGolerick,
5 HHS. No conflict.

6 MS. ADAMS: Nancy Adams, NIOSH
7 contractor. No conflict.

8 MR. KATZ: Okay. Nobody from DOL
9 or DOE. And then members of the public who
10 want to self-identify?

11 DR. McKEEL: This is Dan McKeel. I
12 am the Texas City SEC petitioner. And I have
13 notified [Identifying Information Redacted],
14 who is the other petitioner, that this meeting
15 was being held.

16 MR. RAMSPOTT: John Ramspott in St.
17 Louis representing General Steel Industries.

18 MR. KATZ: Welcome, John.

19 MR. RAMSPOTT: Thank you.

20 MR. KATZ: Okay. Then are there
21 any staffers of congressional offices who
22 might want to self-identify?

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1 (No response.)

2 MR. KATZ: Okay. I would just
3 remind everyone on the line, I know you are
4 familiar with this, but please, everyone who
5 isn't speaking, mute your phone while you're
6 not speaking. And use star 6 if you don't
7 have a mute button.

8 MEMBER MUNN: John, I don't know if
9 my phone is the only one that's doing this,
10 but you sound quite muffled. I'm not hearing
11 you. I hear you, but I don't hear you
12 clearly.

13 MR. KATZ: Sorry. Okay. Jim, it's
14 your agenda.

15 CHAIRMAN MELIUS: Okay. Yes.
16 Today I wanted to focus on the Texas City
17 Chemicals special exposure cohort. And that
18 report had been referred to the Workgroup on
19 Surrogate Data in order for review because
20 much of the SEC evaluation report is based on
21 surrogate data.

22 So we are doing the meeting today.

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1 There were some difficulties with scheduling
2 of the workgroup. And Wanda is on, but
3 originally she didn't think she would be able
4 to participate on this particular date for
5 personal reasons.

6 So our only focus today is going to
7 be on the Texas City. We are not going to
8 talk directly about criteria for the use of
9 surrogate data in a more general sense and so
10 forth.

11 Actually, I have one sort of
12 procedural question because my understanding
13 was that Jim Lockey was the representative on
14 this workgroup, not you, Dr. Ziemer.

15 MEMBER ZIEMER: I will go back and
16 look at the list here. I believe that's
17 correct. I was just listening in.

18 CHAIRMAN MELIUS: That's fine. I
19 just wanted to note for the record that Jim
20 Lockey is not in attendance. And, actually, I
21 never heard back from him about whether he
22 would be able to attend. I was actually at

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1 his university last week on another matter.
2 And he was out of town then. And he may not
3 be back yet.

4 MR. KATZ: Jim, you are correct on
5 both counts. And I think I did hear from
6 Locky that he cannot attend.

7 CHAIRMAN MELIUS: Okay.

8 MR. KATZ: I probably said Poston,
9 but I meant Locky.

10 CHAIRMAN MELIUS: Okay. You did
11 say Poston.

12 MR. KATZ: Sorry about the
13 confusion.

14 CHAIRMAN MELIUS: I was trying to
15 make sure that either the Web site was wrong,
16 my memory was wrong, or what.

17 MEMBER ZIEMER: Just for the
18 record, I am on our official list, which I
19 just opened up here. It's Melius, Beach,
20 Griffon, Locky, and Munn are the members. So
21 that is correct.

22 CHAIRMAN MELIUS: So, anyway, to

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1 focus on the Texas City Chemical SEC report.
2 What I thought we would do is sort of briefly
3 because these are in documents, at least the
4 first two items.

5 One is just a brief summary from
6 NIOSH about their evaluation report, a summary
7 from SC&A about their review of that
8 evaluation report, and then I would like to
9 give Dan McKeel a chance to sort of speak
10 about from a petitioner's perspective on are
11 there other outstanding issues.

12 And what I really hope to do in
13 this meeting is to try to identify issues that
14 need to be dealt with and make sure that:
15 one, there are no other issues that might have
16 come up that haven't been identified yet or
17 where we need more information before the
18 Workgroup and the Board could take action on
19 this SEC evaluation. So that's the intent.
20 And I hope we can work through that relatively
21 efficiently.

22 So starting with NIOSH? And, Jim,

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1 I don't know who is presenting.

2 DR. NETON: Yes. I am going to
3 start off if that is okay. Tom Tomes is here
4 for some more detailed technical support if we
5 get into it beyond my current level of
6 recollection.

7 Just to refresh everybody's memory,
8 we issued the evaluation report in January of
9 2008 for Texas City Chemicals. And I believe
10 that I presented our evaluation report to the
11 Board at the Tampa meeting in April.

12 As Dr. Melius pointed out, our
13 approach to reconstructing doses at Texas City
14 relies solely on the use of surrogate data.
15 We have no individual monitoring data at all
16 from the site.

17 We relied on a number of reports in
18 the literature. Notably there was an EPA, I
19 believe, 1978 report that we relied heavily
20 on. And to some degree, maybe the Florida
21 Institute for Phosphate Research reports.

22 The surrogate model is

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1 reconstructed or we believe plausibly
2 demonstrates a reconstruction of an upper
3 bound for the uranium intakes that were there.

4 As we all remember, Texas City is very
5 similar to Blockson Chemical in the sense that
6 they were making phosphate products and they
7 were as a side issue pulling off uranium for
8 the AEC.

9 So we developed models to assess
10 the uranium intakes, all the other progeny
11 associated with uranium in the uranium DK
12 series as well including radon. So it was a
13 fairly straightforward model. We put
14 plausible upper bounds on the exposures for
15 the covered time period.

16 Just briefly, SC&A had some
17 findings. And I'm sure John Mauro will get
18 into that in more detail. There were eight
19 findings that were recognized by SC&A. They
20 broadly fell into several categories.

21 And the most notable ones were the
22 exposures we modeled were either too highly --

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1 and, actually, three of the findings were in
2 that category. One was too low. And the
3 other findings tended to center around whether
4 we needed to do more work to prove or to
5 demonstrate that the plausible bounds were
6 actually appropriate by looking at some other
7 references that may have been available at the
8 time.

9 NIOSH had prepared draft responses
10 to these findings. The report, I believe,
11 came out in July of 2008. But a number of
12 developments occurred since the time we wrote
13 the evaluation report or around the time we
14 wrote the evaluation report that really will
15 tend to change the focus of the report itself
16 and probably address some of the findings of
17 SC&A.

18 Those developments include the
19 issuance of a surrogate data position by NIOSH
20 in August of 2008, so a good seven months
21 after we wrote the report. We have a position
22 out there now.

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1 It was also almost at the same time
2 that we were drafting the evaluation report,
3 very shortly before the report was released,
4 we received some new information from the
5 Department of Energy that helped define the
6 covered activities that were there and
7 specifically the very time periods that needed
8 to be addressed, which would tend to narrow
9 the covered period substantially and more than
10 likely reduce the amount of internal exposure
11 to uranium, at least uranium, possibly other
12 nuclides.

13 And then the third major issue that
14 arose was the Advisory Board or the Working
15 Group challenge at Blockson, the adequacy of
16 the radon model. It indeed was the one and
17 the same model we have applied to Texas City
18 that we used for Blockson.

19 So that leaves open the issue as to
20 how we go about reconstructing radon at Texas
21 City because, as we know, the Blockson
22 approach is still undergoing discussion. In

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1 fact, I am giving a presentation on that at
2 the upcoming Board meeting in Amarillo.

3 So, in a nutshell, I think that
4 enough things have changed since we wrote the
5 individual evaluation report that we feel the
6 need to have an update of the report itself.

7 But, having said that, I'm not sure
8 that we can at this point come up with an
9 approach to the radon because, like I say, it
10 is directly tied to how we do Blockson. So
11 that kind of remains a sticky issue with us
12 right now as to how we are going to move
13 forward with Texas City. And that's what I
14 have in a nutshell.

15 CHAIRMAN MELIUS: Okay. Good. And
16 that was I think helpful clarification, on
17 that issue.

18 Anybody have any questions for Jim?

19 (No response.)

20 CHAIRMAN MELIUS: I just have one
21 question to make sure I understand the report,
22 frankly. Basically you had no data at all on

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1 Texas City to utilize production data or
2 otherwise?

3 DR. NETON: I'm sorry. We do know
4 what they did and the production quantities of
5 uranium and those types of things, your
6 typical source terms. I'm sorry. I didn't --

7 CHAIRMAN MELIUS: Okay.

8 DR. NETON: We had no individual or
9 area monitoring information is what I should
10 have said.

11 CHAIRMAN MELIUS: Okay.

12 MEMBER MUNN: Just an extremely low
13 production number.

14 MEMBER ZIEMER: I have one other
15 question. You mentioned eight findings, Jim.
16 I'm just glancing back at the SC&A report. I
17 find that they have nine findings listed.

18 DR. NETON: Oh, there are nine?
19 I'm sorry. I made a mental error there. One
20 of the findings was related to the class
21 definition. I guess I kind of --

22 MEMBER ZIEMER: Okay. The others

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1 were the technical ones.

2 DR. NETON: The others were
3 technical.

4 MEMBER ZIEMER: Yes, yes. Okay.
5 Gotcha.

6 DR. NETON: The class definition
7 issue.

8 MEMBER ZIEMER: Thanks.

9 DR. NETON: We can certainly talk
10 about what I was trying to address, the
11 technical.

12 CHAIRMAN MELIUS: John, are you
13 presenting the --

14 DR. MAURO: Yes. I will give you
15 the overview. And then, of course, we can go
16 into more detail. Bill Thurber is the author,
17 principal author, of this document.

18 But I think, Jim, you did a great
19 job in summarizing it. I would like to add a
20 couple of over-arching findings related to our
21 work. And that is we did heavily focus in
22 this particular review on the degree to which

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1 the approaches taken to external/internal
2 exposure, pre-operational/operational
3 exposures, and the methods you used -- and we
4 evaluated them against not the draft criteria
5 that the Surrogate Data Workgroup developed.

6 We did have some significant
7 findings in that area; that is, we felt that
8 the surrogate approach for many of the
9 exposure scenarios and the radionuclides
10 really did fall short of selecting surrogate
11 data that was indeed appropriately applied to
12 the Texas City facility. So we have quite a
13 bit of discussion on that matter in this
14 report.

15 I think that is one of the issues,
16 that certainly if you are revisiting some of
17 these exposure models and assumptions, we do
18 have certain suggestions in our report as to
19 other sources of data that might be more
20 appropriate in time and in operation, nature
21 of the operations. So I wanted to add that.

22 There is the issue of plausibility.

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1 I think that is an important issue. You will
2 notice that in the process of discussing the
3 selection of the surrogate data, in some cases
4 the surrogate data that was selected ended up
5 with exposures that we found to be plausible
6 and seemed to be appropriate, but in other
7 cases we found the assumptions that were used
8 and the surrogate data that were used really
9 -- I think is a very important over-arching
10 issue with regard to the question of
11 plausibility.

12 Certainly in many cases they were
13 bounding to the point where they may have been
14 bounding to the extent that one would consider
15 it to be unrealistically high by one to two
16 orders or magnitude.

17 We also found in other places where
18 the doses, the surrogate data that was used
19 resulted in underestimates. That is, we
20 believe that the data set that was drawn upon
21 as applied to this problem resulted in an
22 underestimate for a particular radionuclide

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1 scenario.

2 So that sort of couches the
3 over-arching issues. Of course, we are
4 prepared to go into the details, if necessary.

5 And if we do move down that road, I certainly
6 would go to Bill Thurber to address some of
7 the more specifics.

8 I think between the summary that
9 Jim just gave and I just provided, that gives
10 you a pretty good picture of where we are in
11 this particular review.

12 CHAIRMAN MELIUS: Thanks. Any
13 questions for John?

14 MEMBER MUNN: Yes. This is Wanda.
15 I do have a couple of questions, John. Even
16 though, admittedly, I didn't read and reread
17 the body of your report as thoroughly as I
18 would have liked to, it is not clear to me why
19 you feel that the FIPR study in 1998 might be
20 a better reference for this particular site
21 than the EPA study that was done 20 years
22 before.

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1 It would seem that the earlier
2 study might have more reverence, more
3 relationship to the then defunct plant than
4 one that was done 20 years later. I'm not
5 clear in my mind about what the difference of
6 the content of those two references was.

7 DR. MAURO: I will give you one
8 reason why we were critical of the data. In
9 many cases, at least two of the scenarios,
10 there was only a single measurement.

11 MEMBER MUNN: Right.

12 DR. MAURO: And the Florida data,
13 there was a much more comprehensive set of
14 values upon which to draw. And we found that
15 it's very difficult, you know, to take single
16 measurements and say that we are being
17 claimant-favorable.

18 There are other places where the
19 measurements that were made were made for
20 conditions. For example, I will use one
21 example -- and, Bill, certainly please add to
22 this -- where the measurements that were used

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1 were for operations that did not apply to
2 Texas City.

3 So there were two aspects of, I
4 believe, the Idaho work that we felt were
5 problematic. One was they were very limited.

6 I think in some cases it was just single
7 measurements. And in another case, the
8 measurements that were made were for
9 associative operations that really didn't
10 apply to Texas City.

11 Bill, do you want to add a little
12 bit to that?

13 CHAIRMAN MELIUS: This is the
14 Chairman. Bill?

15 DR. MAURO: Is Bill Thurber online?
16 I know we signed in.

17 MEMBER MUNN: Yes, he did.

18 MR. THURBER: I had the stupid mute
19 on. John, yes, that captures it very nicely.

20 DR. MAURO: Okay. Thank you.

21 DR. NETON: I don't know how
22 technical we want to get, but this is

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1 generally I just want to maybe make a few
2 points there, that I think the EPA data had
3 more than just one pointer. We chose to
4 report the ones that we used.

5 But since SC&A had made that
6 comment, we have since gone back and evaluated
7 our values against the FIPR data. In fact,
8 they're somewhat comparable. They are not
9 very different. And this is the kind of stuff
10 we get into when we really sit down and go
11 back and forth on the issues.

12 MR. THURBER: I don't disagree with
13 that, Jim, but we felt that in applying the
14 draft criteria on surrogate data that were
15 available to us when we did this review, that
16 one of the criteria spoke specifically to if
17 you had to use surrogate data, to very
18 strongly justify it.

19 And so we felt that it would have
20 been more helpful if you had said, "Well, we
21 looked at the FIPR data. And we looked at the
22 Idaho data. And this is how we came to our

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1 position." And that seems to be a more robust
2 approach and more consistent with how we were
3 reading these draft guidelines.

4 DR. NETON: That is a good point.
5 We would certainly be prepared to flesh out,
6 therefore, in that level of detail.

7 To get back to John's other issue
8 with where we were too high, I think this new
9 information that we have from the DOE will
10 help immensely resolve that issue. I think
11 that the main issue with being too high
12 centered around NIOSH assigning or assuming
13 that the work occurred over an entire work
14 year when, in fact, it was limited to a very
15 short period of time within a year.

16 We weren't convinced of that that
17 we could prove that at the time. Now with the
18 new DOE information, we will shorten that work
19 period considerably and bring it more in line
20 with what SC&A thought the values should be.

21 MEMBER MUNN: Which will bring us
22 much closer to the question of plausibility.

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1 DR. NETON: Yes, I think so.

2 MEMBER MUNN: And plausibility is,
3 without any question, a viable issue and one
4 that needs to be addressed. I take some issue
5 with SC&A's having lumped plausibility in with
6 fairness.

7 And, speaking of fairness, we all
8 know that fairness is the end "Gotcha" for all
9 of us who would like to be politically correct
10 and make sure that everyone in the world has a
11 fair deal.

12 But where the truth is, fairness is
13 almost impossible to evaluate even from one
14 person to the next, much less across the kind
15 of incidents that we are speaking of in these
16 sites and in these specific activities.

17 Plausibility? Yes, with no
18 question, a better job needs to be done in
19 that regard. But I don't think you can lump
20 that in with fairness and maintain that there
21 is a serious fairness issue here.

22 CHAIRMAN MELIUS: Any other

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1 questions or comments for John?

2 (No response.)

3 CHAIRMAN MELIUS: Okay. Can we
4 hear from Dan? Do you have any comments or
5 issues to raise?

6 DR. McKEEL: Yes. Hi, Dr. Melius
7 and members of the Board and NIOSH and SC&A
8 and everyone. First, I want to thank you for
9 allowing me to participate in this Workgroup.

10 I guess I have a comment first
11 about Dr. Neton's revelations today or at
12 least revelations to me. He mentioned
13 receiving new data from Department of Energy,
14 information that would shorten the work
15 period. This is the first time that I have
16 had any inkling of this.

17 DR. NETON: Dr. McKeel, I would
18 just like to comment quickly there. I believe
19 this was discussed in a March conference call,
20 with the petitioners, with Tom Tomes, where we
21 brought this up.

22 DR. McKEEL: Well, I am the

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1 petitioner. And I have repeatedly said to Dr.
2 Ziemer and Ted Katz, you know, this is the
3 real problem because the 3-11 transcript has
4 not yet appeared on OCAS. So I really don't
5 have access to that.

6 So, anyway, I certainly would say
7 that I want that information shared with me.
8 And I am presuming that that information, Dr.
9 Neton, was given to the Board. Is that
10 correct?

11 DR. NETON: The transmittal letter
12 was put on our Web site a long time ago, but
13 just recently we put the information on the O:
14 drive. So it's out there.

15 DR. McKEEL: The transmittal letter
16 from DOE was put on the OCAS Web site?

17 DR. NETON: Not the Web site. The
18 O: drive. Sorry. And then we --

19 DR. McKEEL: So it really -- well,
20 I guess I am interested. When you say "the
21 transmittal letter" and you "put" something
22 "on the O: drive," do you inform SC&A or the

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1 Board that new information is posted about a
2 site, Texas City or another one? I'm just
3 talking about general procedures now.

4 In other words, how would they be
5 aware?

6 DR. NETON: In general, we do. And
7 this is all part of the Working Group process.
8 We will inform them as new information is
9 added.

10 I can't recall from a year ago or
11 more now that if we actually notified them.

12 DR. McKEEL: Okay.

13 DR. NETON: But it is our general
14 practice to notify the Working Group of new
15 information that is posted.

16 DR. McKEEL: Okay. Second comment
17 is that the general thrust of the over-arching
18 points that John Mauro mentioned were that
19 some of the surrogate data in the evaluation
20 report was not appropriately applied to Texas
21 City. And that seems to me to be a huge
22 point.

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1 The second huge point is that the
2 evaluation report, which recommends denying
3 the Texas City SEC, states that you all can
4 accurately bound intakes and external doses.
5 And now we learn that the radon model used
6 does not bound it and, in fact, has to be
7 re-thought through for Blockson and in the
8 same way has to be thought through for Texas
9 City.

10 So here is a point that is an old
11 issue about timeliness, but it also applies to
12 surrogate data. NIOSH admits that it has
13 absolutely no real data about Texas City.

14 And in my recent letter to
15 Congresswoman Sheila Jackson Lee trying to get
16 her to help locate some documents, I mentioned
17 that we have had tremendous difficulty getting
18 real data from the Texas Health Department and
19 the Texas Commission on Environmental Quality,
20 TCEQ. So we are asking her to help us.

21 The point I want to bring out is
22 this evaluation report was in January of 2008.

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1 And it's now May of 2009. You can't
2 reconstruct the radon doses. There have been
3 no dose reconstructions done in that 17
4 months.

5 So my point is -- and it sounds
6 like the deliberations about this are going to
7 go on for a very long time. So I would just
8 like to state again that it seems to me not
9 just the fair but the appropriate thing to do
10 is to admit that this fight, the doses cannot
11 be reconstructed based on SC&A's findings, Dr.
12 Neton's admission that they have not got a
13 valid radon model.

14 And my challenge also is that
15 although the source term is somewhat defined,
16 now we know that there is new information from
17 DOE that changes the production period. So
18 possibly that information changes the source
19 term mask, for instance, that was processed.

20 I would also note that if you
21 carefully look at what has been offered as
22 definitions of source term, it is very

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1 incomplete. We know the plant stopped. And
2 then it was slow starting. And, you know,
3 there is very scant information that defines
4 the source term.

5 There are no pictures of the
6 recovery building. There are no descriptions
7 of the recovery building, no way to tell how
8 that building was constructed with respect to
9 air flow and air exchanges and so forth. I
10 know those discussions well at Blockson.

11 So to me this is a situation where
12 you have an AWE site with no monitoring data
13 at all. And it deserved at the beginning, a
14 long time ago, an 83.14. And now as this long
15 period of time after the evaluation report was
16 rendered, we still -- I mean, we're saying
17 this morning we cannot correctly bound those
18 doses in a way that satisfies SC&A. And the
19 Board still has to make its deliberations.

20 Then the final point I want to make
21 is that although we say we are going to
22 concentrate just on TCC, I think it is heavily

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1 dependent on getting surrogate data criteria
2 that, number one, are finalized by the Board
3 and that are reconciled with the NIOSH set of
4 OCAS IG-004 surrogate data criteria, which
5 were put out months after the evaluation
6 report was made.

7 So I just think it is extremely --
8 I am going to try to stay away from the
9 "fairness" word because I don't think that's a
10 good word. But I don't think it's
11 scientifically defensible. Why don't we put
12 it that way? That's the word that seems to
13 resonate. I don't think it's scientifically
14 defensible to keep on going forward with an
15 opinion that NIOSH recommended against the SEC
16 being awarded in January of 2008 when new data
17 that's come casts a large doubt on that.

18 And also I would say today that I
19 would like Dr. Neton to tell us exactly what
20 the new data is from Department of Energy and
21 how this could decrease the work period. I
22 don't understand that at all.

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1 So I guess that is what I want to
2 say for this portion of the talk.

3 CHAIRMAN MELIUS: Okay. Thanks,
4 Dan.

5 Jim, do you want to respond to the
6 last question or --

7 DR. NETON: About the new
8 information?

9 CHAIRMAN MELIUS: Yes.

10 DR. NETON: Yes. I think Tom Tomes
11 is here. He could provide a brief summary of
12 what we have and what changes it might
13 produce. Tom?

14 MR. TOMES: We received the new
15 documentation in January of 2008. And I think
16 at least three of those documents we hadn't
17 seen before. And they were reported written
18 by the AEC of activities that were ongoing in
19 Texas City Chemicals during 1955 and '54, in
20 that time frame.

21 And it describes the problems with
22 the uranium recovery facility, how it never

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1 really went into full operation because of
2 problems with the fertilizer plant. There
3 were design flaws with it. And there was a
4 lawsuit, as a matter of fact, over the people
5 who constructed it.

6 And so at the same time, they had a
7 research contract with the AEC. That contract
8 was for researching the leach zone phosphate
9 material to try to find a way that they could
10 economically recover the P-205 from that. And
11 the assumption was that they could recover the
12 P-205, that the uranium would come with it.

13 And that research centered
14 basically on the phosphate. And they did
15 analyze for uranium on a number of samples.
16 There are some results in those records.

17 Basically, to summarize that, it
18 just shows that the uranium recovery plant
19 started up and failed and never started back
20 up again. And there was some research going
21 on at the same time.

22 When we wrote the evaluation

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1 report, we knew there was some development
2 work going on. We didn't know what it was.
3 And we didn't know the full story of the
4 recovery plant.

5 So the implausibly high doses that
6 had been mentioned were mainly a result of
7 assuming that there was some work going on
8 that could have been that high of a dose. And
9 that's what we did not address in the
10 evaluation report because when it was drafted,
11 we didn't have that information.

12 DR. NETON: So, Tom, the total
13 period of time the uranium was produced, do we
14 have a handle on that now, like what period?

15 MR. TOMES: The last quarter of
16 1953.

17 DR. NETON: So one quarter of
18 uranium production, which we believe produced
19 approximately, what, 300 pounds of uranium?

20 MR. TOMES: Yes.

21 DR. NETON: So that was the total
22 production in that last quarter, which this

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1 new information allows us to speak pretty
2 confidently about now.

3 DR. McKEEL: Well, my comment would
4 be so we have gone from 12 tons for the
5 well-defined source term in the evaluation
6 report now to 300 pounds in one quarter.

7 So I would say that any reasonable
8 person, scientist or not, would listen to this
9 and say that the evaluation report of January
10 2008 is completely invalid and needs to be
11 rewritten.

12 I would then say to me it simply is
13 not reasonable, it is not consistent with the
14 spirit of EEOICPA to continue to try to get
15 better numbers to develop a new radon model
16 that what you need to do is to say we don't
17 know even the barest fact, which is a good
18 solid definition of the source term. That is
19 the minimum that you should need. And there
20 are many things that are not known about this
21 plant, in addition to that. And we have the
22 findings from SC&A.

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1 So I would say that you have laid
2 out an excellent case why the only appropriate
3 thing to do under the Act is to award an 83.14
4 to that site.

5 And I want to just state again for
6 the record, there have been two dose
7 reconstructions done before the evaluation
8 report was issued. The evaluation report
9 comes out and says, "We can reconstruct dose."

10 So my question still remains, why
11 didn't you do that? Why didn't you do a
12 single dose reconstruction in those 17 months
13 since January 2008?

14 And I hope the answer will be that
15 NIOSH can not do what it says is to be done
16 and that, honestly, before going into a months
17 and months and months longer deliberation on
18 Texas City, that the Workgroup would recommend
19 to the Board to pass a sense of the Board that
20 the evaluation report has been presented to
21 the Board, it's been researched by SC&A, and
22 the Board could make a vote in Amarillo that

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1 if the Workgroup would recommend it, that
2 there should be an SEC awarded for Texas City.

3 And I think that is the only appropriate
4 action.

5 So thank you again for letting me
6 say my thoughts.

7 CHAIRMAN MELIUS: Thanks, Dan.

8 I have a question for John Mauro.
9 Were you or your staff aware of this new
10 information from DOE when you wrote your
11 evaluation report?

12 DR. MAURO: No. We based it on --
13 the records that were available to us at the
14 time indicated that the 300 pounds were
15 produced over a 3-month period.

16 So we felt that assuming that
17 exposures, the basic approach used for
18 external exposures, for example, was, I
19 believe, the individuals were exposed for a
20 three-year period.

21 And the amount of the uranium was
22 the amount that would fill up a 55-gallon

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1 drum, which is much more than would be
2 associated with 300 pounds. So they basically
3 used the Blockson approach to external
4 dosimetry that we felt was inappropriate as a
5 surrogate and also not plausible.

6 But no, we did not have this more
7 recent information that Jim made reference to.

8 CHAIRMAN MELIUS: I am just trying
9 to understand the critique you made in your
10 evaluation report and sort of exactly what
11 information it was --

12 DR. NETON: Dr. Melius, I think I
13 might be able to clarify a little bit. We did
14 believe all along that this 300 pounds was
15 what was produced, but, as Tom mentioned,
16 there were other developmental activities that
17 were under contract with AEC during that whole
18 year.

19 And we had no knowledge at the time
20 we wrote the evaluation report as to what
21 those development activities were. We assume
22 they could have been related to the uranium

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1 production or something of that nature.

2 And so then we assume an entire
3 year's worth of production of uranium just to
4 be conservative.

5 CHAIRMAN MELIUS: I thought I
6 understood that. And then I was a little
7 confused when I looked at the SC&A report and
8 some of their --

9 DR. NETON: This new information
10 essentially just clarified in our mind that it
11 would be totally appropriate to do what SC&A
12 suggested, and it is to bound the exposures
13 using 300 pounds in that one quarter, which is
14 what we are prepared to do.

15 CHAIRMAN MELIUS: Anybody else on
16 the Board have any questions about this issue?

17 MEMBER MUNN: No. It seems fairly
18 obvious we have to wait for the additions to
19 the evaluation, which incorporate the more
20 firm information that we now have.

21 CHAIRMAN MELIUS: Correct. And any
22 other comments on that?

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1 (No response.)

2 CHAIRMAN MELIUS: I have, I guess,
3 a question for Jim Neton. What would your
4 time frame be on that for issuing a revised
5 report?

6 DR. NETON: Well, I don't think a
7 revised report would take too terribly long
8 because it's a fairly simple source term. I
9 have a concern, though, about getting out a
10 report that would address the radon issue
11 because of the current ongoing discussions
12 about Blockson and the appropriateness of that
13 approach. It would be not the exact Blockson
14 approach calculations but a very similar
15 probabilistic model that we would use.

16 So we could reissue the report, but
17 I would like to have some final resolution on
18 the radon issue with the Advisory Board,
19 rather than just go ahead and incorporate our
20 current version into the evaluation report.

21 MEMBER MUNN: Jim's not alone in
22 wishing to see that.

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1 CHAIRMAN MELIUS: I am sure.

2 DR. NETON: Maybe to move things
3 forward, we could issue the report. If the
4 radon is not resolved at the Amarillo meeting,
5 we could issue it just to move discussions
6 forward on all the pieces except the radon.

7 CHAIRMAN MELIUS: Yes, I guess one
8 of my questions back to the radon, I sort of
9 hesitate to raise it, but my understanding was
10 that I asked a more generic question about, I
11 think, either at the Board meeting or one of
12 the Workgroup meetings on Blockson. Was your
13 policy going forward to apply the what's
14 called, the so-called Blockson model at all
15 other, you know, the similar sites involving
16 radon exposure?

17 At that time I believe the answer
18 was you weren't sure. You might would take
19 the approach that is most suited to that
20 particular site now. I may not be quoting --

21 DR. NETON: I remember the
22 question. I think I said something to the

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1 effect that we would reserve the right to use
2 that where we felt it was appropriate --

3 CHAIRMAN MELIUS: Yes. That sounds
4 --

5 DR. NETON: -- the Florida
6 Institute of Phosphate data -- Phosphate
7 Institute -- Florida Institute of Phosphate
8 Research data. But in looking at the Texas
9 plant, it is more of a Southern plant. So
10 that criteria is sort of fulfilled, but the
11 data tend to be more contemporaneous.

12 These are back in the same era as
13 Blockson. So you run into the same issues
14 with building ventilation rates and such, but
15 we feel we know enough about the source term
16 and the building footprint and such or the
17 size of the building that we could, you know,
18 use the same analytical approach that we
19 developed for, well, that SC&A developed that
20 we are adopting for the radon, bounding radon
21 concentrations.

22 CHAIRMAN MELIUS: Okay. Now,

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1 that's a --

2 MEMBER BEACH: And, Dr. Melius,
3 this is Josie. I have a question.

4 CHAIRMAN MELIUS: Sure.

5 MEMBER BEACH: Page 7 of SC&A's
6 report reminds us that we had only assigned
7 them to do a focus review and only step one of
8 a two-step process was actually completed.

9 Do we need to assign them to look
10 into that further?

11 CHAIRMAN MELIUS: Thanks for
12 bringing that up. I would think that SC&A
13 probably should not do anything more until
14 NIOSH issues a revised report unless I am
15 missing something that would be sort of worth
16 doing.

17 MEMBER BEACH: Okay.

18 CHAIRMAN MELIUS: Short of that --

19 MEMBER MUNN: It would put us in
20 the position of having to have SC&A then look
21 at yet another document after NIOSH has
22 revised the one that we used as the basis for

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1 our discussion so far.

2 CHAIRMAN MELIUS: Correct. I mean,
3 I think we could make a decision on that when
4 we see the revised report. It's a fair
5 statement not to prejudge that and as to
6 whether it would be necessary or not, but I
7 guess I wouldn't necessarily see any need for
8 any work between now and the time that that
9 revised evaluation report is published by
10 NIOSH.

11 I don't know of anybody else from
12 the Workgroup or Board has a difference on
13 that or a comment.

14 MEMBER MUNN: No, it seems logical
15 that until you get some of the uncertainty
16 that has existed in the original report at
17 least addressed by the forthcoming corrections
18 and additions, that we have no basis for
19 reevaluation.

20 CHAIRMAN MELIUS: Correct. I guess
21 the only possibility -- and I'm not sure this
22 is necessary, but were there a technical issue

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1 that SC&A raised in their evaluation report
2 that NIOSH didn't understand or had questions
3 about. And it might be facilitated by having
4 sort of a technical call or consultation. I
5 think that kind of activity might be
6 appropriate, rather than have to revisit the
7 issue a second time with a revised report.

8 But other than that, I can't see
9 any need for anything else. John Mauro, do
10 you have any comments on that?

11 DR. MAURO: Yes. I fully agree
12 that to initiate step two at this time would
13 be premature.

14 CHAIRMAN MELIUS: Yes.

15 DR. MAURO: And I think after the
16 revised work comes out, at that time what the
17 Workgroup would like us to do will be dictated
18 I guess by the extent and complexity of
19 changes. It may be something that when you
20 read, it's very straightforward.

21 And maybe some technical call will
22 suffice after the report is issued or it may

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1 turn out that the Workgroup may decide that
2 no, they would like us to do some more. It's
3 hard to say right now.

4 MEMBER MUNN: I had, I hoped,
5 correctly assumed that any technical exchange
6 that felt was needed by either party would, in
7 fact, take place without actual further urging
8 from the Workgroup. Am I correct in that,
9 John, Jim?

10 DR. MAURO: Usually we get approval
11 by the Workgroup for a technical call if one
12 is deemed needed. So what I am hearing is
13 SC&A asserted we would be more than happy to
14 talk to Tom Tomes and Jim about our findings
15 if there's any question about any of it.

16 And as long as that is okay with
17 the Workgroup, we will certainly do that if
18 need be.

19 CHAIRMAN MELIUS: Yes. I mean, I
20 don't see any problem with that. I would just
21 I think request that you would notify the
22 Workgroup or at least the Workgroup Chair.

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1 MEMBER ZIEMER: Yes. This is
2 Ziemer. I think the practice is raised on the
3 side of the Workgroup members because
4 Workgroup members have the option of listening
5 in on those technical discussions anyway.

6 MEMBER MUNN: I will try to listen
7 in and keep quiet.

8 DR. MAURO: Fine. Absolutely, Jim,
9 if there is anything, Tom, if there is
10 anything, you would like to discuss regarding
11 our findings, any of the more detailed stuff,
12 let us know. And we certainly will inform the
13 Workgroup when that is scheduled.

14 DR. NETON: Yes. We would be happy
15 to do that. Right now I can't think of
16 anything that, you know, we need to discuss,
17 but it may come up once we start doing our
18 revision.

19 CHAIRMAN MELIUS: Good. I have one
20 question. I think this is for Ted Katz. Dan
21 McKeel mentioned the -- I guess it's the
22 transcription related to a March 2008 call

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1 with the petitioners that has never appeared
2 on the Web site.

3 MR. KATZ: Yes.

4 DR. NETON: Dr. Melius, I think
5 that was a NIOSH and a petitioner call, which
6 those aren't transcribed. Those are typically
7 just -- I don't know, Tom. They're just
8 meetings to discuss the evaluation report
9 itself with the petitioners to answer any
10 questions they might have. That's when this
11 discussion about the new data came up.

12 CHAIRMAN MELIUS: Okay. Well, I am
13 just responding to what I think I heard you --

14 DR. McKEEL: I was talking about
15 the March 11th, 2009 Surrogate Data Workgroup.
16 And that's what I thought Jim was referring
17 to. I mean, I am not sure about the March
18 technical call.

19 CHAIRMAN MELIUS: I think Jim, Jim
20 Neton, -- too many Jims here -- Jim Neton was
21 I guess referring to a call with the
22 petitioners.

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1 DR. McKEEL: Well, I am the only
2 petitioner besides [Identifying Information
3 Redacted]. There are two of us.

4 CHAIRMAN MELIUS: Okay.

5 DR. NETON: And Tom Tomes is
6 sitting here. He recalls discussing this with
7 you during that conference call.

8 DR. McKEEL: And what was the date
9 of that conference call? Maybe I can look
10 that up?

11 MR. TOMES: March 13th, 2008.
12 That's what I recall.

13 DR. McKEEL: Oh, March 13th, 2008?

14 MR. TOMES: Yes, correct.

15 DR. McKEEL: Well, okay. So I
16 guess since your question is to Ted Katz,
17 then, you know, I will just mention I assume
18 to get that report from DOE, I will have to
19 file a FOIA request. Is that correct under
20 the current -- that it's not available to me
21 through FACA section 3(b), that because it was
22 not given to the Board directly, I have to do

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1 a FOIA? Is that correct?

2 MR. KATZ: Yes. Dan?

3 DR. McKEEL: Yes?

4 MR. KATZ: This is Ted. These
5 interactions that OCAS has with petitioners,
6 yes, you have to FOIA for that. That's
7 correct.

8 DR. McKEEL: But the question I
9 don't understand is, will there even be a --
10 there won't be a transcript of that meeting.
11 So all I request is some DOE documents that I
12 don't even know the name of that was discussed
13 at some meeting on March the 13th, 2008 for
14 which there are no minutes, summary, or a
15 transcript.

16 I guess what I would ask, Dr.
17 Neton, it seems to me that things have gotten
18 far out of kilter when NIOSH can't even write
19 me an e-mail and tell me the name of the
20 document because that would greatly facilitate
21 making a FOIA request for a specific document,
22 rather than some vague request that the FOIA

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1 office would have no idea what I was talking
2 about and I don't have any idea what I am
3 talking about.

4 MR. KATZ: Dan?

5 DR. McKEEL: Yes?

6 MR. KATZ: I'm sorry. This is Ted.
7 I don't know of any reason why you can't be
8 given the name of a document to FOIA.

9 DR. McKEEL: Well, you may say
10 that, but I can tell you that I have written
11 Larry Elliott about Texas City. The first
12 time I ever wrote him I asked him -- this was
13 before the evaluation report. I asked him,
14 could he please inform me what information
15 NIOSH had or OCAS had about Texas City
16 Chemicals.

17 And he and Laurie Breyer assured me
18 that they had three documents for Texas City.

19 And after much urging, they sent me the SRDB
20 database listing, which gives the SRDB number.

21 And then I wrote back and said, you
22 know, "This is not helpful because I don't

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1 know what those numbers mean. Can't you at
2 least give me like a basic bibliographic
3 citation, the name, the title, the year, the
4 report number, pages?"

5 And he refused. They refused.
6 They said they would not do that. So you may
7 not know a reason why I shouldn't get it, but
8 all I can tell you is that, practically
9 speaking, NIOSH has refused to divulge that
10 kind of information.

11 And I also don't see any reason why
12 they couldn't and shouldn't do that.

13 MR. KATZ: Jim or Tom, do you have
14 the date of the memo from DOE or whatever the
15 documentation was that was sent over that you
16 can -- if you have it available, of course,
17 you can just state it for the transcript and
18 he can --

19 DR. NETON: Yes, Ted. It is a
20 Department of Energy letter dated January 7th,
21 2008 from Dr. Pat Worthington to Larry
22 Elliott.

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1 MR. KATZ: And the subject? Can
2 you just give the subject or whatever it has
3 as the subject line or whatever it might have
4 accordingly as identifier?

5 DR. NETON: It's a response to our
6 request for further research into Texas City.

7 MR. KATZ: Okay. I think that is
8 very exact identifying information.

9 MEMBER ZIEMER: This is Ziemer.
10 Did you say earlier, Jim, that that material
11 was on the O: drive?

12 DR. NETON: Yes, it is.

13 MEMBER ZIEMER: Okay. Thank you.

14 MR. TOMES: Just recently added.
15 And I haven't notified any of the Workgroup
16 that we put it on there yet.

17 MEMBER ZIEMER: I was looking in
18 the OCAS updates. And I didn't see any
19 reference to it or any notices that it was put
20 on.

21 DR. NETON: Yes. We need to get
22 the e-mail to the Working Group and SC&A as

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1 well. It's in the Texas City folder.

2 MEMBER ZIEMER: I know on some of
3 the workgroups, the -- your liaison person,
4 like Mark Rolfes or one of the others for the
5 various workgroups will tell the workgroup
6 when they are putting various documents on the
7 O: drive.

8 DR. NETON: Right.

9 MEMBER ZIEMER: I don't think it's
10 a formal procedure, but it's certainly done as
11 a matter of general practice if there is a
12 liaison person.

13 So I think in this case it would be
14 appropriate if, Tom, you would do that as a
15 regular thing for this particular case, it
16 would be helpful.

17 MR. TOMES: We certainly will. The
18 letters have been on there for some time.
19 Just the documents themselves were just
20 recently added. And I will send an e-mail
21 out.

22 MEMBER ZIEMER: And, again,

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1 although the petitioners don't have access to
2 the O: drive, I don't see any reason why they
3 shouldn't be made aware that something has
4 been placed there. Is that a problem so they
5 know of its existence?

6 DR. NETON: I don't see that that
7 would be a problem, no.

8 DR. McKEEL: I would certainly
9 appreciate that. And, again, I would say
10 about this particular set, even though the
11 comment was that there was a letter from Pat
12 Worthington to Larry Elliott January 7th,
13 2008, there's also mention that there were
14 documents --

15 DR. NETON: Right. That's --

16 DR. McKEEL: -- accompanying the
17 letter. And that's really what I want, of
18 course, is the letter and the document.

19 DR. NETON: I understand. The
20 letter had attached to it these documents.

21 DR. McKEEL: Well, I don't know
22 whether the letter referred specifically to

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1 the names of the documents. If it's in the
2 body of it, that would be fine. Eventually I
3 would have to send a FOIA for the documents
4 and the letter.

5 DR. NETON: I think if you could
6 just send and say we want the documents that
7 were listed in that letter would be sufficient
8 in my mind.

9 DR. McKEEL: Okay. Sure. That
10 would be fine. All right.

11 CHAIRMAN MELIUS: Any other
12 comments or questions?

13 MR. KATZ: I would just like to
14 clarify because there was also the question
15 about a Surrogate Data meeting. I thought it
16 was set on March 11th, but I don't see a
17 record of a March 11th Surrogate Data meeting,
18 not to say that that's not correct but --

19 CHAIRMAN MELIUS: I don't believe
20 there was one.

21 MR. KATZ: Okay. Okay. Thanks.
22 All right.

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1 DR. McKEEL: Maybe it was another
2 meeting. Maybe it was the other workgroup on
3 --

4 CHAIRMAN MELIUS: The workgroups --

5 MR. KATZ: I don't see a March 11th
6 meeting at all of the Board, of any workgroup
7 of the Board. But, again, something could be
8 wrong with the Web site listing.

9 DR. McKEEL: No. I'm probably
10 incorrect.

11 DR. MAURO: Ted, this is John
12 Mauro. I'm just looking at my calendar.

13 DR. McKEEL: Yes.

14 DR. MAURO: And I noticed that I
15 marked on my calendar for March 11th there was
16 a TBD 6000 Workgroup meeting.

17 DR. McKEEL: Yes.

18 MR. KATZ: You are talking about
19 2009. Sorry. I'm looking at 2008.

20 DR. MAURO: Oh, I am talking about
21 2009. Yes. I'm sorry.

22 MEMBER ZIEMER: You want to go back

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1 a year.

2 DR. MAURO: I'm sorry.

3 DR. McKEEL: No. I am talking
4 about there was a 3-11-09 I guess it was a TBD
5 6000 Workgroup.

6 DR. MAURO: Yes. There was. I
7 have that in my calendar.

8 DR. McKEEL: Oh, okay. Thank you.

9 MR. KATZ: Okay. If it's not up
10 there yet, that may be just getting a Privacy
11 Act review.

12 CHAIRMAN MELIUS: I'm sorry, but
13 that is not relevant to today. So that's
14 okay.

15 DR. McKEEL: Okay. Thanks.

16 CHAIRMAN MELIUS: Anything else
17 before we confuse ourselves all further? We
18 can barely tell what year we are all in,
19 right?

20 (No response.)

21 CHAIRMAN MELIUS: If not, then
22 thank everybody for participating. And some

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1 of you I will see in Amarillo next week.

2 (Whereupon, the foregoing matter
3 was concluded at 2:05 p.m.)

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